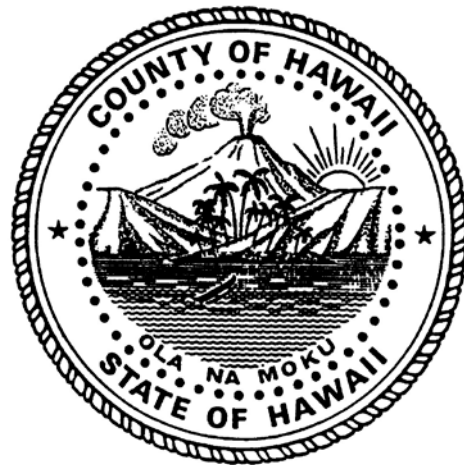


COUNTY CHARTER



COUNTY OF HAWAI'I
2016

FOREWORD

In 1963, the legislature of the State of Hawai‘i enacted Act 73 enabling the counties of the State of Hawai‘i to establish charter commissions to study their existing governments and to recommend and draft charters upon determination that a charter form of government was fit and desirable. Accordingly, the County of Hawai‘i created a charter commission whose study and work began in 1964.

The initial charter, which became effective on January 2, 1969, served as the “constitution” of the government of the County of Hawai‘i, and provided the basic framework for its organization and operation. It also provided for the orderly transition to the new form of government and for amendments or revisions by ordinance or petition and by mandatory review every ten years.

The first mandatory charter review was conducted in 1979 at a special election held on November 3, 1979. Ten of the thirteen proposed charter amendments were adopted by the Hawai‘i County electorate. The second mandatory charter review was conducted in 1990. The charter commission proposed eighteen charter amendments. At the general election on November 6, 1990, fifteen of the eighteen proposed charter amendments were adopted by Hawai‘i County voters. The third mandatory charter review, conducted in 2000, resulted in sixteen proposed charter amendments. Voters adopted all sixteen amendments during the general election held on November 7, 2000. The most recent charter review, as conducted by the 2010 Charter Commission, resulted in nineteen proposed charter amendments. On November 2, 2010, the electorate approved eighteen of the nineteen proposed charter amendments.

This edition incorporates the above series of amendments as well as additional changes proposed by the county council and adopted by Hawai‘i County voters during general elections held during the interim periods between charter reviews, including the one amendment that was approved by the voters during the 2016 General Election. This 2016 edition of the charter, therefore, replaces all previous editions and contains all those charter provisions in effect at the time of its publication.

This page intentionally left blank.

TABLE OF CONTENTS

PREAMBLE *1*

ARTICLE I

INCORPORATION AND GEOGRAPHICAL LIMITS..... **2**

 Section 1-1. Incorporation.2

 Section 1-2. Geographical Limits.2

ARTICLE II

POWERS OF THE COUNTY **2**

 Section 2-1. Powers of the County.2

 Section 2-2. Exercise of Powers.2

ARTICLE III

LEGISLATIVE BRANCH

COUNTY COUNCIL..... **2**

 Section 3-1. Powers and Functions.2

 Section 3-2. Composition and Terms.2

 Section 3-3. Qualifications.3

 Section 3-4. Vacancy in Office.3

 Section 3-5. Removal of Council Members.3

 Section 3-6. Organization of the Council; Officers; Employees.3

 Section 3-7. Meetings; Rules and Journal; Voting and Quorum.4

 Section 3-8. Actions of the Council.4

 Section 3-9. Resolutions.4

 Section 3-10. Ordinances.4

 Section 3-11. Emergency Ordinances.5

 Section 3-12. Submission of Bills to the Mayor.6

 Section 3-13. Adoption of Pay Plan.6

 Section 3-14. County Code.6

 Section 3-15. General Plan.6

 Section 3-16. Mandatory Program Review.7

 Section 3-17. County Redistricting Commission.7

 Section 3-18. Office of the Legislative Auditor.8

ARTICLE IV

EXECUTIVE BRANCH

GENERAL PROVISIONS **9**

 Section 4-1. Executive Powers.9

 Section 4-2. Organization.9

 Section 4-3. Appointment by Mayor.9

 Section 4-4. Advisory Commissions.10

 Section 4-5. Powers and Duties of Agency Heads.10

ARTICLE V

EXECUTIVE BRANCH

THE MAYOR AND STAFF AGENCIES.....10

CHAPTER 1 - MAYOR

Section 5-1.1. Election and Term of Office..... 10

Section 5-1.2. Qualifications. 11

Section 5-1.3. Powers, Duties and Functions. 11

Section 5-1.4. Vacancy in Office..... 11

Section 5-1.5. Temporary Absence or Disability. 12

Section 5-1.6. Removal of Mayor..... 12

CHAPTER 2 - COST OF GOVERNMENT COMMISSION

Section 5-2.1. Declaration of Policy..... 12

Section 5-2.2. Cost of Government Commission. 12

Section 5-2.3. Term of Commission..... 13

ARTICLE VI

EXECUTIVE BRANCH

THE MANAGING DIRECTOR AND AGENCIES

UNDER THE MANAGING DIRECTOR.....13

CHAPTER 1 - OFFICE OF MANAGEMENT

Section 6-1.1. Organization. 13

Section 6-1.2. Managing Director..... 13

Section 6-1.3. Powers, Duties and Functions. 13

CHAPTER 2 - DEPARTMENT OF PUBLIC WORKS

Section 6-2.1. Organization. 14

Section 6-2.2. Director..... 14

Section 6-2.3. Powers, Duties and Functions. 14

CHAPTER 3 - DEPARTMENT OF PARKS AND RECREATION

Section 6-3.1. Organization. 14

Section 6-3.2. Director..... 14

Section 6-3.3. Powers, Duties and Functions. 14

Section 6-3.4. County Bands. 15

CHAPTER 4 - DEPARTMENT OF INFORMATION TECHNOLOGY

Section 6-4.1. Organization. 15

Section 6-4.2. Appointment and Removal..... 15

Section 6-4.3. Qualifications. 15

Section 6-4.4. Powers, Duties and Functions. 15

CHAPTER 5 - CORPORATION COUNSEL

Section 6-5.1. Organization. 16

Section 6-5.2. Appointment and Removal..... 16

Section 6-5.3. Powers, Duties and Functions.	16
Section 6-5.4. Assistant Corporation Counsel.	16
Section 6-5.5. Special Counsel.	16
Section 6-5.6. Term of Office.	16

CHAPTER 6 - DEPARTMENT OF FINANCE

Section 6-6.1. Organization.	17
Section 6-6.2. Appointment and Removal.	17
Section 6-6.3. Powers, Duties and Functions.	17
Section 6-6.4. Pension Board.	18

CHAPTER 7 - PLANNING DEPARTMENT

Section 6-7.1. Organization.	18
Section 6-7.2. Planning Director.	19
Section 6-7.3. Windward Planning Commission.	19
Section 6-7.4. Leeward Planning Commission.	20
Section 6-7.5. Duties and Functions of the Windward and Leeward Planning Commissions.	20
Section 6-7.6. Transitional Provisions.	21

CHAPTER 8 - DEPARTMENT OF RESEARCH AND DEVELOPMENT

Section 6-8.1. Organization.	21
Section 6-8.2. Director.	21
Section 6-8.3. Powers, Duties and Functions.	22

CHAPTER 9 - MISCELLANEOUS

Section 6-9.1. Clerical Pool.	22
Section 6-9.2. Board of Appeals.	22
Section 6-9.3. Game Management Advisory Commission.	22

CHAPTER 10 - DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

Section 6-10.1 Organization.	23
Section 6-10.2 Statement of Policy.	23
Section 6-10.3 Director.	23
Section 6-10.4 Powers, Duties and Functions.	23
Section 6-10.5 Environmental Management Commission.	23

ARTICLE VII

EXECUTIVE BRANCH-DEPARTMENTS OR AGENCIES UNDER COMMISSIONS.24

CHAPTER 1 - DEPARTMENT OF HUMAN RESOURCES

Section 7-1.1. Organization.	24
Section 7-1.2. Merit Appeals Board.	24
Section 7-1.3. Director.	24
Section 7-1.4. Powers, Duties and Functions.	25
Section 7-1.5. Position Classification Plan; Compensation.	25

Section 7-1.6. Administrative Supervision.	25
CHAPTER 2 - POLICE DEPARTMENT	
Section 7-2.1. Organization.	25
Section 7-2.2. Police Commission.	25
Section 7-2.3. Chief of Police and Deputy.	26
Section 7-2.4. Powers, Duties, and Functions of the Chief of Police.	26
Section 7-2.5. Dismissal, Suspension, Demotion, or Grievance.	27
Section 7-2.6. Administrative Supervision.	27
CHAPTER 3 - DEPARTMENT OF LIQUOR CONTROL	
Section 7-3.1. Organization.	27
Section 7-3.2. Liquor Commission.	27
Section 7-3.3. Liquor Control Adjudication Board.	28
Section 7-3.4. Director of the Department of Liquor Control.	28
Section 7-3.5. Administrative Supervision.	28
CHAPTER 4 - HAWAI'I FIRE DEPARTMENT	
Section 7-4.1. Organization.	28
Section 7-4.2. Statement of Policy.	29
Section 7-4.3. Fire Chief.	29
Section 7-4.4. Powers, Duties and Functions.	29
Section 7-4.5. Fire Commission.	29
Section 7-4.6. Powers, Duties and Functions.	30
ARTICLE VIII	
DEPARTMENT OF WATER SUPPLY	30
Section 8-1. Organization.	30
Section 8-2. Water Board.	30
Section 8-3. Manager-Chief Engineer and Deputy.	31
Section 8-4. Water Fund.	31
Section 8-5. Administrative Supervision.	31
ARTICLE IX	
PROSECUTING ATTORNEY	31
Section 9-1. Election and Term of Office.	31
Section 9-2. Qualifications.	31
Section 9-3. Powers, Duties and Functions.	32
Section 9-4. Staff.	32
Section 9-5. Vacancy in Office.	33
Section 9-6. Removal of Prosecuting Attorney.	33
ARTICLE X	
FINANCIAL PROCEDURES.....	33
Section 10-1. Fiscal Year.	33
Section 10-2. Preparation and Submission of Budget and Capital Program.	33
Section 10-3. Scope of Operating Budget; Operating Program; Mayor's Message.	34
Section 10-4. Operating Budget and Capital Budget: Notice and Hearing.	35

Section 10-5. Operating Budget: Council Action.....	35
Section 10-6. Capital Budget and Capital Program: Scope; Council Action.	36
Section 10-7. Budgets: Public Records.....	36
Section 10-8. Appropriations: Supplemental and Emergency.....	37
Section 10-9. Appropriations: Reduction and Transfer.	37
Section 10-10. Lapse of Appropriations.	37
Section 10-11. Payments and Obligations Prohibited: Verifications; Penalties.....	38
Section 10-12. Special Funds.....	38
Section 10-13. Post-audit.....	38
Section 10-14. Centralized Purchasing.....	39
Section 10-15. Public Access, Open Space, and Natural Resources Preservation Fund	39
Section 10-16. Public Access, Open Space, and Natural Resources Preservation Maintenance Fund	40

ARTICLE XI

INITIATIVE AND REFERENDUM.....	44
Section 11-1. Powers of Initiative and Referendum.	44
Section 11-2. Definitions.	44
Section 11-3. Petitioners’ Committee.....	44
Section 11-4. Initiative and Referendum Process.....	44
Section 11-5. Initiative and Referendum Petitions: Forms and Sufficiency.....	47
Section 11-6. Withdrawal of Petition.	48
Section 11-7. Results of Election.....	48

ARTICLE XII

REMOVAL OF ELECTED OFFICERS	48
--	-----------

CHAPTER 1 - RECALL

Section 12-1.1 Recall Procedure.....	48
Section 12-1.2 Petitions.	49
Section 12-1.3 Signatures.	49
Section 12-1.4 Filing and Certification.....	49
Section 12-1.5 Supplemental Petitions.	50
Section 12-1.6 Recall Election.....	50
Section 12-1.7 Ballots.....	50
Section 12-1.8 Succeeding Officer.	51
Section 12-1.9 Immunity to Recall.	51

CHAPTER 2 - IMPEACHMENT

Section 12-2.1 Impeachment of Elected Officers.....	51
---	----

ARTICLE XIII

GENERAL PROVISIONS	51
Section 13-1. Definitions.	51
Section 13-2. Titles, Subtitles, Personal Pronouns; Constructions.....	52
Section 13-3. Appointments.	53
Section 13-4. Boards and Commissions.	53
Section 13-5. Oaths of Office.	54

Section 13-6. Bonding Officers.	54
Section 13-7. Rules and Regulations.	54
Section 13-8. Term of Office of Department Heads.....	55
Section 13-9. Non-Civil Service Status and Classification.	55
Section 13-10. Prohibitions.....	55
Section 13-11. Penalties.....	55
Section 13-12. Acceptance of Gifts or Donations.	55
Section 13-13. Contracts.....	56
Section 13-14. Facsimile Signatures.....	56
Section 13-15. Title to Property.....	56
Section 13-16. Payment of Moneys Out of the County Treasury.....	56
Section 13-17. Expenses.	56
Section 13-18. Claims.....	56
Section 13-19. Annual Reports.....	56
Section 13-20. Records and Meetings Open to The Public.	57
Section 13-21. Cooperation with Other Agencies.	57
Section 13-22. Coordination of Work.....	58
Section 13-23. Declaration of Emergencies.	58
Section 13-24. Waiver of Charter Provisions.	58
Section 13-25. Separability.....	58
Section 13-26. Public Defender.	58
Section 13-27. County Election.....	58
Section 13-28. Compensation; Salary Commission.	59
Section 13-29. Conservation of Natural and Cultural Resources	59

ARTICLE XIV

CODE OF ETHICS.....	60
Section 14-1. Enactment and Policy.....	60
Section 14-2. Standards.	60
Section 14-3. Disclosure of Interest.....	61
Section 14-4. Conduct of Employees.	61
Section 14-5. Board of Ethics.	61
Section 14-6. Penalties.....	62

ARTICLE XV

CHARTER AMENDMENT OR REVISION	62
Section 15-1. Initiation of Amendments or Revisions.....	62
Section 15-2. Elections to be Called.....	63
Section 15-3. Mandatory Charter Reviews.....	63

ARTICLE XVI

TRANSITIONAL PROVISIONS	64
Section 16-1. Schedule.	64
Section 16-2. Initial Elections Under the Charter.....	64
Section 16-3. Existing Laws and Conflicting Laws.	64
Section 16-4. Status of Agencies and Transfer of Functions.....	64
Section 16-5. Transfer of Records and Property.....	65
Section 16-6. Status of Present Employees.	65

Section 16-7. Department Heads Continued in Office.	65
Section 16-8. Pending Proceedings.	66
Section 16-9. Lawful Obligations of the County.	66
Section 16-10. Hawai‘i Redevelopment Agency.	66
Section 16-11. Transitional Provisions Concerning Fire Department.	66
Section 16-12. Boards and Commissions with District Residency Requirements.	66
<i>Revision History</i>	67
<i>Charter Commissions</i>	72

This page intentionally left blank.

PREAMBLE

WE, THE PEOPLE OF THE COUNTY OF HAWAI'I, in the State of Hawai'i,
with due respect for and in support of the laws of the land, do adopt this

CHARTER OF THE COUNTY OF HAWAI'I

STATE OF HAWAI'I

**ARTICLE I
INCORPORATION AND GEOGRAPHICAL LIMITS**

Section 1-1. Incorporation.

The people of the county of Hawai‘i shall be and continue as a body politic and corporate by the name of “County of Hawai‘i,” hereinafter in this charter called “county.” By that name it shall have perpetual succession.

(2010, Prop. 7, sec. 2.)

Section 1-2. Geographical Limits.

The island of Hawai‘i and all other islands within the shores thereof and the waters adjacent thereto shall be the county of Hawai‘i.

(2010, Prop. 7, sec. 2.)

**ARTICLE II
POWERS OF THE COUNTY**

Section 2-1. Powers of the County.

The county shall have all powers possible under the constitution and laws of the State of Hawai‘i, including all powers now or hereafter given by such constitution or laws, and all other powers not prohibited by such constitution or by this charter. The county shall have such powers as fully and completely as though specifically enumerated in this charter, and no enumeration of powers in this charter shall be deemed exclusive or restrictive.

(2010, Prop. 7, sec. 3.)

Section 2-2. Exercise of Powers.

All powers of the county shall be carried into execution as provided by this charter or, if the charter makes no provision, by ordinance or resolution of the county council.

**ARTICLE III
LEGISLATIVE BRANCH
COUNTY COUNCIL**

Section 3-1. Powers and Functions.

The legislative powers of the county shall be vested in the county council. Its primary function shall be legislation and public policy formulation, as distinct and separate from the executive administration of county government.

Section 3-2. Composition and Terms.

There shall be a county council composed of nine members. One member shall be elected from each of nine districts. The terms of the council members shall be two years and shall begin at twelve o’clock meridian on the first Monday of December after their election. The terms of the council members shall not exceed four consecutive two year terms. Candidates shall be elected in accordance with the election laws of the state, insofar as applicable.

