

RULES OF THE 2021-2022 MAUI COUNTY CHARTER COMMISSION
(Amended, adopted, and effective April 15, 2021)

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SECTION 1. AUTHORITY AND SCOPE OF RULES.

Rule 1.1. Effective date of rules. These rules shall become effective upon adoption by the Commission and shall remain in effect until the day following the general or special election as referenced in Section 14-3 of the Revised Charter of the County of Maui (1983), as amended (the "Charter"), unless superseded earlier by new rules.

Rule 1.2. Force and effect of rules. Unless otherwise indicated, these rules shall apply to the Commission, the Commission's standing committees, the Commission's special committees, the subcommittees of the Commission's standing committees, individual Commission members, the Commission's officers and support staff, and individuals who attend or participate in Commission, committee, or subcommittee meetings. These rules may be amended, rescinded, or suspended as provided in these rules. References to "Chair" in these rules shall be read to include the Commission Chair, committee chairs, and subcommittee chairs, unless the context indicates that such a reading is not intended.

Rule 1.3. Amendment or rescission of rules; new rules. The amendment or rescission of a rule, or adoption of a new rule, under this provision shall become effective upon the affirmative vote of a majority of the Commission.

Rule 1.4. Suspension of rules. These rules may be suspended by the affirmative vote of a majority of the Commission; provided, that duration of the suspension shall not be longer than necessary to further the purpose of the suspension.

SECTION 2. MEETINGS.

Rule 2.1. Regular Commission meetings. Regular Commission meetings shall be held on dates, times, and places as determined by the Commission Chair. If a regular meeting date is a holiday or is in conflict with an important public event, the Commission Chair may reschedule the meeting date. The Commission may reschedule a regular meeting for a different time, date, and place.

Rule 2.2. Special Commission meetings. Special Commission meetings may be called at any time by the Commission Chair, or by a majority of the Commission.

Rule 2.3. Emergency Commission meetings. Emergency Commission meetings shall be governed by Section 92-8, HRS. To ensure compliance with these provisions, the following guidelines shall apply:

- A. If time permits, the Chair shall confer with Commission members for the limited purposes of determining whether an emergency exists and making a written finding to that effect. If at least eight of all the Commission members agree that an emergency exists, then an emergency meeting shall be scheduled, and the emergency meeting agenda and written finding of an emergency shall be filed in accordance with Section 92-8(a)(3), HRS, with notice given to persons requesting notification on a regular basis shall be contacted by mail or email as soon as practicable.
- B. If there is not sufficient time for such conferral to determine whether an emergency exists and to make a written finding, the Commission Chair shall prepare a draft written finding that an emergency exists and schedule the emergency meeting. The emergency meeting agenda and draft written finding shall be filed in accordance with Section 92-8(a)(3), HRS. Persons requesting notification on a regular basis shall be contacted by mail or email as soon as practicable. When the Commission convenes the emergency meeting, the first order of business shall be the adoption of the draft written finding (or an amended written finding) that an emergency exists by at least eight of all Commission members. If such a finding is made, the Commission can proceed with the emergency meeting. If the Commission does not find that an emergency exists by a vote of at least eight of all Commission members, then the meeting must adjourn immediately.
- C. An emergency meeting may be held by telephone conference or video conference in the event of public calamity, if the Chair finds such means are prudent.

Rule 2.4. Executive sessions. Executive sessions shall be held in accordance with Sections 92-4 and 92-5, HRS. An executive session is a portion of a meeting that is closed to the public to allow for a confidential discussion in accordance with law. An affirmative vote of at least two-thirds of the members present, taken in open session, shall be required to hold an executive session; provided, that the affirmative vote constitutes a majority of all of the voting members of the Commission, the committee, or the subcommittee holding the meeting. The reason for holding an executive session shall be publicly announced and included as part of any motion to hold an executive session. In addition to members, only necessary staff and necessary resource persons shall attend an executive session. The information provided in executive session shall be confidential and may be protected by the attorney-client privilege. The attorney-client privilege may only be waived by a majority of the Commission. Any action taken in executive session shall be announced in open session; provided, that the announcement shall not reveal confidential information.

Rule 2.5. Avoidance of improper meetings. Two members of the Commission may communicate or interact privately to gather information from each other about official Commission matters to enable them to perform their duties, as long as no commitment to vote is sought or made. To avoid meeting without proper notice and to ensure compliance with the letter and spirit of the Sunshine Law (HRS Part I, Chapter 92), Commission members shall scrupulously avoid discussing matters under the Commission's supervision, control, jurisdiction, or advisory powers with more than one other member of the Commission at any time except during a properly noticed meeting. Any Commission member may attend and participate in any properly noticed meeting.

