Resolution

No. 20-60
Draft 1

PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), AS AMENDED, TO REORGANIZE THE EXECUTIVE BRANCH TO ESTABLISH AN OFFICE OF THE MANAGING DIRECTOR AND PROVIDE FOR THE APPOINTMENT OF THE MANAGING DIRECTOR AS THE COUNTY'S CHIEF OPERATING OFFICER

WHEREAS, the Maui County Council proposes that the question be placed on the next General Election ballot of whether the Revised Charter of the County of Maui (1983), as amended ("Charter"), shall be further amended to reorganize the executive branch to establish an Office of the Managing Director, wherein a County Managing Director, hired by the Mayor through an advisory ad hoc search committee chaired by the Mayor, in accordance with a process defined by ordinance, involving the Mayor, Council Chair, and a three-member citizen group, shall function as the County's chief operating officer, with the Mayor to function as the County's chief executive officer, along with various housekeeping revisions; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That pursuant to Charter Section 14-1(1), it hereby proposes Charter Section 3-6, pertaining to Powers of Council, be amended to read as follows:

"**ARTICLE 3**
COUNTY COUNCIL

Section 3-6. Powers of Council. The council shall be the legislative body of the county. Without limitation of the foregoing grant or of other powers given it by this charter, the council shall have the power:

1. To legislate taxes, rates, fees, assessments, and special assessments and to borrow money, subject to the limitations provided by law and this charter.

2. To legislate appropriations for county purposes subject to the limitations provided by this charter.

3. To conduct investigations of (a) the operation of any department or function of the county and (b) any subject upon which the council may legislate.

4. To fix the salaries of such employees and officers as may be necessary.

5. To require periodic and special reports from all county departments concerning their functions and operations. Such reports shall be requested and submitted by and through the [mayor.] managing director.

6. To retain, employ, or designate, by a vote of two-thirds of its entire membership, special counsel as legal representative for any special matter presenting a real necessity for such employment. Any such employment shall specify the compensation, if any, to be paid for said services.

7. To designate attorneys within the office of council services to serve as legal advisors.

8. To review and approve the terms and conditions of any contract or amendment thereto between the county and the managing director.";

2. That pursuant to Charter Section 14-1(1), it hereby proposes Charter Section 3-8, pertaining to Restrictions on Council and Council Members, be amended by amending Subsection 1 to read as follows:

"Section 3-8.1. Restrictions on Council and Council Members.

1. Unless otherwise provided in this charter, neither the council nor any of its members shall, in any manner, dictate the appointment or removal of any officer or employee appointed by the mayor or [by the mayor's] managing director, or by their subordinates.";

3. That pursuant to Charter Section 14-1(1), it hereby proposes Charter Section 3-9.2, pertaining to Powers, Duties, and Functions, be amended to read as follows:

"**Section 3-9.2. Powers, Duties, and Functions.**

1. The county auditor shall have the duty and power to conduct or cause to be conducted:

a. The independent annual financial audit of the county, as authorized by Section 9-13 of this charter;

b. Other program, financial, or performance audits or evaluations regarding county organizations, operations, and regulations; and

c. Performance or financial audits of the funds, programs, or activities of any agency or function of the county, as the county auditor deems warranted; provided that, before each fiscal year, the auditor shall transmit a plan of the audits proposed to be conducted during the fiscal year to the mayor, managing director, and the council, for review and comment, but not approval.

2. Audit findings and recommendations shall be set forth in written reports of the county auditor, a copy of which shall be transmitted to the mayor, the managing director, and [to] the council, which shall be public records, except as provided by law.

3. For the purposes of carrying out any audit, the county auditor shall have full, free, and unrestricted access to any county officer or employee and shall be authorized to examine and inspect any record of any agency or operation of the county, to administer oaths and subpoena witnesses, and compel the production of records pertinent thereto. If any person subpoenaed as a witness or compelled to produce records shall fail or refuse to respond thereto, the proper court, upon request of the county auditor, shall have the power to compel obedience to any process of the county auditor and to punish, as a contempt of the court, any refusal to comply therewith without good cause. Notwithstanding Section 3-6.6, the county auditor may, without council approval, retain special counsel to represent the county auditor in implementing these powers.

4. The county auditor shall submit its budget to the county council and its budget shall include the cost of [government's] government commission's budget subject to Article 9, Section 9-2.1.";

4. That pursuant to Charter Section 14-1(1), it hereby proposes Charter Section 3-9.3, pertaining to the Cost of Government Commission, be amended to read as follows:

"**Section 3-9.3. Cost of Government Commission.** For the purpose of carrying out the policy set forth herein, in accordance with section 13-2 of this charter, the mayor with

the approval of the council shall appoint a cost of government commission consisting of nine members. The commission shall be advisory to the county auditor.

The commission shall have the power and duty to:

1. Study and investigate the organizations and methods of operations of all departments, commissions, boards, offices, and other instrumentality of all branches of the county government and determine what changes, if any, may be desirable to accomplish the policy set forth herein.

2. Be authorized to secure directly from any department, commission, board, office, or any other instrumentalities of all branches of the county government or from any individual officer or employee of the county, information, suggestions, estimates, and statistics necessary to carry out its duties.

3. Submit an annual report of its findings and recommendations to the mayor, managing director, council, and county auditor.";

5. That pursuant to Charter Section 14-1(1), it hereby proposes Charter Section 3-9.4 be repealed.

"[**Section 3-9.4. Definitions.** For the purpose of this section, the following definitions shall apply:

"Agency or operation of the county" includes any executive agency, semi-autonomous agency, council office, and other establishment of county government supported, in whole or in part, by county or public funds.

"Council office" includes the council itself, the office of a council member and the council member's immediate staff, the office of the county clerk, and the office of council services. This definition shall not be construed as excluding the office of the county auditor from the legislative branch.

"Record" includes any account, book, paper, and document, and any financial affair, notwithstanding whether any of the preceding is stored on paper or electronically.]";

6. That pursuant to Charter Section 14-1(1), it hereby proposes Charter Article 6 be amended to read as follows:

"ARTICLE 6
EXECUTIVE BRANCH

Section 6-1. Executive Power. The executive power of the county shall be vested in and exercised by the executive branch, which shall be headed by the mayor, except as otherwise provided by this charter.

Section 6-2. Appointment and Removal of Officers and Employees.

1. The administrative head of a department may not appoint more than the staff for which appropriations have been made by the council.

2. No appointing authority shall appoint any person to any office or position exempted from civil service until satisfied by proper investigation that the person to be appointed is fully qualified by experience and ability to perform the duties of the office or position.

3. The term of office of [any administrative head of a department who is appointed by the mayor] the corporation counsel and the prosecuting attorney shall end with the term of office of the mayor, except that [any such administrative head] such officer may be earlier removed as provided for in this charter. Such officers shall not hold over more than sixty [(60)] days after their respective terms of office, and shall immediately vacate their respective offices at the end of the [60-day] sixty-day period or upon the appointment of a successor in accordance with this charter, whichever occurs first.

4. The mayor or managing director shall have the authority to appoint, on a temporary basis, an administrative head of any department, provided that such department is one where the administrative head is appointed by the mayor or managing director, respectively. A person whose appointment as administrative head of a department has been disapproved by resolution is not eligible to serve as the department's administrative head on a temporary basis.