(1990, Prop. 1, sec. 1; 1996, Ord. No. 95-20, sec. 2; 2000, Prop. 1, sec. 2.)

Section 3-3. Qualifications.

A person must be a citizen of the United States of America and have been a duly qualified elector of the county for at least one year immediately preceding election or appointment to the county council. A person must also have been a resident and registered voter of the district from which the person is to be elected or appointed for at least ninety (90) days immediately preceding the primary election or the appointment.

(1979, Prop. 13; 1990, Prop. 1, sec. 2.)

Section 3-4. Vacancy in Office.

When any vacancy occurs in the county council, the remaining members of the council shall appoint as a successor a person with the requisite qualifications to fill the vacancy. Within thirty days after the occurrence of any vacancy, the council chairperson shall notify all remaining members of the council by registered mail that on a specified regular meeting date, formal action shall be taken to fill the vacancy. Should the council fail to fill any vacancy within sixty days after its occurrence, the chairperson of the council shall appoint a successor to fill the vacancy for the unexpired term. The person appointed shall serve until a successor is duly elected and seated.

(1974, Ord. No. 74-59, sec. 2; 1990, Prop. 7, sec. 1 and Prop. 14, sec. 1; 2000, Prop. 1, sec. 3.)

Section 3-5. Removal of Council Members.

Any council member may be removed by impeachment or recall proceedings as provided by this charter.

(1979, Prop. 9; 1990, Prop. 14, sec. 1.)

Section 3-6. Organization of the Council; Officers; Employees.

(a) The council shall elect from among its members a chairperson and a vice chairperson, each of whom shall serve at its pleasure. Until such time as the chairperson and presiding officer shall be elected, the mayor shall preside at such meeting, provided that the mayor shall not have a vote. The chairperson shall preside at council meetings. If at any meeting the chairperson is not present or unable to act, the vice chairperson shall then preside. In the absence of the chairperson and vice chairperson, the council shall elect from among its members a temporary presiding officer.

(b) The council shall appoint the county clerk which position shall be exempt from civil service laws and classifications. The county clerk shall serve for a period of four years, and thereafter, until a successor is appointed. The council, by a two-thirds vote of its membership, may remove the county clerk from office at any time. The county clerk shall:

- (1) Be the clerk of the council.
- (2) Be custodian of the county seal.
- (3) Conduct all elections held within the county.
- (4) Appoint the deputy county clerk, with the approval of the council, and such position shall be exempt from civil service laws and classifications.
- (5) Perform such other functions as the council may prescribe.

- (6) Appoint necessary staff for which appropriations have been made by the council, subject to civil service laws and classifications, and exercise the same power with respect to the personnel of the clerk's office as the department heads in the executive branch, with the exception of the office of the legislative auditor.

(1974, Ord. No. 59, sec. 3; 1990, Prop. 14, sec. 1; 2008, Ord. No. 08-81, sec. 2; 2014, Ord. No. 14-98, sec. 1.)

Section 3-7. Meetings; Rules and Journal; Voting and Quorum.

The county council shall meet regularly at least twice in every month at such times and places as shall be established by rule of the council, and meet at least quarterly in the judicial district of North Kona or South Kona. The council shall determine its rules and order of business and shall provide for keeping a journal of its proceedings, which shall be a public record, in which the ayes and noes shall be entered as required by this charter or at any other time upon the demand of any member. The affirmative vote of a majority of the entire membership shall be necessary for council action. A majority of the entire membership of the council shall constitute a quorum, but a smaller number may adjourn from time to time and may compel the attendance of absent members. Whenever the term "entire membership" appears in this charter pertaining to council voting, it means the entire membership of nine members, even if there are vacancies.

(1979, Prop. 13; 1990, Prop. 13, sec. 3; 2000, Prop. 13, sec. 1.)

Section 3-8. Actions of the Council.

Every legislative act of the council shall be by ordinance. Non-legislative acts of the council may be by resolution and, except as otherwise provided by law, no resolution shall have the force and effect of law. Every ordinance shall be introduced in writing and in the form required for final adoption. The enacting clause of every ordinance shall be "BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF HAWAI'I" and the enacting clause of every resolution shall be "BE IT RESOLVED BY THE COUNCIL OF THE COUNTY OF HAWAI'I."

(2010, Prop. 7, sec. 4.)

Section 3-9. Resolutions.

Reading of resolutions may be by title only. A full reading may be required by a one-third vote of the entire membership.

Section 3-10. Ordinances.

- (a) Ordinances shall be initiated as bills which shall be passed only after two readings on separate days. Reading of bills may be by title only. Full readings and public hearings may be required by a one-third vote of the entire membership.
- (b) Every ordinance of the council shall embrace but one subject, which subject shall be expressed in its title. If an ordinance embraces a subject not expressed in its title, only that subject shall be void.
- (c) Bills embracing:
 - (1) The fixing of special assessments for the cost of improvements;
 - (2) The appropriation of public funds or authorization of the issuance of general obligation bonds; or

- (3) The imposition of a duty or penalty on any person, shall pass first reading by a vote taken by ayes and noes, and digests of such bills shall be advertised once in at least two daily newspapers of general circulation in the county and shall also be distributed via an electronic medium, such as the Internet, with ayes and noes, at least three days before final reading by the council. Not less than three copies of such bills shall be filed for use and examination by the public in the office of the county clerk at least three days prior to the final reading thereof.
- (d) A bill shall not be amended to change its original purpose. An amended bill shall, upon a one-third vote of the entire membership, be laid over for at least one week before final reading.
- (e) A motion to reconsider made at the time any bill fails to pass final reading shall not be voted upon until after twenty-four hours.
- (f) Ordinances shall become effective upon approval by the mayor or at such later date as may be specified therein.
- (g) A bill may incorporate therein any standard technical code or portions thereof by reference. The code, or portions, need not be published in the manner required for ordinances, but not less than three copies thereof shall be filed for use and examination by the public in the office of the county clerk, and notice of the availability of said copies shall be published by the clerk.
- (h) After enactment, ordinances shall be published once in at least two daily newspapers of general circulation in the county and shall also be distributed via an electronic medium, such as the Internet. Such publication shall be by title only and shall specify the ayes and noes.
- (1990, Prop. 10, secs. 1 and 2; 2010, Prop. 7, sec. 5 and Prop. 19, secs. 1 and 2.)

Section 3-11. Emergency Ordinances.

The county council may adopt emergency ordinances to meet public emergencies affecting life, health or property. Such ordinances may not be used to levy taxes, authorize the borrowing of money or to grant, renew or extend franchises. Emergency appropriations may be made pursuant to Section 10-8.

Emergency ordinances shall be plainly designated as such and shall contain a declaration describing the emergency in clear and specific terms. Any emergency ordinance may be considered and adopted after one reading, with or without amendment, or be rejected at the meeting at which the same is introduced. The affirmative vote of all council members present or by two-thirds of the entire membership shall be necessary for adoption of such ordinances. Emergency ordinances shall be published in the same manner prescribed for other adopted ordinances and shall become effective upon approval by the mayor or at such later time, preceding automatic repeal, as the same may specify.

Amendments to any emergency ordinance shall be adopted in the same manner prescribed for adoption of emergency ordinances.

Every emergency ordinance, including any amendments made after adoption, shall automatically stand repealed as of the sixty-first day following the date of adoption of the original ordinance.

(1979, Prop. 13.)

Section 3-12. Submission of Bills to the Mayor.

Every bill adopted by the council shall be duly authenticated by the clerk and the presiding officer and thereupon presented to the mayor for approval. Such bill shall become effective as an ordinance upon its approval or such later date as specified therein. If the mayor disapproves a bill, the mayor shall return the bill together with any objections in writing to the clerk within ten days (excluding Saturdays, Sundays, and legal holidays) after receipt. If the mayor does not act within such ten-day period, the bill shall become effective as an ordinance as if the mayor had approved it. The objections of the mayor shall be entered in the journal of the council and the council may, after five and within thirty days after the bill has been so returned, reconsider the vote upon the bill. If the bill, upon such reconsideration, is again passed by the affirmative vote of two-thirds of the entire membership the presiding officer shall verify that fact on the face of the bill and such bill shall become effective as an ordinance with like effect as if approved by the mayor. A bill failing to pass upon such reconsideration shall be deemed lost.

If any appropriation bill is presented to the mayor, the mayor may veto any item or portion thereof by striking out or reducing the same. The mayor shall append any objections and the reasons therefor to the bill at the time of signing, and the item or portion thereof so vetoed shall not take effect unless the council shall reconsider the vote on the bill and, upon such reconsideration, the bill is again passed by the affirmative vote of two-thirds of the entire membership.

(1990, Prop. 14, sec. 1)

Section 3-13. Adoption of Pay Plan.

All persons employed by the county or any of its boards or commissions, whether as officers or otherwise, except those whose pay is otherwise provided for shall be paid in accordance with a pay plan enacted by ordinance. The pay plan for persons holding positions in the position-classification plan shall be in accordance with Section 7-1.5 of this charter. Interim amendments to the ordinance establishing the pay plan for the county may be by resolution of the council provided a revised salary ordinance is enacted at least once annually.

Section 3-14. County Code.

There shall be a county code containing all county ordinances, as may be amended from time to time, and copies thereof shall be available for inspection at the office of the county clerk.

(1979, Prop. 13.)

Section 3-15. General Plan.

The county council shall adopt by ordinance a general plan which shall set forth the council's long range policy for the comprehensive physical, economic, environmental, and socio-cultural wellbeing of the county.

- (a) The general plan shall contain a statement of development objectives, standards and principles with respect to the most desirable use of land within the county for residential, recreational, agricultural, commercial, industrial and other purposes which shall be consistent with proper conservation of natural resources and the preservation of our natural beauty and historical sites; the most desirable density of population in the several parts of the county; a system of principal thoroughfares, highways, streets, public access to the shorelines, and other open spaces; the general locations, relocations and improvement of public buildings, the general location and extent of public utilities and terminals, whether publicly

or privately owned, for water, sewers, light, power, transit, and other purposes; the extent and location of public housing projects; adequate drainage facilities and control; air pollution; and such other matter as may, in the council's judgment, promote the general welfare, health, and prosperity of its people

- (b) The council shall enact zoning, subdivision, and such other ordinances which shall contain the necessary provisions to carry out the purpose of the general plan.
- (c) No public improvement or project, or subdivision or zoning ordinance, shall be initiated or adopted unless the same conforms to and implements the general plan.
- (d) Amendments to the general plan may be initiated by the council or the planning director.

(1979, Prop. 3; 2016, Ord. No. 16-62, sec. 1.)

Section 3-16. Mandatory Program Review.

At least once every four years, the council shall critically review every program supported wholly or partially by county funds, and unless the council shall favorably authorize its continuation at current or modified levels, the program shall be terminated. The council shall adopt procedures and details to implement this section.

(1979, Prop. 4.)

Section 3-17. County Redistricting Commission.

- (a) There shall be a county redistricting commission which shall establish the boundaries of the council districts.
- (b) The initial redistricting commission shall consist of seven members, two of whom shall be residents of the combined judicial districts of North and South Hilo, one from the judicial district of Puna, one from the judicial district of Ka'ū, one from the combined judicial districts of North and South Kona, one from the combined judicial districts of North and South Kohala, and one from the judicial district of Hāmākua. The members shall be appointed by the mayor and confirmed by the council in the manner prescribed in Section 13-4.
- (c) Each subsequent redistricting commission shall consist of nine members. One member shall be a resident of each council district as established by the previous redistricting commission. The members shall be appointed by the mayor and confirmed by the council in the manner prescribed in Section 13-4.
- (d) The year 1991 and every tenth year thereafter shall be redistricting years. The redistricting commission shall be appointed and confirmed by July 1 of the year immediately preceding the redistricting year, and shall file a redistricting plan with the county clerk by December 31 of the redistricting year. A report shall be filed with the redistricting plan providing an explanation of the commission's reasoning for the plan and how the plan complies with the criteria provided in subsection (g). The redistricting commission shall be dissolved after the filing of the redistricting plan.
- (e) Prior to completing a draft of the redistricting plan, the commission shall hold at least one public hearing in each of the nine council districts. Upon completion of a draft redistricting plan, the commission shall hold at least one public hearing in east Hawai'i and one in west Hawai'i.
- (f) The county clerk shall furnish all necessary technical and secretarial services for the redistricting commission. The council shall appropriate necessary funds to enable the commission to carry out its duties.

- (g) The redistricting commission shall adhere to the following criteria in establishing the boundaries of the council districts:
 - (1) No district shall be drawn to unduly favor or penalize a person or political faction;
 - (2) Insofar as possible, districts should be contiguous and compact;
 - (3) District lines shall, where possible, follow permanent and easily recognizable features;
 - (4) Districts shall have approximately equal resident populations as required by applicable constitutional provisions.
- (h) The district boundaries as established by the redistricting commission shall be in effect at the first regularly scheduled council election following the filing of the plan and for any subsequent council election. The district boundaries in effect prior to the filing of the redistricting plan shall remain in effect during the duration of the term of all councilmembers elected or appointed to represent such districts until the expiration of the full term of such councilmembers, including any election held to fill an unexpired term under Section 3-5.
- (i) No member of the redistricting commission shall be eligible to become a candidate for election to the County Council in the first election under any such redistricting plan.
(1990, Prop. 1, sec. 3; 2010, Prop. 5, sec. 1 and Prop. 7, sec. 6; 2012, Ord. No. 12-70, sec. 2.)

Section 3-18. Office of the Legislative Auditor.

- (a) There is established within the legislative branch an independent office of the legislative auditor to be headed by a legislative auditor who shall be appointed by the county council and shall serve for a period of six years, and thereafter, until a successor is appointed. The council, by a two-thirds vote of its membership, may remove the legislative auditor from office at any time for cause.
- (b) The legislative auditor shall possess adequate professional proficiency for the office demonstrated by relevant certification, such as certification as a certified internal auditor or certified public accountant or an advanced degree in a relevant field, and at least three years of general auditing experience which shall include a minimum of one year's experience in the field of government auditing. A certified internal auditor or certified public accountant shall be preferred. All financial audits shall be conducted by a certified public accountant.
- (c) The legislative auditor shall submit an annual budget to the county council. The legislative auditor on behalf of the county council shall hire the necessary staff for which appropriations have been made by the county council.
- (d) The legislative auditor shall conduct or cause to be conducted:
 - (1) The annual financial audit of the county, as required in Article X, Financial Procedures, Section 10-13, Post-audit.
 - (2) Performance and/or financial audits of the funds, programs, services, and operations of any county agency, executive agency, or program, as set forth by the legislative auditor in an annual audit plan that shall be transmitted to the county council and the mayor and filed with the county clerk as a public record.
 - (3) Follow-up audits and monitoring of responses to audit recommendations by audited entities.

- (e) For purposes of this section, “county agency” or “executive agency” includes any office, department, board, commission, agency, semi-autonomous agency, or other governmental unit of the county in the executive or legislative branch that is supported, in whole or in part, by county funds.
- (f) For purposes of carrying out any audit, the legislative auditor shall have:
 - (1) Full, free, and unrestricted access to any county officer or employee.
 - (2) Full, free, and unrestricted access to and authority to examine and inspect any record of any county agency, executive agency, or program except for any record protected from disclosure by law, rule or privilege.
 - (3) Full, free, and unrestricted access to and authority to examine and inspect any property, facility, or equipment of any county agency, executive agency, or program pertinent to the audit or to a contract.
 - (4) Full, free, and unrestricted access to and authority 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 auditor, shall have the power to compel obedience to any process of the auditor and to punish, as a contempt of the court, any refusal to comply therewith without good cause. The auditor may retain special counsel, in the manner authorized by the council, to represent the auditor in implementing these powers.
- (g) The legislative auditor shall conduct or cause to be conducted all audits in accordance with government auditing standards, and shall set forth final audit findings and recommendations in written reports, copies of which shall be transmitted to the county council and the mayor and filed with the county clerk as public records.
(2008, Ord. No. 08-81, sec. 3; 2010, Prop. 7, sec. 7.)

**ARTICLE IV
EXECUTIVE BRANCH
GENERAL PROVISIONS**

Section 4-1. Executive Powers.

The executive powers of the county shall be vested in and exercised by the executive branch, which shall be headed by the mayor, and administered by the managing director, except as otherwise provided by this charter.
(2000, Prop. 2, sec. 3.)

Section 4-2. Organization.

The activities under the direction and supervision of the mayor shall be distributed among such agencies established by this charter or as may be established by ordinance of the county council. New functions may be assigned by the mayor to existing agencies.

Section 4-3. Appointment by Mayor.

Each agency shall be administered by an officer appointed by the mayor, except as otherwise provided by this charter.

Section 4-4. Advisory Commissions.