Rule 2.6. Limitation on duration of recess. A meeting may be recessed to a reasonable date, time, and place, but not for more than 10 consecutive calendar days and not to a date more than 10 calendar days from the date of the originally noticed meeting. The date, time, and place for the reconvened meeting or hearing shall be publicly announced by the Chair prior to the recess.

Section 3. QUORUM; VOTING.

Rule 3.1. Quorum. Six members of the Commission shall constitute a quorum. A majority of all of the voting members of a committee or subcommittee shall constitute a quorum for that committee or subcommittee. The loss of quorum shall automatically adjourn a meeting. Any member may be excused by the Chair from attendance at a meeting. If a member is not in attendance and has not been excused by the Chair, the member shall be deemed absent. A member who abstains pursuant to Rule 3.7 shall be counted as present for purposes of quorum.

Rule 3.2. Six votes generally required for Commission action. The affirmative vote of six members shall be necessary to take any Commission action, unless otherwise provided by law or these rules.

Rule 3.3. (RESERVED)

Rule 3.4. (RESERVED)

Rule 3.5. Votes required in committee or subcommittee. A committee recommendation on any matter shall be made by a simple-majority vote of all of the members of the committee or subcommittee, even if Commission action on the matter ultimately requires a super-majority vote.

Rule 3.6. Voting generally required. No member shall refrain from voting on any matter unless abstaining pursuant to Rule 3.7. A failure to vote by a member who is present or who, having been present, has withdrawn from the meeting without being excused, shall be deemed an affirmative vote and shall be so recorded.

Rule 3.7. Abstention from voting. Notwithstanding Rule 3.6, a member shall abstain from voting on any matter in which the member has a financial interest, or on any matter involving the member's official conduct. Prior to discussion on the matter, a member who will be abstaining from voting shall advise the Chair in open session of the reason for the abstention. An abstaining member shall not be permitted to participate in the discussion of the matter.

Rule 3.8. Limitation on members' speaking opportunities. No member shall speak more than twice on any pending matter, except upon the majority consent of the other members present. The movant of a matter shall not be permitted to speak in a reply to arguments of other members until every member choosing to speak shall have spoken. A member shall be limited to 10 minutes per opportunity to speak.

Rule 3.9. Other voting procedures. Once the Chair calls for a vote, no member shall be permitted to explain the member's vote; only the Chair is authorized to call for a vote. After the Chair or staff announces the result of a vote, no member shall be allowed to change the member's vote. For Commission meetings, the staff shall record the vote of each member upon the minutes of the Commission; for committee or subcommittee meetings, staff shall also record the vote of each member in the minutes of the committee.

SECTION 4. OFFICERS AND THEIR DUTIES.

Rule 4.1. Commission Chair. The Commission Chair shall be the presiding officer of the Commission. In the absence or disability of the Commission Chair, the Commission Vice-Chair shall act as the presiding officer. In the event of the absence or disability of all of these officers, a majority of the members present shall select a temporary Commission Chair; provided that, if necessary, the Commission Chair may designate a Commission member to convene the meeting; and further provided, that the first action at the meeting shall be the selection of a temporary Chair.

In addition to those duties prescribed by law or by these rules, it shall be the duty of the Commission Chair to:

- A. Open all meetings of the Commission at the appointed hour by taking the Chair and calling the Commission to order.
- B. Reasonably administer the receipt of oral and written testimony on Commission agenda items, pursuant to Section 11 of these rules.
- C. Call for the approval of the minutes of a prior meeting.
- D. Maintain order and proper decorum.
- E. Announce the business before the Commission in the order prescribed by these rules.
- F. Receive all communications and present them to the Commission or committee before which the subject matter is pending.
- G. Dispose of matters properly brought before the Commission, subject to appeal to the Commission.
- H. Authenticate by signature all acts of the Commission.
- I. Make known all rules of order when so requested and decide all questions of order and procedure subject to appeal to the Commission.
- J. Announce the result of any matter voted on by the Commission.
- K. Coordinate all intergovernmental meetings, functions, and activities on behalf of the Commission.
- L. Manage the staff and activities of the Commission.
- M. Develop organizational and staffing plans and budgets pertaining to the Commission.
- N. Plan, assign and coordinate studies and research, compile data, and reports on matters requested by the Commission, committees, or subcommittees.
- O. Plan and coordinate meetings and public hearings, including the preparation and posting of Commission agendas.