5. [Within sixty (60) days of taking office, or within sixty (60) days after a vacancy is created, the mayor] After consultation with the mayor, the managing director shall appoint or remove the [managing director, corporation counsel, prosecuting attorney,] director of finance, director of

public works, director of parks and recreation, planning director, director of housing and human concerns, director of water supply, director of transportation, and director of environmental management, with written notice [of the appointment] to the council. The council shall confirm or deny the appointment or removal within sixty [(60)] days after receiving notice of the appointment or removal by the [mayor.] managing director. If the council does not act within the 60-day period, the appointment or removal shall be deemed to be confirmed. [The appointee shall take office upon appointment by the mayor but shall not continue in office if the council denies the appointment. If the appointment is denied by the council, the mayor shall make a new appointment within sixty (60) days of the council's denial, and the council shall confirm or deny within sixty (60) days after receiving notice of the new appointment by the mayor. If the council does not act within the 60-day period, the appointment shall be deemed to be confirmed.]

Section 6-3. Powers and Duties of Administrative Heads of Departments.

1. Pursuant to law, the administrative heads of departments shall have the power to take all personnel actions.

2. The administrative head of a department shall perform such duties and exercise such powers as provided for herein or as may be assigned by the [mayor.] managing director.

3. The powers, duties, and functions of the administrative head of any department may be assigned to any staff member or members of that department by the administrative head[.] or by the managing director.

Section 6-4. Specific Qualifications of Administrative Heads of Departments. In addition to any qualifications set forth in this charter, specific qualifications for administrative heads appointed by the mayor or the managing director may be established by the council by ordinance.

Section 6-5. Office of the Managing Director.

1. There shall be an office of the managing director, consisting of a managing director, a deputy managing director, and the necessary staff. The mayor shall hire the managing director following a recruitment and selection process established by ordinance involving the council chair, mayor, and a three-member citizen group.

2. The managing director shall have had five years of experience in an administrative capacity, either in public or private business, or both, in addition to specific qualifications set forth by ordinance.

3. The recruitment for the managing director shall be publicly announced, and evaluation of candidates shall be based on the recruitment and selection process established by ordinance in accordance with Subsection 1. The terms of the managing director's employment shall be established by contract, consistent with the recruitment and selection process established by ordinance in accordance with Subsection 1.

4. The mayor shall inform the council of the mayor's intent to terminate the managing director's employment contract. If, within thirty days of receipt, the council does not veto the termination by a vote of at least two-thirds of its entire membership, the termination will be effective. Prolonged administrative leave of more than thirty days without action shall constitute cause for removal.

5. The managing director shall:

a. Act as the county's chief operating officer, reporting to the mayor, subject to the provisions of this charter.

b. Appoint and remove the deputy managing director and appoint the necessary staff, for which the council has made appropriations, except for the office of the mayor.

c. Except for the office of the mayor, create or abolish positions for which the council has made appropriations, and provide a report of such actions to the council within fifteen days.

d. Make temporary transfers of positions between departments or between subdivisions of departments, consistent with the annual budget ordinance and other law.

e. Recommend to the council a pay plan for all county employees and officers whose pay is not otherwise provided for by law.

f. In consultation with the mayor, prepare and submit an annual operating budget and capital program to the council for its consideration under Article 9.

g. Control, manage, and execute the annual operating budget and capital program.

h. Continually review each county department's finances, organization, and methods to assist each department in using public funds most effectively and to ensure compliance with budget laws and controls.

i. Assign powers, duties, and functions that are not already assigned or enumerated in Article 8, to and between the departments.

j. Supervise the administrative functions of the departments and agencies identified in Article 8, Chapters 3, 4, 5, 7, 9, 10, 13, 14, and 15.

k. Evaluate the management and performance of each department and agency identified in Section 6-5(5)(j) at least annually.

l. Assign goals and objectives to, and evaluate at least annually, each administrative head under the managing director's supervision.

m. Prescribe standards of administrative practice through rulemaking and otherwise for all agencies and departments under the managing director's supervision.

6. If the managing director is absent, the deputy managing director shall act as managing director. If both the managing director and the deputy managing director are absent, the director of finance shall act as managing director. The council shall establish any further line of succession by ordinance.";

7. That pursuant to Charter Section 14-1(1), it hereby proposes Charter Section 7-5, pertaining to the Mayor's Powers, Duties, and Functions, be amended to read as follows:

"ARTICLE 7
OFFICE OF THE MAYOR

Section 7-5. Powers, Duties, and Functions. [The mayor shall be the chief executive officer of the county.] The mayor shall:

1. [Exercise supervision directly or through the managing director over all departments enumerated in Article 8 of this charter and other agencies as provided by law.] Act as the county's chief executive officer, subject to the provisions of this charter.

2. Hire the managing director through an advisory ad hoc search committee chaired by the mayor, in accordance with a process defined by ordinance, involving the mayor, council chair, and a three-member citizen group, with administrative support and counsel provided by the director of personnel services. Final selection among search candidates shall be made solely by the mayor. Any contract or amendment thereto between the county and the managing director shall be subject to review and approval by the council in accordance with Article 3, Section 3-6, subsection 8.

3. Directly supervise the work of the managing director, as provided by ordinance. Assign annual goals and objectives to the managing director and review and assess the managing director's performance at least annually. Annual goals and objectives assigned by the mayor to the managing director shall be a matter of public record and posted on the county's website within 15 days after assignment. The mayor's annual assessment of the managing director's performance to these goals and objectives shall also be a matter of public record by means of an abstract of the mayor's assessment of performance posted on the county's website within 15 days after completion of the annual review process.

[2.] 4. Appoint the necessary staff in the office of the mayor for which the council has made appropriations.

[3.] 5. Create positions in the office of the mayor for which the council has made appropriations, or abolish positions, [but] and provide a report of such actions [shall be made] to the council within fifteen [(15)] days of such actions.

[4. Make temporary transfers of positions between departments or between subdivisions of departments.

5. Recommend to the council a pay plan for all county employees and officers whose pay is not otherwise provided for by law.

6. Prepare and submit an operating budget and a capital program annually to the council for its consideration pursuant to Article 9.

7. Control, manage, and execute the annual operating budget and capital program.

8. Conduct a systematic and continual review of the finances, organizations, and methods of each department of the county to assist each department in achieving the most effective expenditure of public funds and to determine that such expenditures are in accordance with the budget laws and controls in force.

9.] 6. Prepare and process applications for [state,] State, federal, or other governmental funds on behalf of the county.

[10. Assign powers, duties, and functions that are not already assigned or enumerated in Article 8, to and between the departments.

11.] 7. Sign instruments requiring execution by the county, including [deed] deeds and other conveyances, except those which the director of finance or other officer is authorized by this charter, ordinance, or resolution, to sign.

[12.] 8. Present messages or information to the council which, in the mayor's opinion, are necessary or expedient.

[13.] 9. [In addition to the annual report, make] Make periodic reports informing the public as to county policies, programs, and operations.

[14.] 10. Approve or veto bills passed by the council.

[15.] 11. Have a voice but no vote in the proceedings of all boards and commissions.

[16] 12. Enter into bilateral and multilateral contracts with other counties, the State, or the United States for the performance of any function or activity which the county is authorized to perform.

[17] 13. Enforce the provisions of this charter, the ordinances of the county, and all applicable laws.

