

DEPARTMENT OF HOUSING AND HUMAN CONCERNS

COUNTY OF MAUI

Adoption of Chapter 07-701
Rules of Practice and Procedure for the
Commission on Persons with Disabilities

1. Chapter 07-701, entitled "Rules of Practice and Procedure for the Commission on Persons with Disabilities," is hereby adopted to read as follows:

"TITLE MC-07

DEPARTMENT OF HOUSING AND HUMAN CONCERNS

SUBTITLE 07

COMMISSION ON PERSONS WITH DISABILITIES

CHAPTER 701

RULES OF PRACTICE AND PROCEDURE FOR
THE COMMISSION ON PERSONS WITH DISABILITIES

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SUBCHAPTER 1

GENERAL PROVISIONS

§07-701-1 Title. The rules in this chapter shall be known as the "Rules of Practice and Procedure for the Commission on Persons with Disabilities." [Eff] (Auth: Charter §13-2(15); MCC §§2.32.020, 2.32.060) (Imp: HRS §91-2; MCC §§2.32.040, 2.32050)

§07-701-2 Purpose. These rules govern practice and procedure before the commission on persons with disabilities. [Eff] (Auth: Charter §13-2(15); MCC §§2.32.020, 2.32.060) (Imp: HRS §91-2; MCC §§2.32.040, 2.32050)

§07-701-3 Construction. These rules shall be construed to secure the just and efficient determination of every matter before the commission. These rules should be read in conjunction with the Hawaii Revised Statutes, the Revised Charter of the County of Maui, and the Maui County Code. In any conflict between the provisions herein and any other provision, the more restrictive provision shall govern. [Eff] (Auth: Charter §13-2(15); MCC §§2.32.020, 2.32.060) (Imp: HRS §91-2; MCC §§2.32.040, 2.32050)

§07-701-4 Definitions. For the purpose of these rules, unless it is plainly evident from the context that a different meaning is intended, certain words and phrases used herein are defined as follows:

"Commission" means the commission on persons with disabilities of the County.

"County" means the County of Maui.

"Meeting" means the convening of the commission for which a quorum is required in order to make a decision or deliberate toward a decision upon a matter over which the commission has supervision, control, jurisdiction, or advisory power.

"Person" means an individual, partnership, firm, association, trust, estate, private corporation, or other legal entity, whether or not incorporated, including governmental agencies. [Eff] (Auth: Charter §13-2(15); MCC §§2.32.020, 2.32.060) (Imp: HRS §91-2; MCC §§2.32.040, 2.32050)

SUBCHAPTER 2

ORGANIZATION AND PARLIAMENTARY RULES

§07-701-5 Communications. Unless otherwise specified, all communications to the commission should be directed to the commission, care of the department of housing and human concerns, 200 South High Street, Wailuku, Maui, Hawaii 96793. [Eff] (Auth: Charter §13-2(15); MCC §§2.32.020, 2.32.060) (Imp: HRS §91-2; MCC §§2.32.040, 2.32050)

§07-701-6 Organization. (a) The commission shall elect annually a chairperson and vice-chairperson from its members. Their terms shall be for one year and may continue until their successors are duly elected.

(b) The chairperson shall be the presiding officer of the commission. The vice-chairperson shall serve as the presiding officer during the temporary absence, illness, or disqualification of the chairperson. The presiding officer shall:

- (1) Open all meetings of the commission at the appointed time by calling the meeting to order.
- (2) Call for the approval of the minutes of any preceding meeting.
- (3) Maintain order and proper decorum.
- (4) Announce all matters properly brought before the commission.
- (5) Review all matters properly brought before the commission, and when appropriate, call for votes upon such matters and announce the results.
- (6) Authenticate by signature all acts of the commission as may be required by law, unless delegated to another.
- (7) Do and perform such other duties as may be required by law.
- (8) Make known all rules of order when so requested, and to decide all questions of order.

(c) In the absence of the chairperson and vice-chairperson, the commission shall elect a chairperson pro tempore, who shall preside at the meeting. [Eff] (Auth: Charter §§13-2(9), 13-2(15); MCC §§2.32.020, 2.32.060) (Imp: HRS §91-2; MCC §§2.32.040, 2.32.050)

§07-701-7 Meetings. (a) All meetings of the commission shall be held in a county building or other publicly owned place. In the event that a publicly owned building is not available or appropriate for the meeting, the meeting may be held in another facility that is accessible to the public.

(b) The commission shall conduct its meetings in accordance with Robert's Rules of Order, Newly Revised, as amended. The rules of the commission shall govern in the event of a conflict between the rules of the commission and Robert's Rules of Order, Newly Revised, as amended.

(c) The commission shall comply with chapter 92, Hawaii Revised Statutes, as amended, pertaining to public agency meetings and records, and commonly known and referred to as the "Sunshine Law".

(d) Special meetings may be called by the chairperson or a majority of commission members.

(e) Social, informal gatherings of two or more members of the commission where official business is not discussed shall be considered chance meetings and not subject to these rules.