Rule 4.2. Support Staff. It shall be the duty of the staff to:

- A. Review communications, reports, and other material received by the Commission or its Chair, prepare digests, and compile necessary information, and recommend disposition for Commission action.
- B. Read matters to the Commission, as directed by the Chair.
- C. Transmit upon receipt all communications or other matters to the proper parties.
- D. Deliver to the appropriate committee all matters, as may be duly referred to such committee.
- E. Record all matters that come before the Commission.
- F. Make a list of all items and communications, and other matters set for consideration on particular dates.
- G. Have charge of all records of the Commission, including the minutes of the Commission, communications, and other business matters transmitted to the Commission.
- H. Serve in all matters as Clerk of the Commission and to perform or coordinate all clerical functions as the Chair or Commission shall from time to time direct.
- I. Assist the Commission in preparing publication of proposed charter amendments, form of the ballot, including such explanatory information as may be necessary.
- J. Assist the Commission Chair in coordinating all intergovernmental meetings, functions and activities.

Rule 4.3. (RESERVED)

SECTION 5. COMMITTEES AND SUBCOMMITTEES.

Rule 5.1. Establishment of standing committees. The Commission may establish standing committees, along with their composition of Commission members, Chair and Vice-Chair, and jurisdictional authority. Standing committees shall comply with Chapter 92, HRS, and these rules.

Rule 5.2. Purpose of standing committees. The purpose of the standing committees is to obtain information, deliberate, and to provide recommendations to the Commission on matters referred to the standing committees by the Commission.

Rule 5.3. Committee Chair and Vice-Chair. The Chair of a committee shall call meetings and preside over the same. In the absence of the Chair, the Vice-Chair shall preside. In the absence of both, a majority of the members present shall select a temporary Chair; provided that, if necessary, the Commission Chair may designate a committee member to convene the meeting; and further provided, that the first action at the meeting shall be the selection of a temporary Chair.

Rule 5.4. Committee recommendation generally required. The Commission may refer matters to a standing committee and shall receive the committee's recommendation; provided, that the Commission may waive this requirement by an affirmative vote of the majority of the Commission; and further provided, that this rule shall not apply to the adoption of new or amended rules.

Rule 5.5. Discharge of committee's consideration. A majority of the Commission may discharge a committee from further consideration of any matter.

Rule 5.6. Direct referrals. Notwithstanding Rule 5.4, the Commission Chair may directly refer a new matter to a committee without Commission action if the Chair determines there is a time limit for Commission action; provided, that the Chair shall concurrently place on the next available Commission meeting agenda a written notice to enable the Commission to take such action as may be necessary. In addition, with respect to existing committee matters, the Commission Chair and staff members shall directly refer communications relating to those matters to the appropriate committees.

Rule 5.7. Subcommittees. Pursuant to Section 92-2.5(b), HRS, an investigative subcommittee within any standing committee may be created for the purpose of providing recommendations to the standing committee, particularly on matters that require in-depth research or technical expertise. The standing committee shall appoint the subcommittee's Chair and Vice-Chair, at least one of whom shall be a Commission member; appoint the subcommittee's voting and non-voting members; specify the subcommittee's objectives; and set a date on which the subcommittee shall provide its findings and recommendations to the standing committee, upon the conclusion of which, the subcommittee shall be dissolved. Subcommittees shall comply with the rules applicable to standing committees to the extent practicable.

Rule 5.8. Special committees. The Commission may create any special committee by resolution for the purpose of providing well-considered recommendations to the Commission, particularly on matters that are not clearly within the jurisdictional authority of any standing committee. The Commission shall appoint the special committee's Chair and Vice-Chair, at least one of whom shall be a Commission member; appoint the special committee's voting and non-members; specify the special committee's objectives; and set a date on which the special committee shall be dissolved. Special committees shall comply with the rules applicable to standing committees to the extent practicable.

Rule 5.9. Minutes. The Chair of a committee shall approve minutes of committee meetings. In the absence of the Chair, the Vice-Chair shall approve minutes. Minutes shall comply with the requirements of Section 92-9, HRS.

Rule 5.10. Site inspections. (RESERVED)

Rule 5.11. Expiration of committee items. All pending matters listed on each committee's master agenda shall expire at the conclusion of the Commission term.

SECTION 6. COMMITTEE REPORTS.

Rule 6.1 Contents. All committee reports shall clearly and concisely state the committee's findings and recommendations for Commission action and describe the committee's investigative process in reaching those recommendations. A committee report shall state clearly the intent and purpose of the recommended action. Proposed amendments to the Charter shall be set forth in Ramseyer format.