The mayor may appoint advisory commissions. Members of such advisory commissions shall serve for a period of time not to exceed, or exist beyond, the term of office of the mayor, except as otherwise provided by this charter. The members of advisory commissions shall not receive compensation; however their authorized expenses shall be paid from funds of the agency affected by the commission. Advisory commissions shall have no employees, but the mayor shall cause the employees of the agency concerned to furnish such services as may be needed by the commissions.

Section 4-5. Powers and Duties of Agency Heads.

Subject to the provisions of this charter, the administrative heads of each agency or executive agency of the county shall have the power to:

- (a) Appoint and remove a deputy or assistant and a private secretary and such positions shall be exempt from civil service laws and classifications. No such appointment shall be made unless the positions have been created and appropriations therefor have been made by the council.
- (b) Appoint necessary staff for which appropriations have been made by the council.
- (c) Take all personnel actions including the assignment or reassignment of duties to employees within the salary ordinance; provided, that if such assignment or reassignment of duties shall affect the compensation of the employees, written approval must first be obtained from the mayor and a report thereon must be submitted to the council within thirty days.
- (d) Supervise the performance of duties by all employees.
- (e) Except as otherwise provided by this charter and subject to the approval of the mayor, prescribe such rules as are necessary for the organization and internal administration of the agency.
- (f) Perform such duties as are prescribed by this charter and such other duties as may be assigned by the mayor and managing director.

(2000, Prop. 2, sec. 4; 2010, Prop. 7, sec. 8.)

**ARTICLE V
EXECUTIVE BRANCH
THE MAYOR AND STAFF AGENCIES**

**CHAPTER 1
MAYOR**

Section 5-1.1. Election and Term of Office.

The mayor shall be elected for a term of four years which term shall commence at twelve o'clock meridian on the first Monday of December following the election.

(1990, Prop. 14, sec. 1.)

Section 5-1.2. Qualifications.

Any citizen of the United States of America who has been a duly qualified elector of the county for at least one year immediately preceding the election as mayor shall be eligible for the office of mayor. The mayor may serve for more than two terms of office but shall not serve for more than two consecutive full terms of office.

(1979, Prop. 13; 1990, Prop. 14, sec. 1.)

Section 5-1.3. Powers, Duties and Functions.

The mayor shall be the chief executive officer of the county vested with all the executive powers of the county, except as otherwise provided by this charter. The mayor shall have the power to:

- (a) Through the managing director supervise and coordinate all executive agencies of the county, except as otherwise provided by this charter.
- (b) Appoint necessary staff for which appropriations have been made by the council. All positions in the mayor's office shall be exempt from civil service laws and classifications.
- (c) Create positions, including position of deputy or assistant to each head of an agency where such position has not been created by this charter, for which appropriations have been made by the council and abolish positions with the consent of the council.
- (d) Make transfers of positions between agencies or between subdivisions of agencies subject to applicable civil service regulations.
- (e) Recommend to the council a pay plan for all officers and employees of the county or any of its boards and commissions, except those whose pay is otherwise provided for; provided that the salary of any officer or employee who is exempt from the civil service laws shall be subject to approval by the council and the mayor.
- (f) Submit an operating budget, an operating program, a capital budget and a capital program annually to the council.

(1990, Prop. 14, sec. 1; 2000, Prop. 2, sec. 5.)

Section 5-1.4. Vacancy in Office.

A vacancy in the office of mayor shall be filled by the managing director, or if the office of managing director is vacant, or during such periods as the managing director is unable to so act, by the finance director until a successor is duly elected and seated.

If the vacancy occurs after the filing deadline for the next regularly scheduled primary election, the managing director shall serve the entire unexpired term.

If the vacancy occurs before the filing deadline for the next regularly scheduled primary election in the middle of the mayoral term, the council shall, through its clerk, immediately issue an election proclamation, announcing that a successor will be elected as prescribed in Section 13-27. The proclamation shall also announce the date for the close of filing of nomination papers for the office, which shall be ten days after the issuance of the election proclamation, or the filing deadline for the primary election, whichever comes later. The election shall be held in accordance with the election laws of the state insofar as otherwise applicable.

The person elected as the successor shall serve out the unexpired term of the person succeeded commencing at twelve o'clock meridian on the first Monday of December following the election.

(1974, Ord. No. 59, sec. 4; 1990, Prop. 7, sec. 2 and Prop. 14, sec. 1; 2000, Prop. 1, sec. 4; 2010, Prop. 7, sec. 9.)

Section 5-1.5. Temporary Absence or Disability.

During the temporary absence or disability of the mayor, the managing director shall act as mayor. If the office of managing director is vacant, or during such periods as the managing director is unable to so act, the director of finance shall then act as mayor.

Section 5-1.6. Removal of Mayor.

The mayor may be removed by impeachment or recall proceedings as provided by this charter.

(1979, Prop. 9.)

**CHAPTER 2
COST OF GOVERNMENT COMMISSION**

Section 5-2.1. Declaration of Policy.

It is declared to be the policy of the county to promote economy, efficiency and improved service in the transaction of the public business in the legislative and executive branches of the county by:

- (a) Limiting expenditures to the lowest amount consistent with the efficient performance of essential services, activities, and functions.
- (b) Eliminating duplication and overlapping of services, activities, and functions.
- (c) Consolidating services, activities, and functions of a similar nature.
- (d) Abolishing services, activities, and functions not necessary to the efficient conduct of government.

(2000, Prop. 11, sec. 1; 2010, Prop. 7, sec. 10 and Prop. 9, sec. 3.)

Section 5-2.2. Cost of Government Commission.

For the purpose of carrying out the policy set forth herein the mayor with the approval of the council shall appoint a cost of government commission consisting of nine members. One member shall be a resident of each council district. The managing director shall be an ex-officio member of the commission. The office of the mayor shall provide administrative and clerical services to the commission.

Each commission shall:

- (a) Prepare and submit to the mayor a request for an appropriation for the operation of the commission.
- (b) Study and investigate the organizations and methods of operations of all departments, commissions, boards, offices and other instrumentalities of all branches of the county government and determine what changes, if any, may be desirable to accomplish the policy set forth herein.

- (c) 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.
- (d) Submit a report of its findings and recommendations to the mayor, managing director and council not later than eleven months after its appointment.

(2000, Prop. 11, sec. 1; 2010, Prop. 7, sec. 11 and Prop. 9, sec. 3.)

Section 5-2.3. Term of Commission.

The commission members shall be appointed to terms starting one year after the beginning of the term of the mayor, and lasting eleven months.

(2000, Prop. 11, sec. 1; 2010, Prop. 9, sec. 3.)

**ARTICLE VI
EXECUTIVE BRANCH
THE MANAGING DIRECTOR AND AGENCIES
UNDER THE MANAGING DIRECTOR**

**CHAPTER 1
OFFICE OF MANAGEMENT**

Section 6-1.1. Organization.

There shall be an office of management consisting of the managing director and the necessary staff.

(1990, Prop. 14, sec. 1; 2000, Prop. 2, sec. 2.)

Section 6-1.2. Managing Director.

The managing director shall be appointed by the mayor, confirmed by the council and may be removed by the mayor. The managing director shall have had five years of experience in an administrative capacity, and shall possess demonstrable education and/or professional experience as required of the office.

(2000, Prop. 2, sec. 2 and Prop. 7, sec. 6.)

Section 6-1.3. Powers, Duties and Functions.

The managing director shall:

- (a) Act as the principal management aide to the mayor.
- (b) Supervise the administrative functioning of all agencies, departments, boards, and commissions.
- (c) Recommend to the mayor the annual operating and capital improvement budgets.
- (d) Evaluate the management and performance of each executive agency, and make reports to the mayor and the council on the findings and recommendations of such evaluation. A report shall be made to the responsible commission whenever an evaluation is performed on a department or agency under a commission.
- (e) Prescribe standards of administrative practice to be followed by all agencies under the managing director's supervision.

- (f) Attend meetings of the council or of any board or committee, when requested by the mayor.
 - (g) Attend meetings of the council and its committees upon request and make available such information as they may require.
 - (h) Perform all other duties as required by this charter or assigned by the mayor.
- (1990, Prop. 14, sec. 1; 2000, Prop. 2, sec. 2.)

CHAPTER 2 DEPARTMENT OF PUBLIC WORKS

Section 6-2.1. Organization.

There shall be a department of public works consisting of a director and the necessary staff.
(2000, Prop. 7, sec. 7.)

Section 6-2.2. Director.

The director of public works shall be appointed by the mayor, confirmed by the council and may be removed by the mayor. The director shall be a registered professional engineer. The director shall have had a minimum of five years of experience in an administrative capacity.
(1979, Prop. 12; 1990, Prop. 14, sec. 1; 2000, Prop. 7, sec. 8; 2010, Prop. 7, sec. 12.)

Section 6-2.3. Powers, Duties and Functions.

The powers, duties and functions of the department of public works shall be prescribed by ordinance and shall be exercised and performed by the department.
(1979, Prop. 13.)

CHAPTER 3 DEPARTMENT OF PARKS AND RECREATION

Section 6-3.1. Organization.

There shall be a department of parks and recreation consisting of a parks and recreation director and the necessary staff.

Section 6-3.2. Director.

The parks and recreation director shall be appointed by the mayor, confirmed by the council, and may be removed by the mayor. The director shall have had a minimum of five years of experience in an administrative capacity.
(1979, Prop. 12; 2000, Prop. 7, sec. 9; 2010, Prop. 7, sec. 13.)

Section 6-3.3. Powers, Duties and Functions.

The powers, duties and functions of the department of parks and recreation shall be prescribed by ordinance and shall be exercised and performed by the department.
(1979, Prop. 13.)

Section 6-3.4. County Bands.

The county bands shall be a part of the department of parks and recreation for administrative purposes. The bandmasters shall be appointed by the mayor and may be removed by the mayor. The members of the bands and other employees connected therewith shall be appointed by the bandmasters and may be removed by the bandmasters with the approval of the managing director, and all positions in the bands shall be exempt from civil service laws and classifications.

**CHAPTER 4
DEPARTMENT OF INFORMATION TECHNOLOGY**

Section 6-4.1. Organization.

There shall be a department of information technology consisting of the director of information technology and necessary staff.

(2010, Prop. 9, secs. 2 and 3.)

Section 6-4.2. Appointment and Removal.

The director of information technology shall be appointed by the mayor, confirmed by the council and may be removed by the mayor.

(2010, Prop. 9, secs. 2 and 3.)

Section 6-4.3. Qualifications.

The director of information technology shall have had a minimum of five years of experience in the field of electronic data processing, telecommunications networking, and development, implementation and operation of business-oriented applications, at least three years of which shall have been in an administrative and managerial capacity in a computer system environment at least comparable to that of the county's system.

(2010, Prop. 9, secs. 2 and 3.)

Section 6-4.4. Powers, Duties and Functions.

The director of information technology shall:

- (a) Operate the central data processing system, and coordinate and oversee the operations of departmental data processing systems, except for those systems maintained by the department of water supply.
- (b) Provide technical expertise in data processing and telecommunication to applicable departments and agencies of the county.
- (c) Assist in the development of management information.
- (d) Advise the mayor on matters relating to data processing and telecommunication.
- (e) Perform such other duties as may be required by law.

(2010, Prop. 9, secs. 2 and 3.)

CHAPTER 5 CORPORATION COUNSEL

Section 6-5.1. Organization.

There shall be a department of the corporation counsel consisting of the corporation counsel, assistant corporation counsel and the necessary staff.
(2000, Prop. 2, sec. 1.)

Section 6-5.2. Appointment and Removal.

The corporation counsel shall be appointed by the mayor, confirmed by 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 Supreme Court of the State of Hawai'i.
(1979, Prop. 12; 1990, Prop. 14, sec. 1; 2000, Prop. 2, sec. 1; 2010, Prop. 7, sec. 16.)

Section 6-5.3. Powers, Duties and Functions.

The corporation counsel shall be the chief legal advisor and legal representative of all county agencies, the council and all officers and employees in matters related to their official powers and duties. The corporation counsel shall represent the county in all civil legal proceedings and shall perform all other services incident to the office as may be required by law. The corporation counsel shall, however, be prohibited from representing any elected officer in impeachment proceedings.
(1979, Prop. 12 and Prop. 13; 1990, Prop. 14, sec. 1; 2000, Prop. 2, sec. 1.)

Section 6-5.4. Assistant Corporation Counsel.

The assistant corporation counsel shall be appointed by the corporation counsel and may be removed by the corporation counsel. The assistant corporation counsel shall be an attorney licensed to practice and in good standing before the Supreme Court of the State of Hawaii.
(2000, Prop. 2, sec. 1.)

Section 6-5.5. Special Counsel.

The council may, by two-thirds vote of its entire membership, authorize the employment of special counsel for any special matter presenting a real necessity for such employment. Any such authorization shall specify the compensation, if any, to be paid for said services.
(2000, Prop. 2, sec. 1.)

Section 6-5.6. Term of Office.

Notwithstanding Section 13-8, the term of office of the corporation counsel, assistant corporation counsel and deputies shall be co-terminous with that of the mayor; provided that where a successor has not been appointed and confirmed, the corporation counsel shall continue in office pending such appointment and confirmation, but in no event shall the corporation counsel continue in office beyond three months, whether acting or otherwise.
(1979, Prop. 13; 1990, Prop. 14, sec. 1; 2000, Prop. 2, sec. 1.)

CHAPTER 6
DEPARTMENT OF FINANCE

Section 6-6.1. Organization.

There shall be a department of finance consisting of the director of finance and the necessary staff.

(2000, Prop. 2, sec. 1.)

Section 6-6.2. Appointment and Removal.

The director of finance shall be appointed by the mayor, confirmed by the council and may be removed by the mayor. The finance director shall have had a minimum of five years of training and experience in budgeting or related fields, at least three years of which shall have been in a responsible supervisory capacity. A deputy finance director shall have had a minimum of three years of training and experience in a responsible financial position.

(1979, Prop. 12; 2000, Prop. 2, sec. 1 and Prop. 7, sec. 1.)

Section 6-6.3. Powers, Duties and Functions.

The director of finance shall be the finance officer of the county and shall:

- (a) Assist the mayor in the preparation and execution of the operating budget, operating program and capital budget.
- (b) Collect special assessments as provided by and subject to law.
- (c) Negotiate loans and the issuance and sale of bonds and notes when authorized by the council; maintain records of county indebtedness and have charge of the payment of interest and principal thereon.
- (d) Have custody of all public funds belonging to or under the control of the county, county agency or executive agency, and deposit all such funds in banks or trust companies designated as depositories by resolution of the council, subject to the requirements imposed by law as to surety and payment of interest, which interest shall accrue to the benefit of the public and shall be credited to the proper fund and account.
- (e) Examine all contracts, orders and other documents by which financial obligations are incurred, and every such document shall be subject to approval by the director of finance but the director of finance shall not approve unless the director of finance first verifies the appropriation, allotment and availability of funds to meet the obligation concerned and verifies thereto as provided in Section 10-11.
- (f) Prepare and issue warrants, prepare payrolls and pension rolls and disburse all funds in the county treasury. No money shall be paid out of the treasury unless the finance director first verifies the appropriation, allotment and availability of funds to cover the claim concerned and certifies thereto as provided in Section 10-11 and then determines that such claim is regular in form, correctly computed and constitutes a legal obligation.
- (g) Maintain a general accounting system for the county and require all county agencies and executive agencies to report and remit all receipts to the finance director as often as the finance director deems desirable.

- (h) Each month submit to the mayor and to the council through the mayor a statement of the revenues and expenditures for the preceding month and for the fiscal year up to and including the preceding month. 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 agencies.
- (i) Submit to the council through the mayor at the end of each fiscal year a report of the financial transactions of that year and a complete statement of the financial condition of the county at the end of the year, within ninety days after the end of the year.
- (j) Prepare and maintain a perpetual inventory of all lands, roadways, streets, easements and other land interests owned, leased, rented or controlled by the county.
- (k) Prepare and maintain a perpetual inventory of equipment owned or controlled by the county and materials and supplies in county storerooms, and dispose of property not needed by any agency or executive agency of the county pursuant to policies established by ordinance.
- (l) Where not in conflict with this charter, assume and perform all the duties and functions of the purchasing agent, the treasurer and the auditor of the county as provided by law, and for this purpose the director of finance shall be authorized to appoint a deputy, to assign and reassign such duties to any employee as the director of finance sees fit and to make internal administrative and organizational changes as the finance director sees fit subject to the approval of the mayor.
- (m) Exercise such other powers and perform such other duties as may be prescribed by this charter, by ordinance, by law or by the mayor or managing director.

(1979, Prop. 13; 1990, Prop. 14, sec. 1; 2000, Prop. 2, secs. 1 and 6; 2010, Prop. 7, sec. 17.)

Section 6-6.4. Pension Board.

There shall be a pension board consisting of five members who shall be appointed by the mayor and confirmed by the council in the manner prescribed in Section 13-4. The pension board shall assume the duties and functions of the pension board of the county and the board of trustees of the police officers, firefighters, and band members as provided by law and shall be attached to the department of finance. The county clerk and the director of finance shall ex-officio be the secretary and treasurer, respectively, of the pension board.

