

ARTICLE 13
GENERAL PROVISIONS

Section 13-1. Definitions.

1. The terms "board" or "commission" shall mean a board or commission established by this charter.
2. The term "employee" shall mean any person, except an officer, employed by the county, but the term shall not include an independent contractor.
3. The term "law" shall mean any Federal law, any law of the State or any ordinance of the county of Maui or any rule having the force and effect of law.
4. The term "officer" shall include the following:
 - a. Mayor, managing director and members of the council.
 - b. Any person appointed as 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.
5. The term "State" shall mean the State of Hawai'i.

Section 13-2. Boards and Commissions.

1. Unless otherwise provided, the members of all boards or commissions shall serve for staggered terms of five (5) years beginning on April 1 and ending on March 31, five (5) years thereafter. All members of boards and commissions recognized by this charter who hold office upon the effective date of this amendment shall continue in office for the balance of the term for which they were originally appointed and ninety (90) days thereafter to the following March 31.

Each new board or commission established by this charter shall have nine members. Of the nine members initially appointed, three shall serve for a term of five (5) years, two shall serve for a term of four (4) years, two shall serve for a term of three (3) years and two shall serve for a term of two (2) years.

2. Not more than a bare majority of the members of any board or commission shall belong to the same political party.

3. In making appointments to all boards and commissions, the mayor shall give due consideration to balanced geographic representation.

4. Any vacancy occurring on any board or commission shall be filled for the unexpired term as provided for herein.

5. The members of boards and commissions appointed by the mayor, with approval of the council, may be removed for cause upon recommendation of such removal by the mayor and the approval of two-thirds of the entire membership of the council.

6. No member of any board or commission shall be eligible for a second appointment to the same board or commission prior to the expiration of two (2) years, provided that members of any board or commission initially appointed for a term not exceeding two (2) years shall be eligible to succeed themselves for an additional term. No member of any board or commission shall serve beyond the time when his or her term expires unless the member is specifically reappointed. A vacancy shall be automatically created upon the expiration of a member's term which vacancy shall be filled as provided for herein.

7. Employees and officers of the State or county shall be eligible to serve on boards and commissions, provided that such service does not result in a conflict of interest.

8. A majority of the entire membership of a board or commission shall constitute a quorum to do business, and the affirmative vote of a majority of the entire membership of a board or commission shall be necessary to take any action.

9. Each board or commission shall select a chair from its membership annually.

10. All boards and commissions shall have the power to subpoena witnesses and administer oaths to witnesses as to all matters within the authority of such boards or commissions.

11. All boards and commissions shall hold public hearings whenever required or deemed necessary and shall provide due notice to the public by publication in a newspaper of general circulation in the county.

12. The deputies of the administrative head of any department shall be appointed by the administrative head without the necessity of confirmation by any commission or board.

13. The members of boards and commissions shall receive no compensation but shall be entitled to be paid for necessary expenses incurred by them in the performance of their duties. Necessary expenses may be paid in advance as per diem allowances as may be established by ordinance.

14. Except for purposes of inquiry and as otherwise provided by this charter or by law, no board or commission nor its membership shall interfere in any way with the administrative affairs of the department.

15. Each board and commission shall have power to establish its own rules of procedures necessary for the conduct of its business, except as otherwise provided in this charter.

16. A vacancy on a commission or board due to the expiration of a member's term shall be filled as follows: Not more than seventy (70) days nor less than sixty (60) days before the vacancy is to occur the mayor shall submit to the council the name of the mayor's nominee to fill the vacancy. Within sixty (60) days thereafter the council shall act to approve or disapprove the nominee. If the council disapproves the nominee, it shall immediately so notify the mayor of its action. The mayor shall then submit the name of a second nominee to the council within ten (10) days and the council shall act thereon within sixty (60) days. The process shall continue until the vacancy is filled. In the event that the council fails to approve or disapprove a nominee within the time periods provided for herein, the nominee shall be deemed appointed to fill the vacancy upon its occurrence. If the mayor fails to submit the name of a nominee within the times provided for herein, the council may within sixty (60) days nominate and approve the appointment of an individual to fill the vacancy.