Rule 6.2 Signing. The Chair of the committee shall sign committee reports. The Vice-Chair of the committee may sign in the absence or disability of the Chair. In signing a report, the Chair or Vice-Chair may write "with reservations" or "I do not concur" at the end of the report or next to certain sections of the report. Other committee members shall also be afforded the opportunity to sign committee reports and may write "with reservations" or "I do not concur" at the end of a report or next to certain sections of the report. Notwithstanding the foregoing, a member who has abstained from voting on a matter pursuant to Rule 3.7 shall not sign the committee report on the matter.

SECTION 7. ROLL CALL VOTES.

Rule 7.1. Staff shall call roll. If determined by the Chair that a roll call vote is necessary for any Commission action, the Commission staff or the Chair shall call for the vote.

Rule 7.2. Chair shall announce result. The Commission staff or Chair shall announce the result of roll call votes.

SECTION 8. AGENDAS.

Rule 8.1. Filing deadline for Commission agenda. In order to be placed on the Commission agenda of a meeting scheduled in accordance with Rule 2.1, all items, supporting documentation, and communications shall be filed with Commission staff no later than 12:00 p.m. on the second day prior to the posting deadline for the agenda in accordance with Section 92-7, HRS. Agenda requests received later than the applicable deadline shall be placed on the agenda of the following meeting.

Rule 8.2. Posting of Commission agenda. The agenda for any Commission meeting scheduled in accordance with Rule 2.1 and Section 92-7, HRS, shall be posted and made available to members of the Commission and the public no later than six calendar days before the meeting day.

Rule 8.3. Posting of committee and subcommittee agendas. Committee and subcommittee agendas shall be posted and made available to members and the public no later than six calendar days prior to the meeting.

Rule 8.4. Notification. A meeting agenda shall be sent to individuals who have requested notification of the meeting pursuant to Section 92-7, HRS, on the same day that the agenda is posted.

Rule 8.5. Adequate notice. Pursuant to the Sunshine Law (Part I, Chapter 92, HRS), meeting agendas shall list all items to be considered.

SECTION 9. ORDER OF BUSINESS.

Rule 9.1. Commission meetings. The following shall be the order of business for meetings, unless altered by majority vote of the Commission:

1. Roll Call
2. Minutes
3. Presentation of Written or Oral Testimony
4. Committee Reports
5. Communications
6. Unfinished Business
7. New Business
8. Announcements

Rule 9.2. Committee and subcommittee meetings. The order of business for committee and subcommittee meetings shall be determined by the chairs of the committees and subcommittees.

SECTION 10. RULES OF PROCEDURE.

Rule 10.1. Robert's Rules of Order. The rules of parliamentary practice set forth in Robert's Rules of Order, Newly Revised, shall govern Commission, committee, and subcommittee meetings in all cases in which they are not inconsistent with law or these rules.

Section 11. TESTIMONY; PROTOCOL.

Rule 11.1. Acceptance of testimony. At any meeting (including public hearings), written and oral testimony pertaining to items on the meeting agenda (or hearing notice) shall be accepted as provided herein.

Rule 11.2. Oral testimony. For each item on the meeting agenda, oral testimony shall be accepted before the item's discussion period commences. Persons wishing to provide oral testimony shall register with staff prior to testifying. The following procedures shall apply to oral testimony.

- A. **Order and duration of testimony.** The Chair shall accept testimony in the order in which testimony forms are submitted. Each testifier shall be allowed to speak for three minutes on each item. For each item, at the end of three minutes, the Chair may allow a person an additional minute to conclude the testimony on the item. After all registered testifiers have testified once on the item, an additional three minutes per person shall be allowed to those who were unable to conclude the testimony. An individual's request to testify shall be deemed withdrawn if the individual is not present when called to testify.
- B. **Chair decides whether all testimony shall be accepted at beginning of meeting.** The Chair may either: (a) accept testimony on all items prior to the discussion period for any of the items; or (b) accept testimony on each item immediately prior to the discussion period for the item.

Rule 11.3. Written testimony. Hand-delivered written testimony shall be accepted before or during the testimony-registration period; provided, that the Chair may (but is not required to) accept and distribute relevant documentary information at any time, which shall not have the effect of re-opening the oral testimony-registration period. Written testimony that is submitted by letter, facsimile, or e-mail should be received by the Commission staff at least twenty-four hours prior to the meeting to ensure its timely distribution; provided, that written testimony for a meeting by videoconference should be received by the Commission staff at least seventy-two hours prior to the meeting to ensure its distribution. If a Commission member receives a written communication that reasonably appears to have been intended as written testimony, the Commission member shall promptly forward the written communication to the appropriate recipient.