(1979, Prop. 13; 1990, Prop. 14, sec. 1; 2000, Prop. 2, sec. 1.)

**CHAPTER 7
PLANNING DEPARTMENT**

Section 6-7.1. Organization.

There shall be a planning department consisting of a planning director, a windward planning commission, a leeward planning commission and the necessary staff.

(1979, Prop. 7; 2000, Prop. 2, sec. 1; 2008, Ord. No. 08-01, sec. 2.)

Section 6-7.2. Planning Director.

- (a) The planning director shall be appointed by the mayor, confirmed by the council and may be removed by the mayor. The planning director shall have had a minimum of five years of training and experience in a responsible planning position, or a degree in planning, engineering, architecture, geography, or another planning-related field and three years of experience in a responsible planning position. No less than three years of experience shall have been in an administrative capacity.
- (b) The director shall be the chief planning officer of the county and the administrative head of the department and shall:
 - (1) Advise the mayor, the windward planning commission, the leeward planning commission and the council on all planning and land use matters.
 - (2) Prepare a general plan, implementation plans and any amendments thereto in accordance with Section 3-15.
 - (3) Prepare proposed zoning and subdivision ordinances, zoning maps and regulations and any amendments thereto.
 - (4) Review the lists of proposed capital improvements contemplated by agencies of the county and recommend the order of their priority.
 - (5) Administer the subdivision and zoning ordinances and regulations adopted thereunder.
 - (6) Render decisions on proposed subdivision plans pursuant to law.
 - (7) Make recommendations on rezoning applications, special exceptions and other similar requests.
 - (8) Render decisions on proposed variances pursuant to law, except that, if any written objections are made to the planning director's actions under this section, said actions shall be subject to review by the board of appeals in accordance with Section 6-9.2, unless otherwise provided by law or this charter.
 - (9) Perform such other related duties and functions as may be necessary or required pursuant to law and this charter.

(1979, Prop. 5, Prop. 12, and Prop. 13; 1998, Ord. No. 98-83, sec. 2; 2000, Prop. 2, sec. 1 and Prop. 7, sec. 2; 2008, Ord. No. 08-01, sec. 3; 2010, Prop. 7, sec. 18.)

Section 6-7.3. Windward Planning Commission.

- (a) There is established a windward planning commission that shall have jurisdiction over the area consisting of the judicial districts of Puna, South Hilo, North Hilo, Hāmākua, and Kaʻū.
- (b) There shall be seven members on this commission. The commission shall include one member from each of the judicial districts of Puna, South Hilo, North Hilo/Hāmākua combined, and Kaʻū and three "at-large" members selected from these districts. Not more than two members, appointed from any one judicial district, shall serve on the windward planning commission.
- (c) The members shall be appointed by the mayor and confirmed by the council in the manner prescribed in Section 13-4. Each member representing a district shall be a legal resident and registered voter of that district. In addition, the director of public works and the manager of the department of water supply, or their designated representatives, shall serve as ex-officio members of the windward planning commission, without power to vote.

(2008, Ord. No. 08-01, sec. 5; 2010, Prop. 7, sec. 19.)

Section 6-7.4. Leeward Planning Commission.

- (a) There is established a leeward planning commission that shall have jurisdiction over the area consisting of the judicial districts of North Kohala, South Kohala, North Kona, and South Kona.
 - (b) There shall be seven members on this commission. The commission shall include one member from each of the judicial districts of North Kohala, South Kohala, North Kona and South Kona and three “at-large” members selected from these districts. Not more than two members, appointed from any one judicial district, shall serve on the leeward planning commission.
 - (c) The members shall be appointed by the mayor and confirmed by the council in the manner prescribed in Section 13-4. Each member representing a district shall be a legal resident and registered voter of that district. In addition, the director of public works and the manager of the department of water supply, or their designated representatives, shall serve as ex-officio members of the leeward planning commission, without power to vote.
- (2008, Ord. No. 08-01, sec. 5; 2010, Prop. 7, sec. 20.)

Section 6-7.5. Duties and Functions of the Windward and Leeward Planning Commissions.

- (a) Both commissions shall:
 - (1) Advise the mayor, council and the planning director on planning and land use matters pursuant to law and this charter.
 - (2) Review the general plan, its amendments and other plans and modifications thereof and transmit such plans with recommendations thereon through the mayor to the council for consideration and action.
 - (3) Review proposed subdivision and zoning ordinances and amendments thereto and transmit such ordinances with recommendations thereon through the mayor to the council for consideration and action.
 - (4) Conduct public hearings in every case prior to action on any matter upon which the commission is required by law or this charter to act. Notice of the time and place of the hearing shall be published at least ten days prior to such hearing in at least two daily newspapers of general circulation in the county and shall also be distributed via an electronic medium, such as the Internet.
 - (5) Perform such other related duties and functions as may be necessary or required pursuant to law and this charter.
- (b) A uniform body of rules of practice and procedure, except for meeting places and times, shall apply to both commissions. Uniform rules of practice and procedure shall be adopted by a majority vote of the combined membership of the windward planning commission and the leeward planning commission, meeting jointly. The existing rules of practice and procedure of the Hawai‘i county planning commission, except for meeting places, shall apply to both commissions until the new uniform rules of practice and procedure are adopted.

- (c) Each planning commission shall review and take action upon applications for land use changes and community development plans involving only property within their respective jurisdictions, other than those involving the general plan. If an application for a land use change or a community development plan includes land within the jurisdiction of both the windward planning commission and the leeward planning commission, the application shall be considered by both commissions meeting jointly and action shall require the affirmative vote of a majority of the combined membership of the two commissions. All amendments to the general plan or the adoption of a new general plan shall be considered by each planning commission, meeting separately, and each commission shall make its own recommendation to the council. Each planning commission, meeting separately, shall make its own recommendations to the council on changes to the subdivision and zoning codes and any other planning or land use matters which apply generally and not to a specific area. The planning director shall determine which commission shall take jurisdiction over any matters when not fully established by the charter.

(2008, Ord. No. 08-01, sec. 5; 2010, Prop. 7, sec. 21 and Prop. 19, sec. 3.)

Section 6-7.6. Transitional Provisions.

- (a) The existing planning commission shall remain in effect and continue to hear and decide matters pursuant to Section 6-7.3, Hawai'i County Charter (2000), until April 1, 2009, the date upon which the windward planning commission and the leeward planning commission becomes effective. Matters pending before the existing planning commission that are not finally decided by April 1, 2009, will be transferred to the windward or leeward planning commissions, as appropriate to be finalized.
- (b) Members of the existing planning commission whose terms will not have expired on April 1, 2009, shall hold over and continue to serve the remainder of their respective terms on the windward and the leeward planning commissions, duly assigned according to their respective residence address.
- (c) If there shall exist vacancies on either the windward planning commission or the leeward planning commission not filled by term hold over, the mayor shall appoint the remaining members of the windward planning commission and the leeward planning commission in accordance with Section 13-4, Hawai'i County Charter (2000).

(2008, Ord. No. 08-01, sec. 5; 2010, Prop. 7, sec. 22.)

CHAPTER 8 DEPARTMENT OF RESEARCH AND DEVELOPMENT

Section 6-8.1. Organization.

There shall be a department of research and development consisting of a director and the necessary staff.

(2000, Prop. 2, sec. 1.)

Section 6-8.2. Director.

The director of research and development shall be appointed by the mayor, confirmed by the council and may be removed by the mayor. The director shall have had a minimum of five years of related experience.

(1979, Prop. 12; 2000, Prop. 2, sec. 1 and Prop. 7, sec. 4; 2010, Prop. 7, sec. 23.)

Section 6-8.3. Powers, Duties and Functions.

The director of research and development shall:

- (a) Collect and develop data necessary for managerial and legislative decision-making, and program and policy-making.
- (b) Provide staff leadership for public and private development programs, enterprises and plans, including economic, social and cultural proposals, which enhance and improve the county community.
- (c) Coordinate informational and regulatory knowledge of all federal and state grant-in-aid participation programs which affect the county.

(2000, Prop. 2, sec. 1; 2010, Prop. 7, sec. 24.)

**CHAPTER 9
MISCELLANEOUS**

Section 6-9.1. Clerical Pool.

There may be a clerical pool consisting of such positions as the mayor may recommend and for which appropriations have been made by the council. The purpose of such pool shall be to provide periodic staff assistance to the various agencies of the county when necessitated by heavy workloads. The clerical pool shall be attached to the mayor's office for purposes of administration, assignment and coordination but the personnel of the clerical pool shall be subject to the civil service laws of the State.

(2000, Prop. 2, sec. 1.)

Section 6-9.2. Board of Appeals.

The board of appeals shall consist of seven members who shall be appointed by the mayor and confirmed by the council in the manner prescribed in Section 13-4. Each member shall be a legal resident and a registered voter of the county. Board membership shall be representative of the community, and, whenever possible, persons with background or expertise in broad areas of planning and construction shall be given preference, although such knowledge is not a prerequisite for membership. The board of appeals shall establish its rules of procedure and shall:

- (a) Hear and determine appeals from final decisions of the planning director or the director of public works regarding matters within their respective jurisdictions.
- (b) Conduct hearings in accordance with Chapter 91, Hawai'i Revised Statutes, and this charter.
- (c) Be part of the planning department for administrative purposes, and said department shall provide necessary clerical and other assistance.

(1979, Prop. 7; 1990, Prop. 14, sec. 1; 1998, Ord. No. 98-83, sec. 4; 2000, Prop. 2, sec. 1, Prop. 6, sec. 1, and Prop. 7, sec. 5; 2010, Prop. 7, sec. 25.)

Section 6-9.3. Game Management Advisory Commission.

There shall be a game management advisory commission consisting of nine members who shall be appointed by the mayor and confirmed by the council. One member shall be a resident of each council district. The terms of the members shall be as prescribed in Section 13-4. The commission shall select its chairperson from its voting members, and five voting members shall constitute a quorum.

For the benefit of present and future generations, the game management advisory commission shall advise County, State and Federal agencies on matters related to the preservation of subsistence hunting and fishing, as well as protecting traditional and cultural gathering rights. The commission may also advise County, State, and Federal agencies on any matter affecting the taking and conservation of aquatic life and wildlife, including proposed rules, and shall communicate its findings and recommendations to these agencies. The commission shall promulgate recommendations that conserve and protect the natural and cultural resources of Hawai'i in furtherance of the self-sufficiency and long-term subsistence sustainability of aquatic life and wildlife in the County. The commission shall provide reports or legislative recommendations to the council as necessary, or at least quarterly. (2012, Ord. No. 12-110, sec. 1.)

CHAPTER 10 DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

Section 6-10.1. Organization.

There shall be a department of environmental management consisting of a director, the necessary staff, and an environmental management commission. (2000, Prop. 4, sec. 1; 2010, Prop. 7, sec. 26.)

Section 6-10.2. Statement of Policy.

The department of environmental management is established to protect, preserve, and enhance our environment by promoting the wise management of our waste. (2000, Prop. 4, sec. 1; 2010, Prop. 7, sec. 27.)

Section 6-10.3. Director.

The director of environmental management shall be appointed by the mayor, confirmed by the council, and may be removed by the mayor. The director shall have had a minimum of five years of administrative experience in a related field and an engineering degree or a degree in a related field. (2000, Prop. 4, sec. 1; 2010, Prop. 7, sec. 28 and Prop. 12, sec. 1.)

Section 6-10.4. Powers, Duties and Functions.

The department of environmental management shall manage the solid waste, wastewater, and recycling programs of the county, and exercise other functions as prescribed by the mayor or prescribed by ordinance. (2000, Prop. 4, sec. 1; 2010, Prop. 11, sec. 1.)

Section 6-10.5. Environmental Management Commission.

There shall be an environmental management commission consisting of nine members who shall be appointed by the mayor and confirmed by the council. One member shall be a resident of each council district. The terms of the members shall be as prescribed in Section 13-4. The environmental management commission shall advise the department on waste reduction strategies, recycling, litter control, community involvement, and other issues related to the functions of the department, and shall exercise any other powers related to the functions of the department that may be delegated to it by ordinance. (2000, Prop. 4, sec. 1; 2010, Prop. 7, sec. 29.)

**ARTICLE VII
EXECUTIVE BRANCH-DEPARTMENTS OR
AGENCIES UNDER COMMISSIONS**

**CHAPTER 1
DEPARTMENT OF HUMAN RESOURCES**

Section 7-1.1. Organization.

There shall be a department of human resources consisting of a director, a merit appeals board and the necessary staff.

(1979, Prop. 13; 2006, Ord. No. 06-60, sec. 2.)

Section 7-1.2. Merit Appeals Board.

(a) The merit appeals board shall consist of five members who shall be appointed by the mayor and confirmed by the council.

(1) The new board member who will replace the board member whose term expires on December 31, 2010 shall serve a four year term ending on December 31, 2014.

(2) Of the two new board members who will replace the board members whose terms expire on December 31, 2012, one shall serve a three year term ending on December 31, 2015 and the other shall serve a four year term ending on December 31, 2016.

(3) Of the two new board members who will replace the board members whose terms expire on December 31, 2013, one shall serve a four year term ending on December 31, 2017, and the other shall serve a five year term ending on December 31, 2018.

Thereafter, board members shall serve five year terms in the manner prescribed in Section 13-4.

(b) Board membership shall be representative of the community, and the members shall all be in sympathy with and believe in the principles of the merit system in public employment.

(1979, Prop. 13; 1990, Prop. 16, sec. 2; 2006, Ord. No. 06-60, sec. 2; 2010, Prop. 7, sec. 30 and Prop. 14, sec. 1.)

Section 7-1.3. Director.

The director of human resources shall be appointed by the merit appeals board and may be removed by the merit appeals board. Any motion for removal of the director of human resources must contain a statement of reasons, and the board shall not vote to remove the director of human resources unless the director of human resources has been given an opportunity to respond to the statement of reasons at a hearing before the board.

(1979, Prop. 13; 2006, Ord. No. 06-60, sec. 2; 2010, Prop. 15, sec. 1.)

Section 7-1.4. Powers, Duties and Functions.

The director of human resources shall be responsible for the human resources management program of the county with two distinct categories of duties. The major duties shall be in the areas of equal employment opportunities, personnel development, personnel deployment, personnel relations and personnel welfare including employee safety and workers' compensation. The secondary duties of the director shall be the administration of the civil service system and the maintenance of the aims and mechanics prescribed by statute. The director shall be the administrative head of the department of human resources and shall be responsible for the proper conduct of all the administrative affairs of the department and for the execution of the human resources management program prescribed by this charter, ordinances, laws and regulations. The merit appeals board shall function according to statute. The director shall provide technical and clerical staff services to the board.
(1979, Prop. 13; 2000, Prop. 6, sec. 2; 2006, Ord. No. 06-60, sec. 2.)

Section 7-1.5. Position Classification Plan; Compensation.

Except as otherwise provided by law or this charter, all positions in the service of the county shall be classified within a position classification plan, and all persons holding such positions shall be compensated as provided by the compensation law of the state.

Section 7-1.6. Administrative Supervision.

The department of human resources shall come under the general supervision and control of the mayor.
(1979, Prop. 13; 2006, Ord. No. 06-60, sec. 2.)

**CHAPTER 2
POLICE DEPARTMENT**

Section 7-2.1. Organization.

There shall be a police department consisting of a police commission, a chief of police, a deputy chief of police, and the necessary staff.
(1990, Prop. 3, sec. 1.)

Section 7-2.2. Police Commission.

- (a) The police commission shall consist of nine members. One member shall be a resident of each council district. The members shall be appointed by the mayor and confirmed by the council in the manner prescribed in Section 13-4.
- (b) Statement of policy. It is hereby declared to be the purpose of this chapter of the charter to establish in the county a system of law enforcement which shall be based on due regard for the constitutional rights of all persons, which shall promote the highest possible degree of mutual respect between law enforcement officers and the people of the county and which shall provide for the expeditious apprehension of those who violate the law. In order that these purposes may be achieved, the police department shall be operated in accordance with the following:
 - (1) Standards of recruitment shall be designed to attract into the service persons with high degrees of education, intelligence and personal stability.
 - (2) Promotions shall be based upon fair standards of merit and ability which shall include peacekeeping and law enforcement criteria.

- (3) Grievance procedures for the people and police officers of the county shall be based on due regard for their constitutional rights.
- (c) Powers and Duties. The police commission shall:
 - (1) Adopt such rules as it may consider necessary for the conduct of its business and the regulation of the matters committed to its charge and may review the rules and regulations of the department.
 - (2) Review the annual budget prepared by the chief of police and may make recommendations thereon to the mayor and managing director.
 - (3) Submit an annual report to the mayor, managing director and the council.
 - (4) Receive, consider, and investigate charges brought by the public against the conduct of the department or any of its members and submit a written report of its findings to the chief of police. A summary of the charges filed and their disposition shall be included in the annual report of the commission. There shall be budgeted sufficient funds in the annual budget of the police department for use by the police commission to fulfill the intent of this section.
 - (5) Advise the chief of police on police-community relations.
 - (6) Review the department's operations, as deemed necessary, for the purpose of recommending improvements to the police chief and the managing director.
 - (7) Evaluate at least annually the performance of the police chief and submit a report to the mayor, managing director and the council.
 - (8) Hire personnel necessary to carry out its functions.
 - (9) Except for purposes of inquiry, neither the commission nor its members shall interfere in any way with the administrative affairs of the department.