[18.] 14. Exercise such other powers and perform such other duties as may be prescribed by this charter or by law.";

8. That pursuant to Charter Section 14-1(1), it hereby proposes Charter Section 7-6, pertaining to Vacancy in Office, be amended to read as follows:

"**Section 7-6. Vacancy in Office.**

1. A vacancy in the office of mayor shall be filled for the remainder of the unexpired term in the following manner:

a. If the unexpired term is less than one [(1)] year, the managing director shall act as mayor. If the office of managing director is vacant or during such periods that the managing director is unable to so act, the [director of finance] deputy managing director shall then act as mayor. If both the managing director and the deputy managing director are absent, the director of finance shall act as mayor. The council shall establish any further line of succession by ordinance.

b. If the unexpired term is one [(1)] year or more, the vacancy shall be filled by a special election to be called by the council within thirty [(30)] days and to be held within ninety [(90)] days after the occurrence of the vacancy. The electors of the county shall then elect a successor with requisite qualifications to fill the vacancy for the remainder of the term. In the event no candidate receives at least a majority of the votes cast to fill the vacancy, [then] within fifteen [(15)] days after said election the council shall call for a run-off election to be held within forty-five [(45)] days of the first election. The candidates in said election shall be the two candidates receiving the most number of votes in the first election. If any special or general election is to be held in the county after thirty [(30)] days and within one hundred eighty [(180)] days after the occurrence of the vacancy, then the election shall be held in conjunction with such other election.

2. Pending the election of a mayor in the case of a vacancy or in the temporary absence of the mayor from the State or county, or [a] the temporary disability of the mayor, the managing director shall act as mayor. If there is no managing director or if the managing director is unable to act, the [finance director] deputy managing director shall act as mayor. [In the event of

the temporary absence of the mayor from the county, or temporary leave, the mayor may designate the managing director or, in the managing director's absence or unavailability, the finance director to act as mayor.] If both the managing director and the deputy managing director are absent, the director of finance shall act as mayor. The council shall establish any further line of succession by ordinance.

9. That pursuant to Charter Section 14-1(1), it hereby proposes Charter Article 8, pertaining to County Departments, be amended to read as follows:

"ARTICLE 8
COUNTY DEPARTMENTS

The county departments hereinafter described are hereby recognized and continued.

[CHAPTER 1
DEPARTMENT OF MANAGEMENT

Section 8-1.1. Organization. There shall be a department of management consisting of a managing director and the necessary staff.

Section 8-1.2. Managing Director. The managing director shall be appointed by the mayor with the approval of the council and may be removed by the mayor. The managing director shall have had a minimum of five years of experience in an administrative capacity, either in public or private business, or both.

Section 8-1.3. Powers, Duties and Functions. The managing director shall:

1. Act as the principal management aid to the mayor.
2. Supervise the administrative functions of those agencies, departments, boards and commissions assigned by the mayor.
3. Evaluate the management and performance of each agency.

4. Prescribe standards of administrative practice to be followed by all agencies under his or her supervision.

5. Supervise and coordinate those functions described in Subsections 7-5.6, 7-5.7 and 7-5.8.

6. Perform all other duties and functions required by this charter or assigned by the mayor.]

CHAPTER [2] 1
DEPARTMENT OF THE CORPORATION COUNSEL

Section [8-2.1.] 8-1.1. Organization. There shall be a department of the corporation counsel consisting of the corporation counsel, deputies corporation counsel, and the necessary staff.

Section [8-2.2.] 8-1.2. Corporation Counsel. The corporation counsel shall be appointed by the mayor with the approval of the council and may be removed by the mayor with the approval of the council. The corporation counsel shall be an attorney licensed to practice and in good standing before the Hawaii Supreme Court [of the State] and shall have engaged in the practice of law for [at least] five years, in addition to specific qualifications as set forth by ordinance.

Section [8-2.3.] 8-1.3. Powers, Duties, and Functions. The corporation counsel shall:

1. Appoint such [deputy] deputies corporation counsel and necessary staff as shall be authorized by the council. [Deputy] Deputies corporation counsel shall be exempt from civil service and shall serve at the pleasure of the corporation counsel.

2. Be the chief legal advisor and legal representative of the County of Maui; of the council, the mayor, the managing director, all departments[,] and agencies, and all boards and commissions; and of all officers and employees in matters relating to their official duties, except as otherwise provided in this charter.

3. Represent the county in all legal proceedings.

4. Perform such other duties and functions as may be incident to the department or required by law.

Section [8-2.4.] 8-1.4. Service of Legal Process. Legal process against the county shall be served upon the corporation counsel or any of the deputies.

CHAPTER [3] 2
DEPARTMENT OF THE PROSECUTING ATTORNEY

Section [8-3.1.] 8-2.1. Organization. There shall be a department of the prosecuting attorney consisting of a prosecuting attorney and the necessary staff.

Section [8-3.2.] 8-2.2. Prosecuting Attorney. The prosecuting attorney shall be appointed by the mayor with the approval of the council and may be removed by the mayor with the approval of the council. The prosecuting attorney shall be an attorney licensed to practice and in good standing before the Hawaii Supreme Court [of the State] and shall have engaged in the practice of law for [at least] five years, in addition to specific qualifications set forth by ordinance.

Section [8-3.3.] 8-2.3. Powers, Duties, and Functions. The prosecuting attorney shall:

1. Appoint such deputy prosecuting attorneys and necessary staff as shall be authorized by the council. Deputy prosecuting attorneys shall be exempt from civil service and shall serve at the pleasure of the prosecuting attorney.
2. Attend all courts in the county and conduct, on behalf of the people, all prosecutions therein for offenses against the laws of the State and the ordinances and rules of the county.
3. Appear in every criminal case where there is a change of venue from the courts in the county and prosecute the same in any jurisdiction to which the same is changed or removed.
4. Institute proceedings, or direct the chief of police to do so, before a judge of a court of competent jurisdiction for the arrest of persons charged with or reasonably suspected of public offenses when the prosecuting attorney has information that any such offenses have been committed, and for that purpose take charge of criminal cases before a judge of a court of competent jurisdiction, either in person, [or] by a

deputy, or by such other prosecuting officer as the prosecuting attorney shall designate.

5. Draw all indictments and attend before the grand jury whenever cases are presented to it for its consideration. Nothing herein contained shall prevent the conduct of proceedings by private counsel before a judge or courts of record under the direction of the prosecuting attorney.

6. Prosecute administrative violations of the liquor laws before the [board of liquor adjudication.] liquor control adjudication board.

7. Perform such other duties and functions as shall be assigned by the mayor.

CHAPTER [4] 3
DEPARTMENT OF FINANCE

Section [8-4.1.] 8-3.1. Organization. There shall be a department of finance consisting of the director of finance and the necessary staff.

Section [8-4.2.] 8-3.2. Director of Finance. [The director of finance shall be appointed by the mayor with the approval of the council and may be removed by the mayor.] The managing director, in consultation with the mayor and with the approval of the council must appoint or may remove the director of finance, pursuant to the procedures set forth in Section 6-2.5 of this charter. The director of finance shall have had [a minimum of] five years of experience in a public or private financial position, at least three of which shall have been in an administrative capacity, in addition to specific qualifications set forth by ordinance.

Section [8-4.3.] 8-3.3. Powers, Duties, and Functions. The director of finance shall:

1. Prepare bills for the collection of money due the county, or authorize the preparation thereof, by other departments of the county government, under the director's general supervision.

2. Collect and receive moneys due to or receivable by the county and issue receipts therefor, or authorize other departments to do so under conditions prescribed by the [finance] director of finance.

3. Keep accurate and complete account of receipts and disbursements.

4. Maintain and manage the treasury and deposit moneys belonging to the county in depositories and instruments authorized by law [which] that fulfill all conditions prescribed for them by law.

5. Contract for services of independent contractors, including contractors for public works and county physicians, and permit disbursements to be made pursuant to policies established by the council.

6. Be responsible for issuing and selling, paying interest on, and redeeming bonds of the county.

7. Prepare and issue warrants and checks.

8. Prepare payrolls and pension rolls.

9. Sell real property upon which improvement assessments or real property taxes are not paid within the period prescribed and dispose of real property or personal property not needed by any department of the county pursuant to policies established by ordinance, provided that all deeds and other conveyances shall be executed by the mayor.