17. A vacancy on a commission or board due to death, resignation or removal shall be filled as follows: Within thirty (30) days of the occurrence of a vacancy the mayor shall submit to the council the name of the mayor's nominee to fill the vacancy. Within sixty (60) days thereafter the council shall act to approve or disapprove the nominee. If the council disapproves the nominee it shall immediately so notify the mayor of its action. The mayor shall then submit the name of a second nominee to the council within ten (10) days and the council shall act thereon within sixty (60) days. This process shall continue until the vacancy is filled. In the event that the council fails to approve or disapprove a nominee within the time periods provided for herein, that nominee shall be deemed appointed to fill the vacancy upon its occurrence. If the mayor fails to submit the name of a nominee within the times provided for herein, the council may within sixty (60) days nominate and approve the appointment of an individual to fill the vacancy. (Amended 2002, 1988)

Section 13-3. Title to Property. Except as otherwise provided by law, title to all property acquired by any department of the county shall be vested in the county. Upon the retirement of all bonded indebtedness of the department of water supply, all right, title and interest in and to any real property held in the name of the board of water supply shall be promptly transferred and conveyed to the county.

Section 13-4. Facsimile Signatures. Whenever any person is required to sign negotiable instruments, multiple bonds, or certification of payrolls, the signatures may be a facsimile.

Section 13-5. Expenses. All officers and employees of the county shall be entitled to their traveling or other necessary expenses incurred in the performance of the public duties as provided by ordinance.

Section 13-6. Claims. No action shall be maintained for the recovery of damages for any injury to person or property by reason of negligence of any officer or employee of the county unless a written statement stating fully when, where and how the injuries occurred, the extent thereof and the amount claimed therefor, has been filed with the county clerk within the time period as provided by law. (Amended 2006)

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 in such form as the mayor may prescribe. Copies of such reports shall be filed in the office of the county clerk.

Section 13-8. Acceptance of Gifts or Donations. The council, on behalf of the county may accept gifts or donations of money, securities or other personal property or of real estate or any interest in real estate.

Section 13-9. Records and Meetings Open to Public.

1. All books and records of every department shall be open to the inspection of any person at any time during business hours, except as otherwise provided by law. Certified copies or extracts from such books and records shall be given by the officer having custody of the same to any person demanding the same and paying or tendering a reasonable fee to be fixed by ordinance for such copies or extracts.

2. All meetings of boards and commissions shall be held in the county building or other publicly owned place. In the event that a publicly owned building is not available or appropriate for the meeting, the meeting can be held in another facility that is accessible to the public. (Amended 2002)

Section 13-10. Penalties. The council shall, by ordinance, provide for the punishment of violations of any provisions of this charter and may provide for punishment of violations of ordinances and rules having the force and effect of law, but no penalty shall exceed the amount of \$1,000.00 per day for each day the violation persists or one (1) year's imprisonment, or both; except that the penalty for the operation of a transient accommodation without a necessary permit shall not exceed a civil fine of \$20,000 plus \$10,000 per day for each day the unlawful operation persists, unless a higher fine is authorized by State law. For purposes of this section, "transient accommodation" includes transient vacation rentals, bed and breakfast homes, short-term rental homes, and other categories of transient accommodation established by ordinance. (Amended 2018)

Section 13-11. County Elections. County elections shall be conducted in accordance with the election laws of the State.

Section 13-12. Oaths of Office. Before entering upon the duties of office, each officer elected or appointed shall take and subscribe to such oath or affirmation as shall be provided by law.

Section 13-13. Impeachment of officers. Appointed or elected officers may be impeached for malfeasance, misfeasance or nonfeasance in office or violation of the provisions of Article 10. Such impeachment proceedings shall be commenced in the Circuit Court of the Second Circuit, State of Hawai'i. The charge or charges shall be set forth in writing in a verified petition for impeachment signed by not less than five percent (5%) of the voters registered in the last general election. A charge or charges alleging violation of Article 10 may be set forth in writing in a verified petition for impeachment signed by a majority of the members of the board of ethics. If the court sustains the charge or charges, such officer shall be deemed removed from office. The officer sought to be impeached and the petitioners seeking the impeachment other than the board of ethics shall bear their own attorney's fees and other costs of such proceedings.

Section 13-14. Cooperation with Other Organizations. In the performance of its functions, each department shall cooperate with private organizations and with organizations of the governments of the United States, the State, and any other state, and with any of their political subdivisions having similar functions.

Section 13-15. Titles, Subtitles, Personal Pronouns; Construction. Titles and subtitles shall not be used for purposes of construing this charter.

Section 13-16. Severability. If any provision of this charter is held invalid, the other provisions of this charter shall not be affected thereby. If the application of the charter, or any of its provisions, to any person or circumstance is held invalid, the application of the charter and its provisions to other persons or circumstances shall not be affected thereby.