(1979, Prop. 13; 1990, Prop. 3, sec. 1; 1994, Ord. No. 93-68, sec. 1; 2000, Prop. 2, sec. 7 and Prop. 8, sec. 1.)

Section 7-2.3. Chief of Police and Deputy.

The chief of police shall be appointed by the police commission and may be removed by the police commission at its sole discretion. Any motion for removal of the chief of police must contain a statement of reasons, and the commission shall not vote to remove the chief of police unless the chief of police has been given an opportunity to respond to the statement of reasons at a hearing before the commission. The deputy shall be appointed by the chief of police with the confirmation of the police commission and may be removed by the chief of police with the approval of the commission, without cause being stated. The chief of police shall have had a minimum of five years of training and experience in law enforcement work, including at least three years in a responsible administrative capacity.

(1990, Prop. 3, sec. 1.)

Section 7-2.4. Powers, Duties, and Functions of the Chief of Police.

The chief of police shall be the administrative head of the police department and shall:

- (a) Be responsible for the preservation of the public peace, prevention of crime, detection and arrest of offenders against the law, protection of the rights of persons and property, and enforcement and prevention of violations of all laws of the state and ordinances of the county and all regulations made in accordance therewith.
- (b) Train, equip, maintain, and supervise the force of police officers and employees.

- (c) Promulgate rules and regulations for the organization and administration of the police force.
- (d) Make periodic reports to the police commission about the activities of the police department and about actions taken on cases investigated by the police commission.
- (e) Have such other powers, duties, and functions as may be required by the police commission or provided by law.

(1979, Prop. 13; 1990, Prop. 3, sec. 1.)

Section 7-2.5. Dismissal, Suspension, Demotion, or Grievance.

The dismissal, suspension, demotion, or grievance of any police officer or employee in the police department shall be under procedures set forth by civil service laws and regulations.

(1990, Prop. 3, sec. 1.)

Section 7-2.6. Administrative Supervision.

The police department shall come under the general supervision and control of the mayor, through the managing director.

(1990, Prop. 3, sec. 1; 2000, Prop. 2, sec. 8.)

**CHAPTER 3
DEPARTMENT OF LIQUOR CONTROL**

Section 7-3.1. Organization.

There shall be a department of liquor control consisting of a liquor commission, a liquor control adjudication board, a director of the department and the necessary staff.

Section 7-3.2. Liquor Commission.

There shall be a liquor commission consisting of nine members who shall be appointed by the mayor and confirmed by the council in the manner prescribed in Section 13-4. One member shall be a resident of each council district. The liquor commission shall:

- (a) Adopt rules and regulations 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.
- (b) Grant, renew or refuse applications for licenses for the manufacture, importation and sale of liquor in the county under applicable laws and regulations.
- (c) Have such other powers and duties as may be provided by law, not in conflict with the provisions of this section.

(1979, Prop. 13; 2000, Prop. 14, sec. 1; 2010, Prop. 7, sec. 31.)

Section 7-3.3. Liquor Control Adjudication Board.

There shall be a liquor control adjudication board consisting of five members who shall be appointed by the mayor and confirmed by the council in the manner prescribed in Section 13-4.

The liquor control adjudication board shall hear and determine all complaints regarding violations of the liquor control laws of the State, or complaints regarding violations of rules and regulations established by the liquor commission and impose such fines or punishment as may be provided by law upon the conviction thereof.

(1979, Prop. 13.)

Section 7-3.4. Director of the Department of Liquor Control.

(a) The director of the department of liquor control shall be appointed by the liquor commission and may be removed by the liquor commission. Any motion for removal of the director of the department of liquor control must contain a statement of reasons, and the commission shall not vote to remove the director of the department of liquor control unless the director of the department of liquor control has been given an opportunity to respond to the statement of reasons at a hearing before the commission.

(b) The director of the department of liquor control shall:

- (1) Be the administrative head of the department.
- (2) Provide clerical and administrative services for the liquor commission and the liquor control adjudication board, including the submission of a budget for the operation of the department.
- (3) Investigate complaints regarding violations of the liquor control laws of the State or complaints regarding violations of rules and regulations established by the liquor commission and report such violations to the prosecuting attorney of the county.

(2010, Prop. 7, sec. 32 and Prop. 15, sec. 2.)

Section 7-3.5. Administrative Supervision.

The department of liquor control shall come under the general supervision and control of the mayor, through the managing director.

(2000, Prop. 2, sec. 9.)

**CHAPTER 4
HAWAI‘I FIRE DEPARTMENT**

Section 7-4.1. Organization.

There shall be a Hawai‘i fire department consisting of a fire chief, a deputy fire chief, a fire commission and the necessary staff. The fire chief shall be the administrative head of the Hawai‘i fire department.

(2010, Prop. 10, secs. 2 and 3.)

Section 7-4.2. Statement of Policy.

It is hereby declared to be the purpose of this chapter to establish in the county a system of fire protection and prevention and emergency services which shall be based on qualified and professional leadership and personnel. In order to achieve this purpose, the Hawai'i fire department shall be operated in accordance with the following:

- (a) Standards for recruitment shall be designed to attract into the department persons with high degrees of education, intelligence and personal stability.
- (b) Promotions and other personnel actions shall be based upon fair and appropriate standards of merit, ability and work performance.
- (c) Appropriate training shall be provided to the maximum extent possible and practicable.

(2010, Prop. 10, secs. 2 and 3.)

Section 7-4.3. Fire Chief.

- (a) The fire chief shall be appointed by the fire commission and may be removed by the fire commission at its sole discretion. Any motion for removal of the fire chief must contain a statement of reasons, and the commission shall not vote to remove the fire chief unless the fire chief has been given an opportunity to respond to the statement of reasons at a hearing before the commission.
- (b) The fire chief shall have had a minimum of five years of training and experience in fire control, including at least three years of experience in a responsible administrative capacity.

(2010, Prop. 10, secs. 2 and 3, and Prop. 15, sec. 3.)

Section 7-4.4. Powers, Duties and Functions.

The fire chief shall:

- (a) Perform firefighting and emergency services in order to save lives and property from fires and from emergencies arising on land, on the sea and hazardous terrain.
- (b) Train, equip, maintain and supervise a force of firefighting and emergency services personnel.
- (c) Monitor the construction and occupancy standards of buildings for the purposes of fire prevention and life safety.
- (d) Provide educational programs related to fire prevention and life safety.
- (e) Appoint the deputy fire chief and the private secretaries to the fire chief and the deputy fire chief.
- (f) Have such other powers, duties and functions as may be required by ordinance.

(2010, Prop. 10, secs. 2 and 3.)

Section 7-4.5. Fire Commission.

There shall be a fire commission, which shall consist of nine members. One member shall be a resident of each council district. The commission may appoint such staff and engage such consultants as necessary for the performance of its duties. The members shall be appointed by the mayor and confirmed by the council in the manner prescribed in Section 13-4.

(2010, Prop. 10, secs. 2 and 3.)

Section 7-4.6. Powers, Duties and Functions.

The fire commission shall:

- (a) Adopt rules necessary for the conduct of its business and review rules for the administration of the department.
- (b) Review the annual budget prepared by the fire chief and make recommendations thereon to the mayor, the managing director and the council.
- (c) Review the department's operations, as deemed necessary, for the purposes of recommending improvements to the fire chief.
- (d) Evaluate at least annually the performance of the fire chief and submit a report to the mayor, the managing director and the council.
- (e) Review personnel actions within the department for conformance with the policies under Section 7-4.2 of this charter.
- (f) Hear complaints of citizens concerning the department or its personnel and, if necessary, make recommendations to the fire chief on appropriate corrective actions.
- (g) Submit an annual report to the mayor, managing director and the council on its activities.

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.

(2010, Prop. 10, secs. 2 and 3.)

**ARTICLE VIII
DEPARTMENT OF WATER SUPPLY**

Section 8-1. Organization.

There shall be a semi-autonomous department of water supply consisting of a water board, a manager-chief engineer and the necessary staff.

(2000, Prop. 9, sec. 1; 2010, Prop. 8, sec. 1.)

Section 8-2. Water Board.

The water board shall consist of nine members who shall be appointed by the mayor with the approval of the council in the manner prescribed in Section 13-4. One member shall be a resident of each council district. The manager-chief engineer of the department of water supply, the planning director and the director of public works or their designated representatives shall serve as ex-officio members of the water board without power to vote. The water board shall:

- (a) Manage, control and operate the waterworks of the county and all property thereof.
- (b) Adopt rules and regulations which shall have the force and effect of law relating to the management, control, operation, preservation and protection of the waterworks of the county.
- (c) Adopt an annual operating and capital budget for the department, subject to the hearing and advertising provisions of Section 10-4.

- (d) Have the power to acquire by eminent domain, purchase, lease or otherwise, and to sell, lease, or otherwise convey real property in the name of the water board.
- (e) Have the authority to issue revenue bonds under the name of the water board.
- (f) Have such other powers and duties as may be provided by law.

(2000, Prop. 9, sec. 2; 2010, Prop. 7, sec. 33 and Prop. 8, sec. 1.)

Section 8-3. Manager-Chief Engineer and Deputy.

- (a) The manager-chief engineer of the department of water supply shall be appointed by the water board and may be removed by the water board. Any motion for removal of the manager of the department of water supply must contain a statement of reasons, and the board shall not vote to remove the manager of the department of water supply unless the manager of the department of water supply has been given an opportunity to respond to the statement of reasons at a hearing before the board.
- (b) The deputy shall be appointed by the manager-chief engineer with the confirmation of the water board and may be removed by the manager-chief engineer with the approval of the water board.
- (c) The manager-chief engineer shall be a registered engineer and shall have had a minimum of five years of experience in an administrative capacity.

(2000, Prop. 7, sec. 11 and Prop. 9, sec. 3; 2010, Prop. 7, sec. 34, Prop. 8, sec. 1, and Prop. 15, sec. 4.)

Section 8-4. Water Fund.

There shall be established a separate water fund which shall be utilized solely for water purposes. State and Federal water grants or appropriations and revenues from operation of the water system shall be included in the water fund.

Section 8-5. Administrative Supervision.

The department of water supply shall come under the general supervision and control of the mayor, through the managing director.

(2000, Prop. 2, sec. 10.)

**ARTICLE IX
PROSECUTING ATTORNEY**

Section 9-1. Election and Term of Office.

The prosecuting attorney shall be elected for a term of four years, which term shall commence at twelve o'clock meridian on the first Monday of December following the election.

(1990, Prop. 14, sec. 1.)

Section 9-2. Qualifications.

The prosecuting attorney shall be an attorney licensed to practice and in good standing before the Supreme Court of the State of Hawai'i. The prosecuting attorney shall be a citizen of the United States of America and shall have been a duly qualified elector of the county for at least one year immediately preceding the election.

(1979, Prop. 13; 1990, Prop. 14, sec. 1; 2010, Prop. 7, sec. 35.)

Section 9-3. Powers, Duties and Functions.

- (a) The prosecuting attorney shall:
 - (1) 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 regulations of the county.
 - (2) Prosecute offenses against the laws of the State under the authority of the attorney general of the State.
 - (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. The expense of such proceeding shall be paid by the county.
 - (4) Institute proceedings, or direct the chief of police to do so, before the district judges 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 the district judges, 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 and give advice to 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 district judges or courts of record under the direction of the prosecuting attorney.
 - (6) Investigate all matters which may properly come before the prosecuting attorney.
- (b) The prosecuting attorney may:
 - (1) Research, evaluate, and make recommendations regarding crime, crime prevention, and the criminal justice system to the governor, the legislature, the judiciary, the council, the mayor, the Hawai'i police department and other criminal justice agencies, or the general public, as the prosecuting attorney deems appropriate.
 - (2) Provide crime prevention training programs for law enforcement agencies, citizens, businesses, and civic groups.
 - (3) Develop public education programs through various broadcast or print media, to provide the general public information that will assist citizens in developing the knowledge and confidence to prevent crime and to avoid being victims of crime.
 - (4) Receive and expend financial grants, donations and other funds as permitted by the provisions of the revised charter, county ordinances and applicable county, state, and federal financial and budget policies for crime research, prevention, and education.

(1979, Prop. 13; 1990, Prop. 14, sec. 1; 2010, Prop. 13, sec 1.)

Section 9-4. Staff.

The prosecuting attorney may appoint deputies and other necessary staff. The deputy who is designated as first deputy shall, during the temporary absence or disability of the prosecuting attorney, assume the power and perform the duties of the prosecuting attorney.

Section 9-5. Vacancy in Office.

A vacancy in the office of prosecuting attorney shall be filled by the first deputy who shall act as prosecuting attorney, or if the position of first deputy is vacant or if the first deputy is unable to so act, the mayor with the confirmation of the council shall fill the vacancy by appointment of a person with the requisite qualifications within thirty days after the occurrence of the vacancy.

The first deputy or the person appointed to fill the vacancy shall serve until a successor is duly elected at the next State or State and County election and seated. The election shall be held in accordance with the election laws of the State insofar as applicable.

The person elected as the successor shall serve out the unexpired term of the person succeeded commencing at twelve o'clock meridian on the first Monday of December following the election.

(1974, Ord. No. 59, sec. 5; 1979, Prop. 13; 1990, Prop. 14, sec. 1; 2010, Prop. 7, sec. 36.)

Section 9-6. Removal of Prosecuting Attorney.

The prosecuting attorney may be removed by impeachment or recall proceedings as provided by this charter.

(1979, Prop. 9.)

**ARTICLE X
FINANCIAL PROCEDURES**

Section 10-1. Fiscal Year.

The fiscal year of the county shall begin on the first day of July and end on the last day of June of the succeeding year.

Section 10-2. Preparation and Submission of Budget and Capital Program.

(a) No later than March 1 of each year, the mayor shall submit to the county council:

- (1) An operating budget for the ensuing year.
- (2) An operating program for the ensuing three fiscal years.
- (3) A capital budget for the ensuing fiscal year.
- (4) A capital program for the ensuing six fiscal years.
- (5) An accompanying message.

The mayor shall submit amendments to the operating budget, operating program, capital budget, and capital program, together with an accompanying message, to the county council within ten working days after the close of the state legislature but not later than May 5 of each year.

(b) On or before the date specified by the mayor, the head of each county agency and executive agency shall furnish the mayor:

- (1) Estimates for the current fiscal year and ensuing fiscal years covering the revenues and expenditures of the agency or executive agency concerned.
- (2) Estimates of any capital improvements pending or proposed to be undertaken within the ensuing fiscal year and within the five fiscal years thereafter.
- (3) Such other information as the mayor may request.

- (c) The mayor shall review all the estimates furnished. The mayor may hold public hearings thereon and may revise the estimates in such manner as the mayor deems advisable in preparing the budgets and programs.
- (d) Upon submission, the budgets, the programs and messages shall be a public record in the office of the clerk of the county council and shall be open to public inspection. The mayor shall at the same time make available copies of the budgets, the programs and messages for distribution to interested persons.

(1974, Ord. No. 57, sec. 1; 1990, Prop. 4, sec. 1 and Prop. 14, sec. 1; 2010, Prop. 7, sec. 37.)

Section 10-3. Scope of Operating Budget; Operating Program; Mayor's Message.

- (a) The operating budget shall present a complete financial plan for the current operations of the county and its agencies and executive agencies in the ensuing fiscal year, showing all funds and reserves. Capital expenditures to be financed from current revenues in the ensuing fiscal year shall be included in the operating budget as well as in the capital budget. Appropriations for such expenditures shall be included in the operating budget. Except as otherwise provided by law, the operating budget shall contain at least the following:
 - (1) A simple, clear, general summary of the detailed contents of the operating budget. Such summary shall itemize all new positions being requested.
 - (2) The proposed expenditures, including provisions for any estimated cash deficit for the fiscal year currently ending, debt service requirements for the ensuing fiscal year, and all other expenditures for the ensuing fiscal year, capital and otherwise, to be met from current revenues; and the proposed expenditures shall be shown by agencies and programs.
 - (3) A comparative statement of the actual expenditures for the preceding fiscal year, and the estimated expenditures for the fiscal year currently ending and the ensuing fiscal year.
 - (4) The sums recommended for appropriation on the basis of the proposed expenditures, which sums need not be itemized further than by agencies and programs.
 - (5) The estimated revenues shown by estimated cash surplus, if any, for the fiscal year currently ending, proposed tax levies and other sources.
 - (6) A comparative statement of the actual revenues for the preceding fiscal year, and the estimated revenues for the fiscal year currently ending and the ensuing year. The estimated revenues for the ensuing fiscal year shall be at least equal in amount to the proposed expenditures.
- (b) The operating program shall present a complete financial plan for the operations of the county and its agencies and executive agencies in the ensuing three fiscal years, showing all funds and reserves. The operating program shall be used by the council for informational purposes and as a guide for the estimated costs of operating the county government for the ensuing three fiscal years and shall contain at least the following:
 - (1) A simple, clear, general summary of the detailed contents of the operating program.
 - (2) The proposed expenditures, including debt service requirements and all other expenditures for the ensuing three fiscal years, capital and otherwise; and the proposed expenditures, year by year, shall be shown by agencies and programs.