10. Rent or lease county property and award concessions pursuant to policies established by the council.

11. Prepare and maintain a perpetual inventory of all lands and equipment or other personally owned, leased, rented, or controlled by the county.

12. Review assessment rolls for assessable public improvements prior to approval by the council and issue bills therefor after such approval has been given.

13. Have custody of all [official's] officials' surety bonds, except the surety bond of the director of finance, which shall be in the custody of the county clerk.

14. [Each quarter submit] Submit through the mayor and managing director, [to the council] a quarterly statement of the revenues and expenditures for the preceding quarter and for the fiscal year up to and including the preceding quarter, to the council. Such statement shall be sufficiently detailed as to appropriations, allotments, and funds to show the exact financial condition of the county and of each of its agencies and executive departments. A copy of the statement shall be filed with the county clerk and shall be a public record.

15. Administer the real property taxation function of the county.

16. Perform such other duties and functions as shall be assigned by the [mayor.] managing director.

CHAPTER [5] 4
DEPARTMENT OF PUBLIC WORKS

Section [8-5.1.] 8-4.1. Organization. There shall be a department of public works consisting of a director and the necessary staff.

Section [8-5.2.] 8-4.2. Director of Public Works. . [The director of public works shall be appointed by the mayor with the approval of the council and may be removed by the mayor.] The managing director, in consultation with the mayor and with the approval of council shall appoint or may remove the director of public works, pursuant to the procedures set forth in Section 6-2.5 of this charter. The director of public works shall have had [a minimum of] five years of experience in an administrative capacity, either in public service or private business, or both, in addition to specific qualifications set forth by ordinance.

Section [8-5.3.] 8-4.3. Powers, Duties, and Functions. The director of public works shall:

1. Administer the building, housing, and subdivision ordinances and rules adopted thereunder.

2. Approve proposed subdivision plans, which are in conformity with the subdivision ordinance.

3. Plan, design, build, and maintain the county's highways, and drainage and flood control systems.

4. Perform such other duties and functions as shall be assigned by the [mayor.] managing director.

CHAPTER [6] 5
DEPARTMENT OF PARKS AND RECREATION

Section [8-6.1.] 8-5.1. Organization. There shall be a department of parks and recreation consisting of a director of parks and recreation and the necessary staff.

Section [8-6.2.] 8-5.2. Director of Parks and Recreation. [The director of parks and recreation shall be appointed by the mayor with the approval of the council and may be removed by the mayor.] The managing director, in consultation with the mayor and with approval of the council shall appoint or may remove the director of parks and recreation, pursuant to the procedures set forth in Section 6-2.5 of this charter. The director of parks and recreation shall have had [a minimum of] five years of experience in an administrative capacity, either in public service or private business, or both, in addition to specific qualifications set forth by ordinance.

Section [8-6.3.] 8-5.3. Powers, Duties, and Functions. The director of parks and recreation shall:

1. Plan, design, construct, maintain, and operate all parks and recreational facilities administered by the county.
2. Develop and implement programs for cultural, recreational, and other leisure activities for the people of the county.
3. Perform such other duties and functions as shall be assigned by the [mayor.] managing director.

CHAPTER [7] 6
DEPARTMENT OF FIRE AND PUBLIC SAFETY

Section [8-7.1.] 8-6.1. Organization. There shall be a department of fire and public safety consisting of a fire and public safety commission, a fire chief, and the necessary staff.

Section [8-7.2.] 8-6.2. Fire and Public Safety Commission. The fire and public safety commission shall consist of nine members appointed by the mayor with the approval of the council.

The fire and public safety commission shall:

1. Adopt such rules as it may consider necessary for the conduct of its business and regulation of the matters committed to its charge by law.
2. Review and submit to the mayor and managing director the department of fire and public safety's request for an annual appropriation for the operation of the department.

3. Review the operations of the department of fire and public safety and the Maui County emergency management agency and make recommendations for changes that may be desirable to improve the performance of emergency functions and the provision of public safety services.

4. Receive, review, and investigate any charges brought forth by the public against the conduct of the department of fire and public safety or any of its members and submit a written report of its findings and recommendations to the fire chief for disposition.

5. Annually review and evaluate the performance of the fire chief and submit a report to the mayor, managing director, and the council.

6. Submit an annual report to the mayor, managing director, and the council on its activities.

7. Have such other powers and duties as may be provided by law.

Except for purposes of inquiry or as otherwise provided in this charter, neither the commission nor its members shall interfere in any way with the administrative affairs of the department.

Section [8-7.3.] 8-6.3. Fire Chief. The fire chief shall be appointed and may be removed by the fire and public safety commission. The fire chief may be removed by the fire and public safety commission only after being informed in writing of the charges that are resulting in the fire chief's dismissal, and after being given a hearing before the commission. The fire chief shall have had a minimum of five years of experience in fire control, at least three years of which shall have been in an administrative capacity.

Section [8-7.4.] 8-6.4. Powers, Duties, and Functions. The fire chief shall:

1. Be the administrative head of the department.

2. Provide and perform [fire fighting] firefighting, rescue, shoreline and ocean rescue and safety, and first-responder emergency services in order to save lives and property from fires and other emergencies arising on land, sea, and hazardous terrain, including the mitigation and

stabilization of hazardous materials and incidents relating to the same.

3. Provide public education programs related to fire prevention, shoreline and ocean rescue and safety, and public safety.

4. Train, equip, maintain, and supervise the force of [fire fighting] firefighting, shoreline and ocean rescue and safety, and emergency rescue personnel.

5. Investigate the cause, origin, and circumstances of fires.

6. Adopt rules relating to the protection of persons and property against fires.

7. Monitor the standards for construction and occupancy of buildings for the purposes of fire prevention and life safety and approve building plans as provided by law.

8. Exercise such other powers and duties as may be assigned by the commission or as may be provided by law.

CHAPTER [8] 7
DEPARTMENT OF PLANNING

Section [8-8.1.] 8-7.1. Organization. There shall be a department of planning consisting of a Maui planning commission, a Moloka`i planning commission, a Lāna`i planning commission, a planning director, a deputy planning director, a board of variances and appeals, and the necessary staff.

Section [8-8.2.] 8-7.2. Planning Director and Deputy Planning Director. [The planning director shall be appointed by the mayor with the approval of the council and may be removed by the mayor.] The managing director shall, in consultation with the mayor and with the approval of council appoint or may remove the planning director, pursuant to the procedures set forth in Section 6-2.5 of this charter. The planning director shall have had [a minimum of] five years of experience in the field of planning, at least three of which shall have been in an administrative capacity, either in public service or private business, or both, in addition to specific qualifications set forth by ordinance. The managing director shall appoint and may remove the deputy planning director.

Section [8-8.3.] 8-7.3. Powers, Duties, and Functions. The planning director shall:

1. Be the administrative head of the department of planning.

2. Serve as the chief planning officer of the county and as the technical advisor to the mayor, managing director, council, and planning commissions on all planning and related matters.

3. Recommend revisions of the general plan at least every ten [(10)] years to guide the development of the county.

4. Prepare, administer, and enforce long-range planning programs.

5. Prepare, administer, and enforce a cultural resource management program.

6. Prepare, administer, and enforce zoning ordinances, zoning maps and regulations, and any amendments or modifications thereto.

7. Review the lists of proposed capital improvements projects contemplated by the county and recommend the order of their priority to the mayor[.] and managing director.

8. Perform such other duties and functions as shall be required by law or as shall be assigned by the [mayor.] managing director.