Rule 11.4. Presentations. Prior to the acceptance of oral testimony on an item, the Chair may allow a member or resource person to make an informational presentation on the item; provided, that the presentation shall not be considered testimony. The

decision on whether to allow a presentation and on the allowable form and duration of any presentation shall be made at the Chair's discretion.

Rule 11.5. Participation by resource persons. The Chair may allow Administration officials, attorneys from the Department of the Corporation Counsel, State officials, Federal officials, and other resource persons to participate in meetings for the purpose of providing information or advice to facilitate the deliberative process. For purposes of these rules, a resource person is anyone designated by the Chair as possessing special knowledge or experience with respect to an item on the meeting agenda. Participation in the meeting by a resource person pursuant to this rule shall not constitute testimony; provided, that a resource person may also submit written or oral testimony pursuant to these rules.

Rule 11.6. Discussion period. The discussion period on any item shall not commence until all persons who have registered to testify during the testimony-registration period for the item have been afforded an opportunity to testify. During the discussion period, the Chair may invite a testifier, a resource person, or any other person to appear for the purpose of responding to questions. Such an appearance shall not reopen the testimony-registration period for that item.

Rule 11.7. Reconvened meetings. When a meeting has reconvened after being in recess, no one may register to testify on an item if the testimony-registration period has closed for that item.

Rule 11.8. Respect during speaking. When a member, a testifier, or another person is properly speaking during a meeting, no one shall engage in private discourse. All speakers during meetings shall direct their remarks only to the Chair, be recognized by the Chair before proceeding, confine their remarks to matters within the scope of the meeting agenda, and avoid abusive language.

Rule 11.9. Chair's authority. Nothing in this section shall diminish the responsibility or the authority of the Chair to maintain order and decorum.

Rule 11.10. Public forum not created. The conduct of meetings, including the receipt of testimony or presentations, shall not constitute the creation of a public forum.

Rule 11.11. Disclosure of lobbyist status. Each testifier who is a paid lobbyist as defined by Section 2.56.040, Maui County Code, shall disclose that status at the beginning of their testimony.

SECTION 12. COMMISSION TRAVEL.

Rule 12.1. Commission Chair's prior approval required. All expenditures from the accounts shall require the prior approval of the Commission Chair or a representative designated for such purpose.

Rule 12.2. Report required. The Commission Chair shall require a written report, as the Chair deems appropriate, from any officer or employee who expends public funds on off-island travel. Unless specifically required by the Commission Chair, this requirement shall not apply to travel required to attend a Commission, committee, or subcommittee meeting, or to travel required between a Commission member's residence and the meeting place for a scheduled meeting.

SECTION 13. MEETINGS BY VIDEOCONFERENCE.

Rule 13.1. Authorized. Meetings by videoconference shall be held in accordance with Section 92-3.5, HRS, and these rules.

Rule 13.2. Definition. A meeting by videoconference is a meeting in which one or more members participate in the meeting by means of a system of audio and visual interaction.

Rule 13.3. Reasonable necessity for meeting by videoconference. The Chair may authorize a meeting by videoconference when the Chair finds that it is reasonably necessary to do so; provided, that an adequate system of audio and visual interaction is readily available for use and that the expenses and administrative burden of conducting such a meeting are not unreasonable.

Rule 13.4. Agenda. The meeting agenda shall be posted at each public site at which a member will be participating in the meeting at the same time that the agenda is posted elsewhere.

Rule 13.5. Testimony. Each public site at which a member will be participating in the meeting shall be open to the public during the meeting. At each site, oral testimony shall be accepted pursuant to Rule 11.2. Written testimony for a meeting by videoconference must be received by the Commission staff at least seventy-two hours prior to the meeting to ensure its distribution.

Rule 13.6. Failure of system of audio and visual interaction. A meeting by videoconference shall terminate in accordance with Section 92-3.5, HRS, if the system of audio and visual interaction fails to allow adequate audio and visual communication.

SECTION 14. LEGAL ADVISOR.

Rule 14.1 Legal Advisor. To the extent authorized by the Maui County Council, the Commission shall be advised by independent legal counsel.

SECTION 15. COMMISSION INFORMATION.

Rule 15.1. Commission Information Open. All information of the commission including communications from its attorneys shall be open to public inspection unless the Commission has affirmatively voted to restrict the information and that restriction is based upon one or more of the reasons enumerated in HRS 92-5 or HRS 92F-13. To the extent staff or another non-commission person designates any information as confidential, if the Commission does not ratify that designation at its next meeting, the information shall be deemed open to public inspection at the adjournment of said meeting.