- (3) The estimated revenues shown by estimated cash surplus, if any, proposed tax levies and other sources for the ensuing three fiscal years.
- (4) Such other information as the council or mayor may request.
- (c) The mayor's message shall explain the operating budget and capital 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, describe the important features of the operating budget and capital budget and means of financing the budgets. 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. As to the capital budget, the message shall include a list of pending and proposed capital improvements together with the mayor's comments on such list. It shall itemize and explain each pending capital improvement and each capital improvement proposed to be undertaken within the ensuing fiscal year, showing the estimated cost of each improvement and the pending or proposed method of financing it. The message shall also include such other supporting or explanatory material as the mayor deems desirable.

The mayor's budget message which accompanies the amendments to the operating budget and to the capital budget shall describe the changes in proposed expenditures and in revenue projections from the budgets which had been submitted on or before March 1, and shall describe the intervening changes in circumstances which justify the changes in the proposed expenditures and projected revenues.

(1990, Prop. 4, sec. 1; 2010, Prop. 7, secs. 38 and 39.)

Section 10-4. Operating Budget and Capital Budget: Notice and Hearing.

The council shall hold a public hearing on the operating budget and capital budget at any time after March 1, but prior to the first reading on the budget bills. At this hearing all persons interested shall have an opportunity to be heard. At least one week before the hearing, the county council shall publish in at least two daily newspapers of general circulation in the county as well as via an electronic medium, such as the Internet, the general summaries of the operating budget and capital budget and a notice setting forth the time and place for public hearing thereon and for their consideration by the council. The council shall also allow public testimony at any meeting at which the operating budget or capital budget, or amendments thereto, are considered.

(1990, Prop. 4, sec. 1 and Prop. 10, sec. 4; 2010, Prop. 19, sec. 4.)

Section 10-5. Operating Budget: Council Action.

After the public hearing, and after the submission of the amendments to the operating budget and to the capital budget, the county council may adopt the operating budget as amended with or without further amendments. First reading shall be after May 5. In amending, it may add new items or increase items in the operating budget. It may decrease or delete items, excepting appropriations required by law and appropriations for debt service. But in all cases the estimated revenues for the ensuing year shall be at least equal in amount to the proposed expenditures.

The council shall adopt the operating budget on or before June 30. If it fails to do so, the operating budget as submitted and as amended by the mayor shall be deemed adopted by the council as the operating budget for the ensuing fiscal year.

If the mayor disapproves of the bill adopting the operating budget or of any part thereof, the mayor shall return the bill or the portions vetoed with a written statement of objections to the clerk for further council action within ten calendar days of receipt of the bill.

The adopted operating budget shall be in effect on and after the first day of the fiscal year to which it applies.

(1974, Ord. No. 57, sec. 3; 1990, Prop. 4, sec. 1; 2010, Prop. 7, sec. 40.)

Section 10-6. Capital Budget and Capital Program: Scope; Council Action.

- (a) The capital budget shall contain at least the following:
 - (1) A simple, clear, general summary of the detailed contents of the capital budget.
 - (2) The capital improvements pending or proposed to be undertaken within the ensuing fiscal year, together with the estimated cost of each improvement, the estimated operating cost, and the pending or proposed method of financing it.
 - (3) Capital expenditures to be financed from current revenues in the ensuing fiscal year.
- (b) The capital program shall be used by the council for informational purposes and as a guide for the estimated costs of the proposed capital improvements of the county for the ensuing six fiscal years and shall contain at least the following:
 - (1) A simple, clear, general summary of the detailed contents of the capital program.
 - (2) The capital improvements pending or proposed for the ensuing six fiscal years, together with the estimated cost of each improvement and the proposed method of financing it.
 - (3) Such other information as the council or mayor may request.
- (c) After the public hearing on the capital budget, and after the submission of the amendments to the budget, the county council may adopt the capital budget as amended with or without further amendment. First reading shall be after May 5. In amending, the council shall request and consider, but need not follow, the recommendations of the mayor as to the proposed amendment.
- (d) The council shall adopt the capital budget on or before June 30. If it fails to do so, the amended capital budget submitted by the mayor shall be deemed adopted by the council as the capital budget for the ensuing fiscal year. The adopted capital budget shall be in effect on and after the first day of the fiscal year.
- (e) At any time during the fiscal year, the council, by ordinance adopted by the affirmative vote of at least two-thirds of the entire membership, may amend the capital budget for that year. In amending, the council shall request and consider, but need not follow, the recommendations of the mayor as to the proposed amendment.

(1974, Ord. No. 57, sec. 2; 1979, Prop. 13; 1990, Prop. 4, sec. 1; 2010, Prop. 7, sec. 41.)

Section 10-7. Budgets: Public Records.

Three copies of the operating budget and the capital budget as adopted shall be certified by the mayor and the clerk of the county council. One of these copies shall be filed in the office of the mayor and one each in the offices of the director of finance and the director of planning. The operating budget and capital budget shall be made available to the county agencies and to interested persons, upon such conditions as the council may determine.

Section 10-8. Appropriations: Supplemental and Emergency.

When during any fiscal year there are available any funds for appropriation, the mayor shall certify to the county council and the county council may amend or make supplemental appropriations for the year up to the amount of available revenues. Such appropriations may be made by ordinance effective immediately upon adoption.

To meet a public emergency affecting life, health or property, the council, may make emergency appropriations. Such appropriations may be made by ordinance and must be approved by all council members present or by two-thirds of the entire membership. To the extent that there are no available unappropriated revenues to meet such appropriations, the council may by ordinance authorize the issuance of emergency notes. These notes may be renewed from time to time, but the emergency notes and renewals of any fiscal year shall be paid not later than the first 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-half of one percent of the total operating appropriations, excluding those for debt service made in the operating budget for that year.

(1979, Prop. 13; 1990, Prop. 4, sec. 1; 2010, Prop. 7, sec. 42.)

Section 10-9. Appropriations: Reduction and Transfer.

If at any time during the fiscal year it appears probable to the mayor that the revenues available will be insufficient to meet the amount appropriated, the mayor shall report to the county council without delay, indicating the estimated amount of the deficit. For that purpose the council may by ordinance reduce one or more appropriations; but no appropriation required for debt service may be reduced and no appropriation may be reduced by more than the amount of the encumbered balance thereof or below any amount required by law to be appropriated.

The mayor may at any time during the fiscal year transfer part or all of any unencumbered appropriation balance between classifications of expenditures or programs within an agency or executive agency; and if at any time the mayor so requests in writing, the council, by resolution effective immediately upon adoption, may transfer, part or all of any unencumbered appropriation balance from one agency or executive agency to another. But no transfer shall be made from appropriations for debt service or for estimated cash deficit; and no appropriation may be reduced below any amount required by law to be appropriated. The mayor shall notify the county council of any transfer of funds within an agency or an executive agency no later than thirty days after authorizing such a transfer.

(1990, Prop. 4, sec. 1 and Prop. 14, sec. 1.)

Section 10-10. Lapse of Appropriations.

General appropriations, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that the same has not been expended or encumbered. An appropriation for a capital expenditure that is not encumbered shall lapse at the end of two fiscal years following the fiscal year that the appropriation was made.

(1979, Prop. 13.)

Section 10-11. Payments and Obligations Prohibited: Verifications; Penalties.

No payment shall be authorized or made and no obligation incurred against the county except in accordance with appropriations duly made. No payment shall be made against any allotment or appropriation unless the director of finance first verifies that there is sufficient unencumbered balance in the allotment or appropriation and that sufficient funds therefrom are available to cover the claim concerned; nor shall any obligation be incurred against any allotment or appropriation unless the agency head first verifies that there is sufficient unencumbered balance in the allotment or appropriation and that sufficient funds therefrom will be available to meet the obligation concerned when it becomes due and payable. Every obligation incurred and every authorization of payment in violation of the provisions of this charter shall be void. Every payment made in violation of the provisions of this charter shall be illegal; and all county officers who knowingly authorize or make such payment or any part thereof shall be jointly and severally liable to the county for the full amount so paid or received. If any county officer or employee knowingly authorizes or makes any payment or incurs any obligation in violation of the provisions of this charter or takes part therein, that action shall be cause for their removal.

Nothing contained in this section or other sections of this charter shall be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds; nor shall it prevent the making, when permitted by law, of any contract or any lease providing for the payment of funds at a time beyond the end of the fiscal year in which the contract or lease is made. But any contract, lease or other obligation requiring the payment of funds from the appropriations of a later fiscal year or of more than one fiscal year shall be made or approved by resolution.

(1979, Prop. 13; 1990, Prop. 14, sec. 1.)

Section 10-12. Special Funds.

Upon recommendation of the mayor the council may by ordinance abolish or establish such special funds as may be necessary for the proper and efficient segregation of fiscal operations of the county.

Section 10-13. Post-audit.

The county council shall provide at least once every year for an independent audit of the accounts and other evidences of financial transactions of the county and of every county agency and executive agency. The audit shall be made by a certified public accountant or firm of certified public accountants, designated by the council, who have no personal interest, direct or indirect, in the fiscal affairs of the county or of any of its agencies or executive agencies. The audit shall include both financial accountability and adequacy of the financial and accounting system. If the State makes such an audit, the council may accept it as satisfying the requirements of this section.

Either the council or the mayor may at any time order an examination or audit of the accounts or program of any county agency or executive agency. Upon the death, resignation, removal or expiration of the term of any county administrative officer, the director of finance shall cause an audit and investigation of the accounts maintained by the officer and the officer's agency or executive agency to be made and shall report the results thereof to the mayor and the council. In the case of the death, resignation or removal of the director of finance, the council may cause an audit to be made of the accounts of all agencies and executive agencies. If, as a result of any such audit, an officer be found indebted to the county, the mayor shall proceed forthwith to collect the indebtedness.

(1990, Prop. 14, sec. 1.)

Section 10-14. Centralized Purchasing.

- (a) The department of finance shall be responsible for the procurement of all materials, supplies, equipment and services required by any agency of the county, except as otherwise provided by this charter or any law.
- (b) There shall be a standardization committee composed of five members. The mayor shall appoint four members without necessity of council confirmation, each of whom shall be from a separate department. The fifth member shall be a representative of the department of finance who shall serve as chairperson of the committee. The committee shall classify all materials, supplies and equipment commonly used by the various agencies of the county and shall prepare and adopt standards and specifications for such material, supplies and equipment.
- (c) All purchases and contracts for materials, supplies, equipment and services shall be made in accordance with Hawai'i Revised Statutes and rules and regulations established by the state procurement policy office thereto. Any such rule or regulation may be modified by the director of finance, in accordance with Chapter 91, Hawai'i Revised Statutes, provided that such modifications shall be consistent with the requirements of state law.
- (d) The director of finance shall, from time to time, secure from all agencies estimates of their needs for articles of common use and shall, when practicable, consolidate requisitions in order to secure the benefits of quantity purchases, and may enter into cooperative buying arrangements with other public agencies.
- (e) The director of finance may by rules and regulations, not inconsistent with state law, provide for:
 - (1) Emergency purchases which might be required.
 - (2) Petty cash funds or blanket purchase orders or both.
 - (3) Non-competitive purchases and contracts.
 - (4) Approval and signing procedures related to the issuance of purchase orders.
 - (5) Negotiated sales of county property found unusable for public purposes and valued below \$250.00 without public auction.
- (f) All county storerooms (other than departmental) shall be supervised and operated by the director of finance.
- (g) The director of finance shall require such guarantees of performance by vendors as in the director of finance's opinion may be necessary or may be prescribed by ordinance.

(1979, Prop. 8; 1990, Prop. 14, sec. 1 and Prop. 16, sec. 3; 1994, Ord. No. 94-50, sec. 2; 2010, Prop. 7, sec. 43.)

Section 10-15. Public Access, Open Space, and Natural Resources Preservation Fund.

- (a) In adopting each fiscal year's operating budget, the council shall appropriate a minimum of two percent of the certified real property tax revenues, including penalty and interest, to a fund known as the public access, open space, and natural resources preservation fund. Deposits to the fund shall occur at a minimum, on a quarterly basis.
- (b) Funding shall consist of a minimum of two percent of actual revenue received in the fiscal year. Additional revenue may consist of grants and private contributions intended for the purpose of this section, voluntary contributions of any amount as specified on the real property tax bill, proceeds from the sale of general obligation bonds authorized and issued for the purpose of this section, council appropriations for the purpose of this section, and any other source of revenue.

- (c) Monies in this fund shall be used solely to:
 - (1) Purchase or otherwise acquire lands and easements in the County of Hawai'i for public outdoor recreation and education, including:
 - (A) Access to beaches and mountains;
 - (B) Preservation of historic or culturally important land areas and sites;
 - (C) Protection of natural resources, significant habitat or eco-systems, including buffer zones;
 - (D) Preservation of forests, beaches, coastal areas, natural beauty and agricultural lands; and
 - (E) Protection of watershed lands to preserve water quality and water supply.
 - (2) Pay the principal, interest and premium, if any, due with respect to bonds issued in whole for the purpose of this fund.
 - (d) Any balance remaining in the fund at the end of any fiscal year shall not lapse, but shall remain in the fund accumulating interest from year to year. The moneys in this fund shall not be used for any purpose except those listed in this section.
 - (e) The council shall by ordinance establish procedures for the administration and expenditure of moneys in this fund.
 - (f) This fund shall be used for acquisition of land and easements and shall not be used for development, maintenance or for any purpose other than as provided in this section.
 - (g) The highest and best use of this fund is to leverage the money in the fund by attracting matching funds, although, matching funds are not required in every purchase.
 - (h) Any land acquired with this fund shall contain the following restrictive covenant in its recorded deed of conveyance: "This land was acquired with moneys from the Public Access, Open Space, and Natural Resources Preservation Fund. It shall be held in perpetuity for the use and enjoyment of the people of Hawai'i County and may not be sold, mortgaged, traded or transferred in any way."
 - (i) Any easement acquired with this fund shall contain the following restrictive covenant in its recorded deed of conveyance: "This easement was acquired with moneys from the Public Access, Open Space, and Natural Resources Preservation Fund. It shall be held in perpetuity for the use and enjoyment of the people of Hawai'i County and may not be sold, mortgaged, traded or transferred in any way."
- (2010, Prop. 1, sec. 1; 2012, Ord. No. 11-94, sec. 1.)

Section 10-16. Public Access, Open Space, and Natural Resources Preservation Maintenance Fund.

- (a) The purpose of the public access, open space, and natural resources preservation maintenance fund is to accrue and use moneys for maintenance of lands and easements acquired by the public access, open space, and natural resources preservation fund. The maintenance fund will ensure that money is dedicated to preserve the land, promote public safety, and maintain a healthy stewardship.

- (b) Definitions. For the purpose of this section, the following definitions apply:
- “Maintenance” means to preserve and conserve lands and easements acquired by the public access, open space, and natural resources preservation fund and keep them in good repair for public safety.
- “Maintenance fund” means a separate fund that holds moneys directed from: 1) the general fund and property tax revenues; or 2) designated grants, private contributions, proceeds from the sale of general obligation bonds, council appropriations, and any other source of revenue.
- (c) There is established a public access, open space, and natural resources preservation maintenance fund (hereinafter “maintenance fund”). The maintenance fund shall be administered and managed by the department of parks and recreation. The financial aspects of the maintenance fund shall be handled by the department of finance.
- (d) Deposits due to the maintenance fund.
- (1) In adopting each fiscal year’s operating budget, the council shall appropriate one-quarter of one per cent of all real property tax revenue (including interest and penalties) to the maintenance fund. Deposits to the maintenance fund shall occur on a quarterly basis at a minimum.
 - (2) Additional revenue deposited in the maintenance fund may consist of grants and private contributions intended for the purpose of this section, proceeds from the sale of general obligation bonds authorized and issued for the purpose of this section, council appropriations for the purpose of this section, and any other source of revenue.
- (e) Accounting for the maintenance fund; interest bearing accounts; reporting by the department of finance.
- (1) All moneys in the maintenance fund shall be deposited in interest bearing accounts until needed. Any interest shall accrue to the maintenance fund.
 - (2) Moneys in the maintenance fund shall be identified separately for:
 - (A) Funding received from the real property tax revenue including interest and penalties; and
 - (B) Funding received from grants and private contributions, and any other source of revenue, and its interest earned, which:
 - i. Shall be itemized and earmarked for specific projects for the lands or easements.
 - ii. Shall not be subjected to the maximum accrual of funds limit provided in subsection (f).
 - (3) Financial statements shall be posted each month on the public access, open space, and natural resources preservation fund web site.
- (f) Maximum accrual limit in maintenance fund; exemption to funding.
- (1) Only moneys derived from real property tax revenue, its interest, and its penalties shall be included in the computation of the maximum accrual limit for the maintenance fund. All other moneys specifically directed to the maintenance fund shall be held separately from those moneys in the maintenance fund that originated from real property tax revenues (including interest and penalties), and shall not be subjected to the maximum accrual limit.
 - (2) The maximum accrual limit shall not exceed \$3,000,000.