Section [8-8.4.] 8-7.4. Planning Commissions. Each planning commission shall consist of nine members appointed by the mayor, in consultation with the managing director, [with the approval of] and approved by the council. The members of each planning commission shall be residents of the island of the planning commission on which the member serves. The director of [the department of] public works [and environmental management] and the director of [the department of] water supply shall be non-voting ex officio members of each commission.

Each planning commission shall exercise its powers, duties, and functions as follows:

1. The Maui planning commission shall be concerned with the area encompassing the islands of Maui and Kaho`olawe and all other islands lying within three nautical miles of the shores thereof, and the waters adjacent thereto.

2. The Moloka`i planning commission shall be concerned with the area encompassing the island of Moloka`i and all other islands lying within three nautical miles of the shores thereof, and the waters adjacent thereto, except that portion of the island known as Kalaupapa, Kalawao, and Waikolu and commonly known and designated as the Kalaupapa Settlement.

3. The Lāna`i planning commission shall be concerned with the area encompassing the island of Lāna`i and all other islands lying within three nautical miles of the shores thereof, and the waters adjacent thereto.

The appropriate planning commission shall:

1. Advise the mayor, managing director, council, and the planning director in matters concerning planning programs.

2. Review the general plan and revisions thereof prepared by the planning director or at the request of the council. The commission shall hold public hearings on such plans and revisions thereof and shall transmit them, with its findings and recommendations to the council for consideration and action no later than one hundred eighty [180] days after the final public hearing.

3. Review other proposed land use ordinances and amendments thereto prepared by the director or the council and, after public hearings, transmit such ordinances with its findings and recommendations thereon to the council for consideration and action no later than one hundred twenty [120] days after the final public hearing.

4. Act as the authority in all matters relating to the Coastal Zone Management law.

5. Adopt rules pursuant to land use ordinances or law.

6. Have such other powers and duties as may be provided by law.

Section [8-8.5.] 8-7.5. General Plan and Community Plans.

1. The general plan shall be developed after input from [state] State and county agencies and the general public, and shall be based on sound policy and information.

2. The general plan shall indicate desired population and physical development patterns for each island and region within the county; shall address the unique problems and needs of each island and region; shall explain the opportunities and the social, economic, and environmental consequences related to potential developments; and shall set forth the desired sequence, patterns, and characteristics of future developments. The general plan shall identify objectives to be achieved, and priorities, policies, and implementing actions to be pursued with respect to population density, land use maps, land use regulations, transportation systems, public and community facility locations, water and sewage systems, visitor destinations, urban design, and other matters related to development.

3. The planning director shall issue a report annually providing a detailed explanation of the implementation and enforcement of the general plan and the community plans to the [mayor] managing director and the council.

4. There shall be a citizen advisory committee for each community plan area. Each citizen advisory committee shall consist of thirteen members, with nine appointed by the council and four appointed by the mayor. Each citizen advisory committee is charged with reviewing and recommending revisions to the community plan for its community plan area. Each citizen advisory committee shall remain in existence until its revisions are adopted, modified, or rejected by the council and until such action is approved, modified, or rejected by the [mayor.] managing director.

5. The community plans created and revised by the citizen advisory committees shall set forth, in detail, land uses within the community plan regions of the county. The objectives of each community plan shall be to implement the policies of the general plan. Each community plan shall include implementing actions that clearly identify priorities, timelines, estimated costs, and the county department accountable for the completion of the implementing actions.

6. The community plans [generated through the citizen advisory councils and accepted by the planning commission, council, and mayor] are part of the general plan.

Section [8-8.6.] 8-7.6. Adoption of General Plan and Other Land Use Ordinances.

1. The county shall adopt revisions to the general plan by ordinances.

2. Any revisions of the general plan, zoning ordinance, or other land use ordinance may be proposed by the council and shall be reviewed by the appropriate planning commission as if prepared by the planning director. Any such revision shall be referred to the appropriate planning commission by resolution. If the planning commission disapproves the proposed revision or recommends a modification thereof, not accepted by the council, or fails to make its report within a period of the hundred twenty [(120)] days after receipt of the referral, the council may nevertheless pass such revision, but only by the affirmative vote of at least two-thirds of the council's entire membership.

3. Revisions to the general plan proposed by the planning director shall be reviewed and acted upon by the council no later than one [(1)] year after receipt of the transmittal from the planning director.

4. Revisions to zoning and land use ordinances proposed by the planning director shall be reviewed and acted upon by the council no later than one hundred eighty [(180)] days after receipt of the transmittal from the planning director.

Section [8-8.7.] 8-7.7. Board of Variances and Appeals. The board of variances and appeals shall consist of nine members appointed by the mayor with the approval of the council.

In accordance with such principles, conditions, and procedures prescribed by the council, the board of variances and appeals shall:

1. Hear and determine applications for variances from the strict application of any zoning, subdivision, or building ordinance[s]. The board shall hold a public hearing prior to ruling on a variance application and shall issue findings of fact and conclusions of law on decisions granting or denying a variance application[s].

2. Hear and determine appeals alleging error from any person aggrieved by a decision or order of any department charged with the enforcement of a zoning, subdivision, [and]

or building ordinance[s]; provided, that the council may by ordinance confer to another county agency the authority to hear and determine appeals from the decisions of the building official in the administration of the [county] County of Maui building code, plumbing code, electrical code, and housing code, and from any order made by the county fire chief in the administration of applicable [state] State law and the [county] County of Maui fire code, and the director of water supply in the administration of the rules and regulations of the department of water supply relating to matters involving any denial of the use of new or alternate materials, types of construction, equipment, devices, or appliances.

3. Hear and determine all other matters which the board may be required to pass on pursuant to ordinances.

4. Adopt rules of procedure for the conduct of the board's business.

CHAPTER [9] 8
DEPARTMENT OF PERSONNEL SERVICES

Section [8-9.1.] 8-8.1. Organization. There shall be a department of personnel services consisting of a civil service commission, a director of personnel services, and the necessary staff.

Section [8-9.2.] 8-8.2. Director of Personnel Services. The director of personnel services shall be appointed and may be removed by the civil service commission. The director may be removed by the civil service commission only after being informed in writing of the charges that are resulting in the director's dismissal, and after being given a hearing before the commission. The director of personnel services shall be thoroughly familiar with the principles and methods of personnel administration and shall believe in applying merit principles and scientific administrative methods to public personnel administration.

Section [8-9.3.] 8-8.3. Powers, Duties, and Functions. The director of personnel services shall:

1. Be the administrative head of the department of personnel services.

2. Be responsible for the personnel management program of the county. Advise the council, the mayor, and the managing director recruitment and selection committee as a whole, in the recruitment, selection, and hiring process for the managing director. Advise the managing director on identification, recruitment, and selection of administrative heads subject to the managing director's oversight. Advise the managing director in actions resulting in the removal of such directors.

3. Perform such duties as are established under the civil service laws of the State.

Section [8-9.4.] 8-8.4. Civil Service Commission. The civil service commission shall consist of five members appointed by the mayor with the approval of the council.

The civil service commission shall:

1. Adopt rules having the force and effect of law to carry out the provisions of the civil service laws of the State.

2. Request an annual appropriation for the operation of the department.

3. Hear appeals, in accordance with law, by any officer or employee aggrieved by any action by the director of personnel services or by an appointing authority.

4. Advise the mayor, managing director, and director of personnel services on problems concerning personnel administration.

5. Annually review and evaluate the performance of the director of personnel services and submit a report to the mayor, the managing director, and the council.

6. Have such other powers and duties as may be provided by law.

CHAPTER [10] 9
DEPARTMENT OF HOUSING AND HUMAN CONCERNS

Section [8-10.1.] 8-9.1. Organization. There shall be a department of housing and human concerns, which shall consist of a director and the necessary staff.