(f) The commission shall allow all interested persons an opportunity to submit data, views, arguments or oral testimony on any agenda item in an open meeting. The commission may remove any person who wilfully disrupts a meeting so as to prevent and compromise the conduct of the meeting. The commission may also provide for the recordation of oral testimony and may place a reasonable time limit on such testimony, which in any event shall be not less than three minutes per person. [Eff] (Auth: Charter §§13-2(9), 13-2(15); MCC §§2.32.020, 2.32.060) (Imp: HRS §91-2; MCC §2.32.040, 2.32.050)

§07-701-8 Quorum. A majority of all of the members to which the commission is entitled shall constitute a quorum to transact business, and the concurrence of a majority of all the members to which the commission is entitled shall be necessary to take any action. [Eff] (Auth: Charter §§13-2(8), 13-2(15); MCC §§2.32.020, 2.32.060) (Imp: HRS §91-2; MCC §§2.32.040, 2.32.050)

§07-701-9 Minutes. (a) The commission shall keep written minutes and may provide for the audio recording of meetings. The written minutes shall give a true reflection of the matters discussed at the meeting and the views of the members. The minutes shall include, but not be limited to:

- (1) The date, time, and place of the meeting;
- (2) The members of the commission recorded as either present or absent;
- (3) The substance of all matters proposed, discussed, or decided; and a record, by individual member, of any votes taken; and
- (4) Any other information that any member of the commission requests be included or reflected in the minutes.

(b) The written minutes shall be public records and shall be available within thirty days after the meeting except where such disclosure would be inconsistent with section 92-5, Hawaii Revised Statutes, pertaining to executive meetings. It shall not be necessary for the commission to transcribe audio recordings unless requested for purposes of rehearing or court review. Any person requesting a transcript of the audio recording shall pay the costs incurred in the preparation of the transcript.

(c) All or any part of a meeting of the commission may be recorded by any person in attendance by means of audio recording, except when a meeting is closed pursuant to section 92-4, Hawaii Revised Statutes; provided the recording does not actively interfere with the conduct of the meeting. [Eff] (Auth: Charter §13-2(15); MCC §§2.32.020, 2.32.060) (Imp: HRS §91-2; MCC §§2.32.040, 2.32.050)

§07-701-10 Agendas. (a) The commission shall give written public notice of any regular, special, or rescheduled meeting, or any executive meeting when anticipated in advance. The notice shall include an agenda that lists all of the items to be considered at the forthcoming meeting, the date, time, and place of the meeting, and, in the case of an executive meeting, the purpose of the executive meeting.

(b) The commission shall file the notice in the office of the county clerk at least six calendar days before the meeting. The notice shall also be posted at the site of the meeting whenever feasible. The commission shall not change the agenda, once filed, by adding items thereto without a two-thirds recorded vote of all members to which the commission is entitled; provided that no item shall be added to the agenda if it is of reasonably major importance and action thereon by the commission will affect a significant number of persons. Items of reasonably major importance not decided at a scheduled meeting shall be considered only at a meeting continued to a reasonable day and time.

(c) The commission shall maintain a list of names and addresses of persons who request notification of meetings and shall mail a copy of the notice to such persons at their last recorded address no later than the time the agenda is filed under subsection (b). [Eff] (Auth: Charter §13-2(15); MCC §§2.32.020, 2.32.060) (Imp: HRS §91-2; MCC §§2.32.040, 2.32.050)

§07-701-11 Commission records. Commission records that are "government records", as defined in chapter 92F ("Uniform Information Practices Act"), Hawaii Revised Statutes, as amended, shall be disclosed according to the provisions of that chapter. All costs required by any law, rule, or ordinance shall be paid by the requesting party. [Eff] (Auth: Charter §13-2(15); MCC §§2.32.020, 2.32.060) (Imp: HRS §91-2; MCC §§2.32.040, 2.32.050)

§07-701-12 Computation of time. In computing any period of time under these rules, the time begins with the day following the act, event, or default, and includes the last day of the period unless it is a Saturday, Sunday, or legal holiday, in which event the

period runs until the end of the next day which is not a Saturday, Sunday, or legal holiday. [Eff] (Auth: Charter §13-2(15); MCC §§2.32.020, 2.32.060) (Imp: HRS §91-2; MCC §§2.32.040, 2.32.050)

§07-701-13 Disclosure of conflict. A commission member shall promptly make full disclosure to the commission of any conflict of interests that exists concerning any matter that may be affected by an action of the commission. When a member is deemed by the board of ethics to have a conflict of interests, that member shall be disqualified from voting in all actions relating to that matter. [Eff] (Auth: Charter §13-2(15); MCC §§2.32.020, 2.32.060) (Imp: HRS §91-2; MCC §§2.32.040, 2.32.050)