- (3) At the end of any fiscal year in which the maintenance fund holds unencumbered funds derived from real property tax revenue (including interest and penalties) of at least \$3,000,000, any unencumbered amount in excess of that \$3,000,000 shall be permanently transferred to the general fund balance.
 - (4) Exemption to funding. If the maintenance fund holds \$3,000,000 in unencumbered funds derived from real property tax revenue (including interest and penalties), then the council and the executive branch do not need to add more money to the maintenance fund until the next budget cycle. This exemption shall not release the administration from its mandatory duty to maintain and preserve lands and easements acquired by the public access, open space, and natural resources preservation fund in good repair for public safety each fiscal year.
- (g) The maintenance fund shall be used solely for public safety maintenance and preservation of those lands and easements acquired by the public access, open space, and natural resources preservation fund, and may be used only for expenditures directly related to its purpose. Expenditures by the administration or stewardship grants presumed to be directly related are as follows:
- (1) Reparation (fixing, mending, repair work, and servicing);
 - (2) Preservation (damage control, salvaging, safekeeping, and safeguarding);
 - (3) Conservation of soil, forests, shorelines, native wildlife, streams, wetlands, watershed, and floodways;
 - (4) Restoration (replacement, reclamation, reconditioning, and remediation);
 - (5) Wildfire and fire prevention;
 - (6) Repair of existing buildings to meet the current code requirements, if the building is deemed reasonable to save;
 - (7) Replacing signs to meet the current code requirements;
 - (8) Installation, repair, or replacement fencing and gate or access mechanisms;
 - (9) Installation or repair of cattle guards;
 - (10) Mitigation of flooding problems including repair or restoration of existing culverts, drainage features, or other similar flood control mitigation;
 - (11) Archeological survey and buffering of Native Hawaiian historical or cultural sites after appropriate consultation with Native Hawaiian descendants and cultural practitioners;
 - (12) Biological studies for the protection of Native Hawaiian species of plants and animals; or
 - (13) Mitigation of Americans with Disabilities Act compliance issues that may arise during the course of public safety maintenance and preservation.

Moneys in the maintenance fund shall not be used for planning, design, development, or construction of new buildings, facilities, or infrastructure including roads, paths, bridges, culverts, ramps, or drainage features. Money in the maintenance fund shall also not be used for mitigation of Americans with Disabilities Act compliance issues for any new buildings, facilities, or infrastructure. Payment to resolve these aforementioned issues shall be from the capital improvement projects budget or allotments derived from the general fund.

- (h) Stewardship Grants. Moneys may also be used to provide grants-in-aid for projects, which uses are reflected in subsection (g).
- (1) An award of a stewardship grant shall be by council resolution. Stewardship grants may be awarded only until moneys in the maintenance fund are extinguished. Grants shall be awarded on the basis of ability of the stewardship organization to complete the project on time and within cost estimates.
 - (2) Only 501(c)3 nonprofits or an organization that operates under the umbrella of a 501(c)3 nonprofit, and that can complete a project for the good of the community, shall be considered for a stewardship grant.
 - (3) Public notice by the department of finance of the availability of the stewardship grants shall be placed in two newspapers of general circulation, as well as electronic media accessible by internet, by August 1 of each fiscal year provided money is available. These advertisements shall be paid for from the maintenance fund.
 - (4) To apply for a stewardship grant, a stewardship organization shall provide to the department of parks and recreation the following:
 - (A) An application form obtained from department of parks and recreation which is completed for each specific purpose or project;
 - (B) A detailed business plan for the project that includes the name of the 501(c)3 nonprofit organization, the organization that operates under the umbrella of a 501(c)3 nonprofit organization, if any, a copy of its letter of determination from the Internal Revenue Service, a copy of its bylaws and mission statement, a description of the specific project, time frames for project goals, costs, and activities to accomplish the stated purpose, and any other information requested by the department of parks and recreation; and
 - (C) A signed agreement to file a written report one year or less after receipt of funds that includes details as to what has been accomplished on the project, costs, and how the money was spent.
 - (5) No officer, board member, or employee of the 501(c)3 nonprofit organization or the organization that operates under the umbrella of a 501(c)3 nonprofit organization shall receive a salary or payment for labor or receive any reimbursement for the stewardship work on the project. The 501(c)3 nonprofit shall sign an agreement so stating these conditions and submit it with the application.
 - (6) Mismanagement of moneys awarded for a stewardship grant shall bar the 501(c)3 nonprofit organization and the organization that operates under the umbrella of a 501(c)3 nonprofit organization from receiving future grants from the maintenance fund.
 - (7) The director of the department of parks and recreation shall provide a short written evaluation of the proposed project to the council and include a recommendation about the applicant's ability to complete the project according to the project plan.

(2012, Ord. No. 12-16, sec. 1.)

ARTICLE XI INITIATIVE AND REFERENDUM

Section 11-1. Powers of Initiative and Referendum.

- (a) The power of voters to propose ordinances or to amend existing ordinances shall be the initiative power.
- (b) The power of voters to approve or reject ordinances by election shall be the referendum power.

(2008, Ord. No. 08-80, sec. 2.)

Section 11-2. Definitions.

As used in this article, unless the context otherwise requires:

“Ballot Question” means an interrogative statement that plainly phrases the chief purpose of the initiative or referendum so that an affirmative response corresponds to a “yes” vote.

“Ballot summary” means a concise, impartial explanation of the measure and its major effects.

“Ballot title” means a brief phrase identifying the subject of the initiative or referendum.

“Circulators” means adults who circulate copies of the petition among registered voters for signature.

“Clerk” means the clerk of the Hawai‘i County Council.

“Committee” means the petitioners’ committee formed pursuant to section 11-3.

“Petition form” means a petition without voter signatures and other voter identifying information.

“Petition or signed petition” means the petition form containing the voters’ signatures and other voter identifying information, the ballot title, ballot question, and ballot summary.

(2008, Ord. No. 08-80, sec. 2.)

Section 11-3. Petitioners’ Committee.

For each initiative or referendum petition there shall be a petitioners’ committee representing all the petitioners, which committee shall be composed of five members who shall be qualified voters of the county and signers of the petition. The committee shall be responsible for circulation of the petition and for assembling and filing the petition in proper form. There shall be a committee chair who will be responsible for sending and receiving all communications between the clerk and the committee. The committee shall have the power to amend or withdraw the petition as provided in this charter.

(2008, Ord. No. 08-80, sec. 2.)

Section 11-4. Initiative and Referendum Process

- (a) The clerk shall provide the committee with a sample petition form upon request.
- (b) Prior to circulating an initiative or referendum petition, the committee shall give notice to the clerk of the following:
 - (1) The names and residence addresses of the committee members as they appear on the general county register, the committee’s designated representative, and the address to which all notices shall be sent;
 - (2) For an initiative, a completed petition form identifying the ordinance to be modified or introduced, along with the proposed language for the petition;

- (3) For a referendum, a completed petition form identifying the ordinance or part of an ordinance to be repealed; and
- (4) A proposed ballot title, ballot question, and an objective ballot summary.
- (c) For purposes of this article, notice shall be in writing and sent via United States mail, return receipt requested or delivered in person, provided both the sender and receiver sign and date a receipt. The date of receipt will be the date the recipient's signature was affixed or ten days after the postmarked date, whichever occurs first.
- (d) Within ten working days of receipt of the notice in subsection (b), the clerk shall give notice to the committee that the proposed petition form, ballot title, ballot question, and ballot summary are acceptable or shall propose alternative language.
- (e) If the proposed language is acceptable, the clerk shall give the committee notice of acceptance and the language shall be final.
- (f) If the clerk proposes alternative language, the clerk shall give the committee notice of the proposed language within ten working days of receipt of the alternative language. If the committee objects to the alternate language, the committee shall send a notice to the clerk of its objections and submit a revised petition form, ballot title, ballot question and ballot summary to the clerk within ten working days of receipt of the alternative language. The clerk shall accept the proposed revision as the final language.
- (g) If the language of the proposed ordinance is found to be within the power of initiative or referendum of the county, within five working days of finalization of the petition form, ballot title, ballot question and ballot summary, the clerk shall:
 - (1) Submit them to the council for informational purposes utilizing the council's rules and procedures; and
 - (2) Give notice to the committee of:
 - (A) The final petition form, ballot title, ballot question, and ballot summary;
 - (B) The deadline date set by the State of Hawai'i office of elections for the submission of the ballot title, ballot question, and ballot summary;
 - (C) The number of signatures required for a certificate of sufficiency; and
 - (D) A timeline that gives dates at which submissions and specific actions shall occur.
- (h) Within thirty working days after the filing of an initiative or referendum petition, the clerk shall complete a certificate as to the sufficiency of the petition. During this thirty day period, the committee may continue to gather signatures.
- (i) As soon as a certificate is completed, the clerk shall notify the committee of the contents of the certificate. If a petition is certified sufficient, the clerk shall present the certificate to the county council at the first council meeting where it can be legally placed on the agenda.
- (j) If the clerk certifies a petition insufficient, the certificate shall show the particulars wherein the petition is defective. If a majority of the committee chooses to continue to collect signatures, then the committee shall within twenty working days after receipt of the clerk's certificate of insufficiency, file a supplemental petition. The supplemental petition shall be governed by the same requirements as the original petition.
- (k) Within fifteen working days from the filing of a supplemental petition, the clerk shall complete a second certificate as to the sufficiency of the supplemental petition. Thereafter, the procedural requirements for the supplemental petition shall be the same as that for the original petition.

- (l) If a majority of the committee does not choose to amend a petition or collect additional signatures, the clerk shall present the certificate to the county council at the first council meeting where it can be legally placed on the agenda. A petition is approved for consideration through council action upon the clerk's certificate of sufficiency.
- (m) The clerk shall present the certificate to the council at the earliest meeting at which the certificate can be legally placed on the agenda. The council shall review the latest clerk's certificate, upon the committee's request, and shall approve or reject the certificate or may substitute its own determination of sufficiency of the petition by resolution. The review actions of the council shall be final but shall not preclude the filing of a new petition for the same purposes.
- (n) The council shall proceed immediately to consider an initiative or referendum petition which has been determined sufficient in accordance with the provisions of this article. If an initiative petition is concerned, the ordinance it proposes shall at once be introduced subject to the procedures required for ordinances under this charter; however, not more than sixty days shall elapse between the time of first reading of the initiative proposal as a bill and completion of consideration to adopt, amend, or reject the same. If a referendum petition is concerned, the ordinance to which that petition is directed shall be reconsidered by the council; and not later than thirty days after the date on which the petition was determined sufficient, the council shall by resolution repeal or sustain the ordinance.
- (o) If the council fails to adopt an initiative proposal or adopts a proposal with an amendment unfavorable to a majority of the committee, or if the council fails to repeal an ordinance reconsidered pursuant to a referendum petition, the clerk shall submit the final language approved by the petitioner's committee with its appropriate ballot title and ballot language to the voters of the county at the next general election. The ballot for such measures shall contain the final ballot summary and shall have below the ballot title designated spaces in which to mark the ballot FOR or AGAINST the measure.
- (p) The clerk shall publish the ballot title, ballot question, ballot summary and arguments for and against the measure in the Sunday paper of two Hawai'i island daily papers with the largest circulation, for the three Sundays preceding the election. The ballot title, ballot question, ballot summary and arguments for and against the measure shall also be distributed via an electronic medium, such as the Internet at least three weeks prior to the election. The committee shall be given the opportunity to write the argument in favor of the measure. If a group of five qualified voters of the county give notice to the clerk that they wish to write the arguments against the measure, the clerk shall publish their arguments. Both sets of arguments shall be published in the same papers, on the same page, on the same days, utilizing the same size print. The names and addresses of the committee and the opposing group as they appear on the general county register for the County of Hawai'i shall appear in the publication.

(2008, Ord. No. 08-80, sec. 2; 2010, Prop. 7, secs. 44, 45, 46, 47, and 48 and Prop. 19, sec. 5.)

Section 11-5. Initiative and Referendum Petitions: Forms and Sufficiency.

- (a) Initiative and referendum petitions shall be governed by the rules regarding form and sufficiency set forth in this section, as well as by such other rules as the county council may impose by ordinance, consistent with the provisions and with the spirit and purpose of the charter.
- (b) For acceptance of petitions, the clerk shall require that:
 - (1) The petitions indicate the five members of the committee for that petition by name and residence address as they appear on the general county register for the County of Hawai‘i.
 - (2) The petitions indicate the designated representative for the committee and the address to which all notices for the committee are to be sent.
 - (3) The petitions be filed on papers of uniform size and style and assembled as one instrument.
 - (4) Each elector signing such petitions shall print their name, which shall be reasonably similar to their name as it appears on the general county register for the County of Hawai‘i, and add their signature, month and day of their birth date, and the last four digits of their social security number on said petition.
 - (5) The petition contain a prominent notice stating whether one or more petition circulators are to be paid. Paid means monetary payment or payment of goods or services. Pay for petition circulators shall not be based on the number of signatures collected.
 - (6) The petition contain the ballot title and the ballot question.
 - (7) Each page of the completed petition form shall be numbered consecutively.
- (c) For purposes of certification, any petition shall be found insufficient that:
 - (1) Is signed by registered voters of the county equal in number to less than fifteen percent of the number of persons who voted for the office of Mayor in the last Mayoral election.
 - (2) Proposes, or requests appeal of, an ordinance not subject to the powers of initiative or referendum.
- (d) Signatures are invalid and petitions insufficient:
 - (1) If signers are not given an opportunity to read the full text of the proposed ordinance under an initiative petition, or the designation and description of the ordinance in question under a referendum petition, and if the full text of a proposed ordinance or ordinance under question is not contained in or attached to each signature paper or set of signature papers of an initiative or referendum petition, respectively, throughout circulation.
 - (2) If written statements, executed by the circulators for each set of signature papers, are not attached to the papers at the time of filing of a petition with the clerk. Each written statement shall attest that: a particular individual personally circulated an identifiable set of signed petitions; each signed petition bears a stated number of signatures; each signature on a petition was affixed in the petition circulator’s presence; each signature is the genuine signature of the person whose name it purports to be; and the full text of the proposed measure was made available to petition signers.
- (e) Individuals may withdraw their signatures by submitting a written request to the clerk within fifteen days after the filing of an initiative or referendum petition.

(2008, Ord. No. 08-80, sec. 2; 2010, Prop. 7, sec. 49.)

Section 11-6. Withdrawal of Petition.

A petitioners' committee may withdraw a petition at any time, but not later than the thirtieth day immediately preceding the day scheduled for a vote in the county on a measure concerned. A petitioners' committee shall be requested to withdraw its petition and the committee must comply, if the aims of the petition are resolved by intermediate council action to the satisfaction of the committee such that the initiative proposal is adopted as an ordinance, or that the ordinance reconsidered by the referendum petition is repealed. A written request for petition withdrawal must be signed by four of the five members of the petitioners' committee and filed with the council clerk. The filing of a withdrawal immediately cancels the petition and ceases all further action for the accommodation of the petition by the county.

(2008, Ord. No. 08-80, sec. 2.)

Section 11-7. Results of Election.

- (a) A "no" vote shall be a negative response. A non-vote, where there is no response, shall not be counted affirmatively or negatively.
- (b) If a majority of the voters voting upon a proposed initiative ordinance shall vote in favor of it, the ordinance involved shall thereupon be an ordinance of the county once the election is certified or be effective as of the date stated in the initiative measure. A proposed initiative ordinance which is not approved by a majority of the voters voting on it shall thereupon fail.
- (c) If a majority of the voters voting upon a proposed referendum ordinance shall vote in favor of it, the ordinance involved shall thereupon be repealed once the election is certified or be repealed as of the date stated in the referendum measure. A proposed referendum ordinance which is not approved by a majority of the voters voting on it shall thereupon fail.
- (d) Ordinances passed using Article XI, Initiative and Referendum, shall not be repealed or amended for at least three years from the date of election approval, except by a two-thirds vote of the county council.

(2008, Ord. No. 08-80, sec. 2; 2010, Prop. 7, sec. 50.)

**ARTICLE XII
REMOVAL OF ELECTED OFFICERS**

**CHAPTER 1
RECALL**

Section 12-1.1. Recall Procedure.

In addition to impeachment procedures, any elective officer may be removed from office by the voters of the county. The procedure to effect such removal shall be in accordance with this article.

A petition demanding that the question of removing such official be submitted to the voters shall be addressed to the council and filed with the county clerk.