Section [8-10.2.] 8-9.2. Director of Housing and Human Concerns. [The director of housing and human concerns shall be appointed by the mayor with the approval

of the council and may be removed by the mayor.] The managing director, in consultation with the mayor and with the approval of council shall appoint or may remove the director of housing and human concerns, pursuant to the procedures set forth in Section 6-2.5 of this charter. The director of housing and human concerns shall have had [a minimum of] five years of experience in an administrative capacity, either in public service or private business, or both, in addition to specific qualifications set forth by ordinance.

Section [8-10.3.] 8-9.3. Powers, Duties, and Functions. The director of housing and human concerns shall:

1. Develop a comprehensive approach to the effective administration and coordination of programs and plans of action designed to meet housing and human needs in the county.

2. Develop, supervise, and coordinate such programs and projects as shall be assigned by the [mayor.] managing director.

3. Perform such other duties and functions as may be assigned by the [mayor.] managing director.

CHAPTER [11] 10
DEPARTMENT OF WATER SUPPLY

Section [8-11.1.] 8-10.1. Organization. There shall be a department of water supply consisting of a board of water supply, a director, a deputy director, and the necessary staff.

Section [8-11.2.] 8-10.2. Functions of the Department.

1. The department of water supply shall manage and operate all water systems owned by the county.

2. In order to protect and manage the water resources in the county, the department of water supply shall make studies, surveys, and investigations relating to the locations and sources of water supply within the county, the amounts available for current and prospective uses, the water resources which may be available for such uses, and the maximum sustainable yield of such sources.

3. The department of water supply shall implement the county's general plan and community plans in the administration of its affairs. The department of water supply shall prepare and annually update a long-range capital improvement plan and an updated water use and development plan, which shall be subject to the approval of the council, as provided by law.

Section [8-11.3.] 8-10.3. Board of Water Supply. The board of water supply shall consist of nine members who shall be appointed by the mayor with the approval of the council. The [director of the department of] planning director and the director of [the department of] public works [and environmental management] shall be non-voting ex-officio members of the board of water supply. The board of water supply shall act as advisor to the director of [the department of] water supply, the mayor, the managing director, and the council in all matters concerning the county's water system.

Section [8-11.4.] 8-10.4. Powers, Duties, and Functions. The board of water supply shall:

1. Review and submit to the mayor and managing director the department of water supply's request for an annual appropriation for operations and capital improvements.

2. Recommend the establishment and adjustment of rates and charges for furnishing water; such rates and charges shall be submitted to the mayor and managing director for review and approval. If approved by the mayor, in consultation with the managing director, proposed rates and charges shall be submitted to the council for enactment by ordinance.

3. Perform such other duties and functions as shall be prescribed by law.

Section [8-11.5.] 8-10.5. Director and Deputy Director of Water Supply. [The director of water supply shall be appointed by the mayor with the approval of the council, and may be removed by the mayor with the approval of the council.] The managing director, in consultation with the mayor and with the approval of the council, shall appoint or may remove the director of water supply, pursuant to the

procedures set forth in Section 6-2.5 of this charter. The director of water supply shall have had [a minimum of] five years of experience in a management capacity, either in public service or private business, or both, in addition to specific qualifications set forth by ordinance. [The deputy director of water supply shall be appointed by the mayor and may be removed by the mayor.] The managing director shall appoint and remove the deputy director of water supply. The director or deputy director of water supply shall be a registered engineer.

Section [8-11.6.] 8-10.6. Powers, Duties, and Functions. The director of [the department of] water supply shall:

1. Administer the affairs of the department of water supply, and be responsible for the day-to-day management and control of all water systems of the county.
2. Prepare long-range capital improvement plans and up-to-date water use and development plans for review by the board of water supply and enactment by the council by ordinance.
3. Implement enacted long-range capital improvement plans and water use and development plans.
4. Prepare an annual operating and capital budget for the board of water supply's review and submit the department of water supply's request for an annual appropriation to the mayor[.] and managing director.
5. Perform such other duties and functions as shall be prescribed by law.

Section [8-11.7.] 8-10.7. Revenues. The revenues of the department of water supply shall be kept in a separate fund and shall be such as to make the department of water supply self-supporting, provided that the council may issue general obligation bonds on behalf of the department of water supply and may provide capital improvement appropriations for the department of water supply.

CHAPTER [12] 11
DEPARTMENT OF POLICE

Section [8-12.1.] 8-11.1. Organization. There shall be a department of police consisting of a police commission, a chief of police, and the necessary staff.

Section [8-12.2.] 8-11.2. Police Commission. The police commission shall consist of nine members appointed by the mayor with the approval of the council.

The police commission shall:

1. Adopt such rules as it may consider necessary for the conduct of its business and regulation of the matters committed to its charge by law.
2. Review and submit to the mayor and managing director the department's request for an annual appropriation for the operation of the department.
3. Receive, review, and investigate any charges brought forth by the public against the conduct of the department or any of its members and submit a written report of its findings and recommendations to the chief of police for the chief's disposition.
4. Annually review and evaluate the performance of the chief of police and submit a report to the mayor, the managing director, and the council.
5. Have such other powers and duties as may be provided by law.

Section [8-12.3.] 8-11.3. Chief of Police. The chief of police shall be appointed and may be removed by the police commission. The chief may be removed by the police commission only after being informed in writing of the charges which are resulting in the chief's dismissal, and after being given a hearing before the commission. The chief of police shall have had a minimum of five years of experience in law enforcement, at least three of which shall have been in an administrative capacity.

Section [8-12.4.] 8-11.4. Duties and Functions of the Chief of Police. The chief of police shall:

1. Be the administrative head of the department of police.

2. Be responsible for the preservation of the public peace, prevention of crime, detection and arrest of offenders against the law, protection of rights of persons and property, and enforcement and prevention of violations of all laws of the State and ordinances of the county and all rules made in accordance therewith.

3. Be responsible for traffic safety and traffic safety education.

4. Train, equip, maintain, and supervise the force of police officers and employees of the department.

5. Have such other powers and duties as may be assigned by the mayor in consultation with the managing director or as may be provided by law.

CHAPTER [13] 12
DEPARTMENT OF LIQUOR CONTROL

Section [8-13.1.] 8-12.1. Organization. There shall be a department of liquor control consisting of a liquor control commission, a liquor control adjudication board, a director of liquor control, and the necessary staff.

Section [8-13.2.] 8-12.2. Liquor Control Commission. The liquor control commission shall consist of nine members appointed by the mayor with the approval of the council.

The liquor control commission shall:

1. Prepare and submit a request for an annual appropriation for the operation of the department.

2. Adopt rules having the force and effect of law for the administration of liquor control in the county and to carry out provisions of the liquor control laws of the State, including, but not limited to, the fixing of liquor license fees.

3. Grant, renew, or refuse applications for licenses for the manufacture, importation, and sale of liquor in the county under applicable laws and regulations.

4. Annually review and evaluate the performance of the director of liquor control and submit a summary report identifying the director's key accomplishments to the mayor, the managing director, and the council.

5. Have such other powers and duties as may be provided by law not in conflict with the provisions of this section.

Section [8-13.3.] 8-12.3. Liquor Control Adjudication Board. The liquor control adjudication board shall consist of nine members appointed by the mayor with the approval of the council. The liquor control adjudication board shall hear and determine administrative complaints of the director regarding violations of the liquor control laws of the State or of rules of the liquor control commission, and impose penalties for violations thereof as may be provided by law.