§07-701-14 Attendance. No member shall be absent from the service of the commission, unless the member is sick or otherwise unable to attend and has so advised the commission secretary at least twenty-four hours prior to the meeting. If a member has two unexcused absences, the chairperson shall, promptly after the second unexcused absence, issue a letter to the member requesting an explanation for the absences. If a member has three unexcused absences, the chairperson shall, promptly after the third unexcused absence, issue a letter to the mayor notifying the mayor of the absences and requesting review of the matter by the mayor. [Eff] (Auth: Charter §13-2(15); MCC §§2.32.020, 2.32.060) (Imp: HRS §91-2; MCC §2.32.040, 2.32.050)

§07-701-15 Committees. Two or more members of the commission, but less than the number of members which would constitute a quorum, may be assigned to:

- (1) Investigate a matter relating to the official business of their commission; provided that:
 - (A) The scope of the investigation and the scope of each member's authority are defined at a meeting of the commission;
 - (B) All resulting findings and recommendations are presented to the

- commission at a meeting of the commission; and
- (C) Deliberation and decision-making on the matter investigated, if any, occurs only at a duly noticed meeting of the commission held subsequent to the meeting at which the findings and recommendations of the investigation were presented to the commission; or
- (2) Present, discuss, or negotiate any position which the commission has adopted at a meeting of the board; provided that the assignment is made and the scope of each member's authority is defined at a meeting of the commission prior to the presentation, discussion or negotiation. [Eff] (Auth: Charter §13-2(15); MCC §§2.32.020, 2.32.060) (Imp: HRS §§91-2, 92-2.5; MCC §§2.32.040, 2.32.050)

SUBCHAPTER 3

PETITIONS FOR ADOPTION, AMENDMENT, OR REPEAL OF RULES;
DECLARATORY RULINGS

§07-701-16 Petitions for adoption, amendment, or repeal of rules. Any interested person may petition the commission for the adoption, amendment, or repeal of a commission rule. The petition shall be in writing, describe and state the reasons for the proposed change with particularity, and be submitted to the commission. Within thirty days after reviewing the petition, the commission shall either deny the petition in writing, stating its reasons for the denial, or initiate proceedings in accordance with section 91-3, Hawaii Revised Statutes. [Eff] (Auth: Charter §13-2(15); MCC §§2.32.020, 2.32.060) (Imp: HRS §91-6; MCC §§2.32.040, 2.32.050)

§07-701-17 Declaratory rulings. (a) Any interested person may petition the commission for a declaratory order as to the applicability of any statutory provision or any rule or order of the commission.

(b) A person seeking a declaratory ruling shall file the petition with the commission. The petition shall include:

- (1) The name, address, and telephone number of the petitioner.
- (2) A statement of the nature of petitioner's interest, including reasons for the submission of the petition.
- (3) A designation of the specific provision, rule, or order in question.
- (4) A complete statement of facts.
- (5) A statement of the position or contention of the applicant.
- (6) A memorandum fully discussing the reasons for such position or contention.

(c) The commission may refuse to issue a declaratory ruling where:

- (1) The question is speculative or purely hypothetical and does not involve existing

facts or facts that can reasonably be expected to exist in the near future.

- (2) The petitioner's interest is not of the type that would give petitioner standing to maintain an action if petitioner were to seek judicial relief.
- (3) The declaratory ruling concerns matters in litigation or matters which are reasonably expected to arise in litigation.
- (4) The matter is not within the jurisdiction of the commission.

(d) Where any question of law is involved, the commission may refer the petition to the corporation counsel. The commission may also refer the petition to other agencies when necessary or desirable.

(e) The commission shall promptly notify the applicant of the disposition of the petition." [Eff] (Auth: Charter §13-2(15); MCC §§2.32.020, 2.32.060) (Imp: HRS §§91-2, 91-8; MCC §§2.32.040, 2.32.050)

2. Chapter 07-701, Rules of Practice and Procedure for the Commission on Persons with Disabilities, shall take effect ten days after filing with the Office of the County Clerk.

ADOPTED this _____ day of _____ 2008, at
Wailuku, Maui, Hawaii.

NORITA DELIMA
Chairperson
Commission on Persons with
Disabilities

CHARMAINE TAVARES
Mayor, County of Maui

Approved this _____ day of
_____, 2008.

APPROVED AS TO FORM
AND LEGALITY:

KIMBERLY A.B. SLOPER
Deputy Corporation Counsel
County of Maui

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Received this _____ day of
_____, 2008.

ROY T. HIRAGA
County Clerk, County of Maui

CERTIFICATION

I, VANESSA A. MEDEIROS, Director, Department of Housing and Human Concerns, County of Maui, do hereby certify:

1. That the foregoing is a full, true and correct copy of the rules drafted in Ramseyer format, pursuant to the requirements of Section 91-4.1, Hawaii Revised Statutes, which were adopted by the Commission on Persons with Disabilities on _____, 2008, filed with the Office of the County Clerk; and

2. That the notice of public hearing on the foregoing Rules, was published in The Maui News on _____, 2008.

VANESSA A. MEDEIROS
Director
Department of Housing and Human
Concerns
County of Maui