Section [8-13.4.] 8-12.4. Director [of the Department] of Liquor Control. The director [of the department] of liquor control shall be appointed and may be removed by the liquor control commission. The director may be removed by the liquor control commission only after being informed in writing of the charges which are resulting in the director's dismissal, and after being given a hearing before the commission. The director of [the department of] liquor control shall have had a minimum of five years of experience in law enforcement, at least three of which shall have been in an administrative capacity.

Section [8.13.5.] 8-12.5. Powers, Duties, and Functions. The director of liquor control shall:

1. Be the administrative head of the department of liquor control.
2. Investigate violations of the liquor control laws of the State and of rules established by the liquor control commission.
3. Investigate applications for liquor licenses.
4. Have such other powers and duties as may be assigned by the mayor or as may be provided by law.

CHAPTER [14] 13
DEPARTMENT OF TRANSPORTATION

Section [8-14.1.] 8-13.1. Organization. There shall be a department of transportation consisting of a director and the necessary staff.

Section [8-14.2.] 8-13.2. Director of Transportation. [The director of transportation shall be appointed by the mayor with the approval of the council and may be removed by the mayor.] The managing director, in consultation with the mayor and with the approval of the council, shall appoint or may remove the director of transportation, pursuant to the procedures set forth in Section 6-2.5 of this charter. The director of transportation shall have had [a minimum of] five years of experience in an administrative capacity, either in public service or private business, or both, in addition to specific qualifications set forth by ordinance.

Section [8-14.3.] 8-13.3. Powers, Duties, and Functions. The director of transportation shall:

1. Be the administrative head of the department of transportation.
2. Be responsible for the planning and implementation of all modes of transportation in Maui County, including those in the air, and those on water and land.
3. Be responsible for planning and developing an efficient program to facilitate the rapid, safe, and economical movement of people and goods in Maui County.
4. Coordinate Maui County's transportation programs with other county departments and with agencies of the [state] State and federal government.
5. Perform such other duties and functions as shall be assigned by the [mayor.] managing director.

CHAPTER [15] 14
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

Section [8-15.1.] 8-14.1. Organization. There shall be a department of environmental management consisting of a director and the necessary staff.

Section [8-15.2.] 8-14.2. Director of Environmental Management. [The director of environmental management shall be appointed by the mayor with the approval of the council and may be removed by the mayor.] The managing director, in consultation with the mayor and with the approval of council, shall appoint or may remove the director of environmental management, pursuant to the procedures set forth in Section 6-2.5 of this charter. The director of environmental management shall have had [a minimum of] five years of experience in an administrative capacity, either in public service or private business, or both, in addition to specific qualifications set forth by ordinance.

Section [8-15.3.] 8-14.3. Powers, Duties, and Functions. The director of environmental management shall:

1. Supervise waste management and control of pollution, including recycling, litter control, and protection of the unique beauty of Maui [county.] County.

2. Plan, design, build, operate, and maintain solid waste collection, processing, and disposal systems, including recycling programs.

3. Plan, design, build, operate, and maintain the county's sewer treatment plants, pump stations, sewer lines, reclaimed water distribution systems, and related programs.

4. Guide efforts to optimize opportunities for environmental[,] and natural resource protection, sustainability, conservation, and restoration.

5. Perform such other duties and functions as shall be assigned by the [mayor.] managing director.

CHAPTER [16] 15
MAUI COUNTY EMERGENCY MANAGEMENT AGENCY

Section [8-16.1.] 8-15.1. Organization and Functions. There shall be a Maui County emergency management agency whose powers, duties, functions, and organization shall be as provided by law. The fire and public safety commission, as established in Section [8-7.2] 8-6.2 herein, shall review the operations of the agency and make recommendations for changes [which] that may be desirable to improve the performance of emergency functions and the

provision of public safety services. The commission shall receive and investigate any complaints brought forth by the public against the conduct of the agency or any of its members and submit a written report of its findings and recommendations to the [Maui County] emergency management administrator for the administrator's disposition.

CHAPTER [17] 16
SALARY COMMISSION

Section [8-17.1.] 8-16.1. Organization and Functions. There shall be a salary commission, which shall consist of nine members appointed by the mayor with the approval of the council. The members of this commission shall have five-year terms, and can be reappointed once to a second five-year term. Two members shall be appointed or reappointed each year, except that only one member shall be appointed or reappointed every fifth year. The commission shall determine the compensation of elected officials, the managing director and deputy managing director, and appointed directors and deputy directors of all departments of the county. [provided however, in] In establishing the compensation of the managing director and deputy managing director, the salary commission shall consult with the council, and in establishing the compensation of appointed department heads and their deputies, the salary commission shall consult with those boards and commissions [which] that have appointing authority for department heads.";

10. That pursuant to Charter Section 14-1(1), it hereby proposes Charter Section 9-2, pertaining to Preparation and Submission of Budget and Capital Program, be amended to read as follows:

"ARTICLE 9
FINANCIAL PROCEDURES

Section 9-2. Preparation and Submission of Budget and Capital Program.

1. On or before the twenty-fifth day of March before the ensuing fiscal year begins, the managing director, in consultation with the mayor, shall submit to the council (a) an

operating budget for the ensuing fiscal year, including an executive operating budget and a legislative operating budget, (b) a capital program, and (c) an accompanying message.

2. Upon submission, the budget, the capital program, and the message shall be a public record in the office of the county clerk and shall be open to public inspection. The mayor shall at the same time make available copies of the budget, the capital program, and the message for distribution to interested persons.";

11. That pursuant to Charter Section 14-1(1), it hereby proposes Charter Section 9-3, pertaining to Scope of Budget and Message, be amended to read as follows:

"**Section 9-3. Scope of Budget and Message.**

1. The budget shall present a complete financial plan for the operations of the county and its departments for the ensuing fiscal year, showing all county funds on hand whether encumbered or unencumbered and estimated reserves and revenues. It shall be set up as provided by the council after consultation with the mayor**[.]** <u>and managing director.</u>

2. The estimated revenues, proposed expenditures, and total appropriations for the ensuing fiscal year shall be equal in amount.

3. The **[**mayor's**]** <u>managing director's</u> message shall explain the budget both in fiscal terms and in terms of work to be done. It shall outline the proposed financial policies of the county for the ensuing fiscal year and describe the most important features of the budget plan. It shall indicate any major changes in financial policies and in expenditures, appropriations, and revenues as compared with the fiscal year currently ending, and shall set forth the reasons for the changes. The message shall include a list of pending and proposed capital improvements together with the mayor's comments on such list. The message shall also include such other supporting or explanatory material as the mayor deems desirable.";

12. That pursuant to Charter Section 14-1(1), it hereby proposes Charter Section 9-9, pertaining to Appropriations and Changes, be amended to read as follows:

"**Section 9-9. Appropriations and Changes.**

1. If during any fiscal year the [mayor] managing director certifies that there are available for appropriation (a) revenues received from sources not anticipated in the budget for that year, [or] (b) revenues received from anticipated sources but in excess of the budget estimates therefor, or (c) estimated revenues to be reimbursed by federal or [state] State agencies to the county, the county may by ordinance make supplemental appropriations for that year up to the amount of the additional revenues so certified.

2. To meet a public emergency threatening life, health, or property, the council, upon written request by the mayor, may pass emergency appropriations. Such appropriations shall be made by ordinance, which shall take immediate effect and must be approved by not less than seven members of the council. To the extent that there are no available unappropriated revenues to meet such appropriations, the county may, by ordinance, authorize the issuance of emergency notes. These notes shall be paid not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made. The total of emergency appropriations in any fiscal year shall not exceed one percent [(1%)] of the total operating appropriations (excluding those for debt service) made in the operating budget for that year.";

13. That pursuant to Charter Section 14-1(1), it hereby proposes Charter Section 9-10, pertaining to Appropriations: Reduction and Transfer, be amended to read as follows:

"**Section 9-10. Appropriations: Reduction and Transfer.**

1. If at any time during the fiscal year it appears probable to the managing director, in consultation with the mayor, that the revenues available will be insufficient to meet the amount appropriated, the [mayor] managing director shall report to the council without delay, indicating the estimated amount of the deficit, any remedial action taken by the [mayor] managing director, and recommendations as to any further action to be taken. The council shall then take such further action as it deems necessary to prevent or

minimize any deficit. For that purpose, it may pass a bill reducing one or more appropriations; but no appropriation to pay any indebtedness may be reduced, and no appropriation may be reduced by more than the amount of the unencumbered balance thereof or below any amount required by law to be appropriated.

2. Upon written request of the [mayor] managing director, part or all of any unencumbered appropriation balance may be transferred within a department by resolution or from one department to another by ordinance. No transfer, however, shall be made from an appropriation to pay any indebtedness, and no appropriation may be reduced below any amount required by law to be appropriated.

3. The managing director, in consultation with the mayor, or the council may initiate changes to [their respective] the executive or legislative operating budgets, respectively.";

14. That pursuant to Charter Section 14-1(1), it hereby proposes Charter Section 9-15, pertaining to Centralized Purchasing, be amended to read as follows:

"**Section 9-15. Centralized Purchasing.** The [mayor] managing director may, at the [mayor's] managing director's discretion, establish procedures for the purchase of all materials, supplies, equipment, and services required by any department of the county through the department of finance or such other department as the [mayor] managing director may designate.";

15. That pursuant to Charter Section 14-1(1), it hereby proposes Charter Section 9-18, pertaining to Contracts, be amended to read as follows:

"**Section 9-18. Contracts.**

1. Before execution, all written contracts to which the county is a party shall be approved by the corporation counsel as to form and legality. [All] To the extent allowed by law, all such contracts shall be signed by the [mayor,] managing director, except that contracts for purchase of materials, supplies, equipment, personal services, and public works contracts shall be signed by the director of finance.

Contracts and instruments that by law require the signature of the mayor shall be signed by the mayor.

2. Before execution, contracts involving financial obligations of the county shall also be certified by the director of finance as to the availability of funds in the amounts and for the purposes set forth herein.

3. Notwithstanding any other provision in this charter, all contracts involving the council, the office of the county auditor, the office of council services, and the office of the county clerk shall be signed on behalf of the county by the chair of the council only, subject to approval by the corporation counsel as to form and legality, and certification by the director of finance as provided herein.";

16. That pursuant to Charter Section 14-1(1), it hereby proposes Charter Section 13-1, pertaining to Definitions, be amended to read as follows:

"ARTICLE 13
GENERAL PROVISIONS

Section 13-1. Definitions.

1. The term "agency or operation of the county" includes any executive agency, semi-autonomous agency, council office, and other establishment of county government supported, in whole or in part, by county or public funds.

[1.] 2. The terms "board" or "commission" [shall] mean a board or commission established by this charter.

3. The term "Council office" includes the council itself, the office of a council member and the council member's immediate staff, the office of the county clerk, and the office of council services. This definition shall not be construed as excluding the office of the county auditor from the legislative branch.

[2.] 4. The term "employee" [shall mean] means any person, except an officer, employed by the county, but the term shall not include an independent contractor.

[3.] 5. The term "law" [shall mean] means any Federal law, any law of the State or any ordinance of the [county] County of Maui or any rule having the force and effect of law.

[4.] 6. The term "officer" shall include the following:

a. Mayor, managing director, and members of the council.

b. Any person appointed as an administrative head of any department or as a member of any board or commission.

c. The first deputy appointed by the administrative head of any department.

d. Deputies of the corporation counsel and prosecuting attorney.

7. The term "record" includes any account, book, paper, and document, and any financial affair, notwithstanding whether any of the preceding is stored on paper or electronically.

[5.] 8. The term "State" [shall mean] means the State of Hawai`i.";

17. That pursuant to Charter Section 14-1(1), it hereby proposes Charter Section 13-7, pertaining to Annual Reports, be amended to read as follows:

"**Section 13-7. Annual Reports.** Not later than ninety [(90)] days after the close of the fiscal year, each department shall make an annual written report of its activities to the mayor and managing director in such form as the [mayor] managing director may prescribe. Copies of such reports shall be filed in the office of the county clerk.";

18. That material to be repealed is bracketed, and new material is underscored;

19. That, pursuant to Charter Section 14-2(1), this resolution be submitted to the voters of the County of Maui at the next general election;

20. That the County Clerk prepare the necessary ballot for presentation to the voters at the next general election;

21. That, pursuant to Charter Section 14-1(1), it hereby proposes that the following question be placed on the next general election ballot:

"Shall the Charter be amended, effective January 2, 2023, to reorganize the executive branch for the County of Maui to establish an Office of the Managing Director, wherein a Managing Director, hired by the Mayor through a recruitment and selection process

involving the Mayor, Council Chair, and a three-member citizen group, shall function as the County's chief operating officer responsible for the County's daily operations, the appointment and removal of most department heads, and the implementation of County policy; the Mayor shall be the County's chief executive officer responsible for supervising the managing director's work, representing the County in intergovernmental affairs, having the authority to approve or veto bills, nominating board and commission members, and enforcing provisions of the Charter, County ordinances, and all applicable laws; and authorizing various housekeeping revisions?"

22. That, pursuant to Charter Section 14-2(2), the County Clerk shall publish the proposed amendment as set forth in this resolution in its entirety in a newspaper of general circulation;

23. That, upon approval by the majority of the voters voting on the proposed amendment and upon official certification of such result, the amendment proposed herein shall take effect on January 2, 2023, except that the Council and Mayor shall start working toward its implementation on January 2, 2022;

24. That as authorized by Charter Section 14-4, the County Clerk shall revise and publish in its entirety a revised charter including amendments adopted in this resolution and renumbering provisions and cross-references as may be necessary by the approval of the revisions or amendments;

25. The Council recognizes that Article 8, Section 2, of the State of Hawai`i Constitution states in pertinent part: "Charter provisions with respect to a political subdivision's executive, legislative and administrative structure and organization shall be superior to statutory provisions, subject to the authority of the legislature to enact general laws allocating and reallocating powers and functions.";

26. That, consequently, upon approval of the Charter amendment proposed by this resolution, the Council Chair is directed to seek the State Legislature's assistance in enacting any statutes necessary to ensure consistency with and deference to the revised structure and organization of Maui County's executive, legislative, and administrative structure; and

27. That certified copies of this resolution be transmitted to the Mayor and the County Clerk.

APPROVED AS TO FORM AND LEGALITY

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Department of the Corporation Counsel
County of Maui
LF2020-0445
paf:jbf:20-123e

COUNCIL OF THE COUNTY OF MAUI

WAILUKU, HAWAII 96793

CERTIFICATION OF ADOPTION

It is HEREBY CERTIFIED that RESOLUTION NO. 20-60, DRAFT 1 was passed on Second and Final Reading by the Council of the County of Maui, State of Hawaii, on the 8th day of May, 2020, by the following vote:

MEMBERS	Alice L. LEE Chair	Keani N. W. RAWLINS-FERNANDEZ Vice-Chair	G. Riki HOKAMA	Natalie A. KAMA	Kelly T. KING	Michael J. MOLINA	Tamara A. M. PALTIN	Shane M. SINENCI	Yuki Lei K. SUGIMURA
ROLL CALL	Aye	Aye	No	No	Aye	Aye	Aye	Aye	No

Kathy L Kuohu

COUNTY CLERK

Passed First Reading on March 27, 2020