- (a) A petition demanding recall of an official elected at-large, or by voters of the entire county, as the case may be, shall be signed by qualified voters equal to or greater than twenty-five percent of the total valid votes cast for the office subject to the recall petition in the last election.

- (b) A petition demanding recall of a district council member shall be signed by qualified voters equal to or greater than twenty-five percent of the total valid votes cast for the district office subject to the recall petition in the last election.
- (c) The term “qualified voter” means a person who is registered to vote in the county on the day that the clerk begins the examination to determine the sufficiency of the signatures on the petition.

(1979, Prop. 9; 1990, Prop. 12, sec. 1 and Prop. 14, sec. 1; 2010, Prop. 2, sec. 1.)

Section 12-1.2. Petitions.

Petition papers shall be procured only from the county clerk, who shall keep a sufficient number of such blank petition papers on file for distribution as herein provided. Prior to the issuance of such petition papers, an affidavit shall be made by one or more voters and filed with the clerk, stating the name and office of the officer sought to be removed.

(1979, Prop. 9.)

Section 12-1.3. Signatures.

Signers of a recall petition shall print their name, which shall be reasonably similar to their name as it appears on the general county register for the County of Hawai‘i, and add their signature, residence address, month and day of their birth date, and the last four digits of their social security number on said petition. To each such petition paper there shall be attached an affidavit of the circulator thereof, stating the number of signers to such part of the petition and that each signature appended to the paper was made in the circulator’s presence and is believed to be the genuine signature of the person whose name it purports to be, and that each signer understood the nature of the recall petition.

(1979, Prop. 9; 1990, Prop. 12, sec. 1 and Prop. 14, sec. 1; 2006, Ord. No. 06-96, sec. 4; 2010, Prop. 2, sec. 2 and Prop. 7, sec. 51.)

Section 12-1.4. Filing and Certification.

All papers comprising a recall petition shall be assembled and filed with the county clerk as one instrument within one hundred twenty days in the case of recall of an elected official at-large and ninety days in the case of recall of a council member after the filing with the clerk of the affidavit stating the name and office of the officer sought to be removed. Within thirty working days from the filing of such petition, the clerk shall determine if the petition contains sufficient signatures and prepare a certificate showing the result of the examination. If the clerk shall certify that the petition is insufficient, the clerk shall set forth in the certificate the particulars in which the petition is defective and shall return a copy of the certificate to the person designated in such petition to receive it.

(1979, Prop. 9; 1990, Prop. 12, sec. 1 and Prop. 14, sec. 1; 2010, Prop. 2, sec. 3 and Prop. 7, sec. 52.)

Section 12-1.5. Supplemental Petitions.

In the event the initial petition contained insufficient signatures, such recall petition may be supported by supplemental signatures of voters signed in the manner required in Section 12-1.3 of this article appended to petitions issued, signed, and filed as required for the original petition at any time within ten days after the date of the certificate of insufficiency by the clerk.

The clerk shall, within ten working days after such supplemental petitions are filed, make a like examination of them, and if the certificate shall show the same to be still insufficient, the clerk shall return it in the manner described in Section 12-1.4 of this article to the person designated in such petition to receive the same, and no new petition for the recall of the officer sought to be removed shall be filed within one year thereafter.

(1979, Prop. 9; 1990, Prop. 12, sec. 1 and Prop. 14, sec. 1; 2010, Prop. 2, sec. 4 and Prop. 7, sec. 53.)

Section 12-1.6. Recall Election.

- (a) If a recall petition or supplemental petition shall be certified by the clerk to be sufficient, the clerk shall at once submit the same with the certificate to the council and shall notify the officer sought to be recalled of such action.
- (b) If the official whose removal is sought does not resign within ten days after such notice, the council shall thereupon order and fix a day for holding a recall election. Any such election shall be held not less than sixty nor more than ninety days after the petition has been presented to the council, or at the same time as any other special election held within such period, the council shall call a special recall election to be held within the time aforesaid.
 - (1) For recall elections of officials elected by voters of the entire county, if the total of votes cast is less than fifty percent of the valid votes cast in the last election for the office subject to the recall petition, the officer sought to be recalled shall not be deemed recalled.
 - (2) For recall elections of district council members, if the total of votes cast is less than fifty percent of the valid votes cast for the district office subject to the recall petition in the last election, the officer sought to be recalled shall not be deemed recalled.

(1979, Prop. 9; 1990, Prop. 14, sec. 1; 2010, Prop. 2, sec. 5 and Prop. 7, sec. 54.)

Section 12-1.7. Ballots.

The ballots at such recall election shall, with respect to each person whose removal is sought, submit the question: “Shall (name of person) be removed from the office of (name of office) by recall?” If a majority of the electors qualified to vote on the question at a recall election vote “Yes”, the elected officer shall be deemed recalled and removed from office, subject to the provisions of Section 12-1.6 of this article.

(1979, Prop. 9.)

Section 12-1.8. Succeeding Officer.

The incumbent, if not recalled in such election, shall continue in office for the remainder of the unexpired term subject to the recall as before, except as provided in this charter. If recalled in the recall election, the incumbent shall be deemed removed from office upon the announcement of the official canvass of that election, and the office shall be filled as provided by this charter for the filling of vacancies of elected officials. The successor of any persons so removed shall hold office during the unexpired term of the person removed.

(1979, Prop. 9; 1990, Prop. 14, sec. 1.)

Section 12-1.9. Immunity to Recall.

The question of the removal of any officer shall not be submitted to the voters until such person has served six months of the term during which the officer is sought to be recalled, nor, in the case of an officer retained in a recall election, until one year after that election.

(1979, Prop. 9; 1990, Prop. 14, sec. 1; 2010, Prop. 7, sec. 55.)

**CHAPTER 2
IMPEACHMENT**

Section 12-2.1. Impeachment of Elected Officers.

Any elected officer or officer appointed to a vacancy in any elected office may be impeached for malfeasance, misfeasance, nonfeasance, or maladministration in office. The circuit court shall be a court of impeachment for the trial of any such officer who may be charged on any of the foregoing grounds. The charges shall be set forth in detail in writing in a verified petition for impeachment signed by not less than two percent of registered voters in the county in the last general election for impeachment of the mayor or prosecuting attorney, or by not less than two percent of registered voters in the respective council district in the last general election for impeachment of a council member. Any person who signs a verified petition for impeachment of the mayor or prosecuting attorney shall be a registered voter in the county, and any person who signs a verified petition for impeachment of a council member shall be a registered voter in the respective council district.

The court shall sit without a jury and shall proceed according to the form required for the trial of all civil cases.

If the court sustains the charge, the officer shall be deemed removed from office and the office declared vacant under this charter.

(1979, Prop. 9; 2006, Ord. No. 06-84, sec. 2.)

**ARTICLE XIII
GENERAL PROVISIONS**

Section 13-1. Definitions.

As used in this charter:

- (a) “Agency” means any office, department, board, commission or other governmental unit of the county.
- (b) “Executive Agency” means any agency or department of the executive branch of the county government.

- (c) “Employee” means any person, except an officer, employed by the county or any agency thereof but the term shall not include an independent contractor.
- (d) “Officer” includes the following:
 - (1) Mayor and members of the council.
 - (2) Any person elected or appointed as administrative head of any agency of the county or appointed as a member of any board or commission provided for in this charter.
 - (3) Any person appointed by a board or commission as the administrative head of any agency of the county.
 - (4) Deputy, assistant or division chief appointed by the administrative head of any agency of the county.
 - (5) Assistant or deputies of the corporation counsel and prosecuting attorney.
- (e) “State” means the State of Hawai‘i.
- (f) “Vacancy” shall have the following meaning: Any elective office shall become vacant on the happening of any one of the following events before expiration of the term:
 - (1) Death.
 - (2) Resignation.
 - (3) Upon the determination by the county clerk that the officer was not a duly qualified elector of the county, and, if required, not a duly qualified elector of the district of which the officer was elected immediately preceding the election or appointment.
 - (4) Ceasing to be a resident voter of the county as determined by the county clerk and in the case of an officer elected to a seat requiring residency in a district, ceasing to be a resident voter of that district as determined by the county clerk.
 - (5) Absence from the county, unless on county authorized business, for a period of three consecutive months, without good cause.
 - (6) Removal by recall as provided by this charter.
 - (7) Removal by impeachment proceedings for malfeasance, misfeasance, nonfeasance, or maladministration in office as provided by this charter.
 - (8) Upon the determination by three impartial, licensed physicians selected by the council that the officer is mentally or physically infirm or disabled and will be unable to discharge the officer’s duties for the remainder of the term. Such action shall be initiated by a majority vote of the entire council.
 - (9) Upon filing nomination papers for another elective office if the term of the office sought begins before the end of the term of the office held.
 - (10) Upon the conviction of any felony in any jurisdiction.

If any of the above events occurs after the election, but prior to the commencement of the term, the office is vacant at the time the term commences.

(1979, Prop. 10; 1990, Prop. 14, sec. 1; 1996, Ord. No. 96-86, sec. 2; 2010, Prop. 7, sec. 56.)

Section 13-2. Titles, Subtitles, Personal Pronouns; Constructions.

Titles and subtitles shall not be used for purposes of construing this charter. When any personal pronoun appears in this charter, it shall be construed to mean either sex.

Section 13-3. Appointments.

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

(1990, Prop. 6, sec. 1 and Prop. 14, sec. 1; 2000, Prop. 2, sec. 11, Prop. 3, sec. 2, and Prop. 7, sec. 12.)

Section 13-4. Boards and Commissions.

Except as otherwise provided in this charter, all boards and commissions specifically established by this charter shall be governed by the following provisions:

- (a) The members shall serve staggered terms of five years. Upon the initial appointment of the members of a commission consisting of five members, one shall be appointed for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years, and one for a term of five years. Upon the initial appointment of the members of a commission consisting of seven members, one shall be appointed for a term of one year, one for a term of two years, two for a term of three years, two for a term of four years, and one for a term of five years. Upon the initial appointment of a commission consisting of nine members, one shall be appointed to a term of one year, two for a term of two years, two for a term of three years, two for a term of four years, and two for a term of five years.
- (b) The members shall be appointed by the mayor, and confirmed by the council, and may be removed upon recommendation by the mayor and the approval of the council.
- (c) No member shall be eligible for a second appointment to the same board or commission prior to the expiration of two years, however, members of any board or commission appointed for a term of two years or less shall be eligible to succeed themselves for an additional full term.
- (d) No member whose term has expired shall continue to serve on such board or commission, except that if no successor has been appointed and confirmed, the member shall continue to serve for ninety days or until a successor is appointed and confirmed, whichever comes first.
- (e) Any vacancy occurring in any board or commission shall be filled for the unexpired term.
- (f) Not more than a bare majority of the members shall belong to the same political party.
- (g) Members shall receive no compensation but shall be reimbursed for necessary expenses incurred in the performance of their duties. Necessary expenses may be paid in advance as per diem allowance which shall be established by ordinance. Members of boards and commissions who do not receive compensation from their employers during the time they are serving on boards and commissions may be reimbursed by the county for actual work hours lost at the straight time rate of pay of such members in their regular employment but in no case shall such reimbursement exceed two times the state minimum wage hour rate.
- (h) A chairperson shall be elected from its membership annually.

- (i) The affirmative vote of a majority of the entire membership to which a board or commission is entitled shall be necessary to make any action valid; except that in the case of a board or commission which has only advisory functions, the affirmative vote of a majority of those present shall be sufficient to make any action valid.
- (j) Each board and commission shall have the power to establish its rules of procedure necessary for the conduct of its business, which rules shall contain the time and place of all regular meetings, and which shall specify that a quorum shall be a majority of the members to which the board or commission is entitled.
- (k) Notwithstanding any other provision in this charter, no person shall, by reason of occupation alone, be barred from serving as a member of any board or commission.
- (l) The council shall act to confirm or reject any appointment made to a board or commission by the mayor within forty-five days after receiving notice of the appointment from the mayor. If the council does not confirm or reject any such appointment within forty-five days, the appointee shall be deemed to have been confirmed.
- (m) The redrawing of council district boundaries during a commission member's term shall not affect a member's eligibility to represent the district to which the member was appointed.

(1979, Prop. 11 and Prop. 13; 1990, Prop. 8, sec. 1, Prop. 9, sec. 1, Prop. 13, secs. 1 and 2, and Prop. 14, sec. 1; 2000, Prop. 5, sec. 1 and Prop. 16, sec. 1; 2006, Ord. No. 06-51, sec. 2; 2010, Prop. 17, sec. 1.)

Section 13-5. Oaths of Office.

Before entering upon the duties of their office, each officer elected or appointed shall subscribe to the oath or affirmation before some person duly qualified to administer oaths:

“I do solemnly swear (or affirm) that I will support and defend the Constitution of the United States of America, and the Constitution of the State of Hawai‘i, and that I will faithfully discharge my duties as ... to the best of my ability.”

(1990, Prop. 14, sec. 1; 2010, Prop. 7, sec. 57.)

Section 13-6. Bonding Officers.

The director of finance and such other county officers or employees as the council may require shall furnish bonds in the amount and with the surety prescribed by the council by ordinance. The premiums on such bonds shall be paid by the county.

Section 13-7. Rules and Regulations.

Except as otherwise provided in this charter, all rules and regulations having the force and effect of law adopted by any board, commission or administrative head of a department shall be approved by the mayor before going into effect. The provisions of this section shall be applicable to service rates or fees, license fees and other charges.

(1990, Prop. 16, sec. 4; 2010, Prop. 7, sec. 58.)

Section 13-8. Term of Office of Department Heads.

The term of office of department heads, deputies and assistants shall be co-terminous with that of the appointing authority; provided, that where a successor has not been appointed, a department head, deputy or assistant, as the case may be, shall continue in office pending such appointment. The council shall confirm or deny confirmation within sixty days of the appointment of any department head. If the council does not act within sixty days, the department head shall be deemed to be confirmed. The department head shall take office upon appointment but shall not continue in office if the council denies confirmation.

(1990, Prop. 9, sec. 2.)

Section 13-9. Non-Civil Service Status and Classification.

From and after the full effective date of this charter, no employees or officers of the county who are exempt from the civil service laws shall have their positions included in a position classification plan established under the civil service laws.

(1990, Prop. 14, sec. 1.)

Section 13-10. Prohibitions.

No person who seeks appointment or promotion with respect to any county position or appointive county administrative office shall directly or indirectly give, render or pay any money, service or other valuable thing to any person for or in connection with their test, appointment, proposed appointment promotion or proposed promotion.

From and after the effective date of this charter no person who has the power of appointment under this charter or ordinance enacted pursuant thereto shall appoint, employ, promote or advance an individual who is a relative of the appointing authority to any office or position under their supervision; provided, that the provision of this paragraph shall not be construed to prohibit the appointment of a relative whose name appears on the eligibility list submitted by the director of human resources in accordance with the civil service laws and the rules and regulations promulgated pursuant thereto.

The word “relative” as used in this section shall mean an individual who is related to the appointing authority as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, step-father, step-mother, step-son, step-brother, step-daughter, step-sister, half-brother, or half-sister.

(1979, Prop. 13; 1990, Prop. 14, sec. 1; 2006, Ord. No. 06-60, sec. 3.)

Section 13-11. Penalties.

The council may, by ordinance, provide for the punishment of violations of any provisions of this charter, of ordinances, or of rules and regulations, by civil fines, either administratively or judicially imposed, or criminal prosecution, or both. No criminal penalty shall exceed the amount of two thousand dollars fine or one year of imprisonment, or both. Criminal prosecution shall be as provided by law for the prosecution of misdemeanors.

(2008, Ord. No. 08-82, sec. 2; 2010, Prop. 7, sec. 59.)

Section 13-12. Acceptance of Gifts or Donations.

The council, on behalf of the county, may accept gifts of donations of money, securities or other personal property or of real estate or any interest in real estate.

Section 13-13. Contracts.

The county may enter into contracts with private parties, other counties, the State or the United States for the performance of any function or activity which the county is authorized to perform. All written contracts to which the county is a party shall:

- (a) Be approved by the corporation counsel as to form and legality.
- (b) Be authorized by the council by resolution if legislative action is necessary to implement the contract.
- (c) Except as otherwise provided, be signed by the mayor.
- (d) Be approved by the director of finance as to the availability of funds in the amounts and for the purposes set forth therein if they involve financial obligations of the county. Such contracts shall not extend beyond the term for which an appropriation to finance such obligations has been made, except as otherwise provided by this charter. This provision shall not apply to obligations for the procurement of utility services.

Section 13-14. Facsimile Signatures.

Whenever any person is required to sign on behalf of the county negotiable instruments or multiple bonds, the signature may be a facsimile.

Section 13-15. Title to Property.

Except as otherwise provided by law, title to all property acquired by any agency of the county shall be vested in the county.

Section 13-16. Payment of Moneys Out of the County Treasury.

All disbursements of county-controlled funds shall be made pursuant to procedures prescribed by the director of finance.

Section 13-17. Expenses.

Subject to procedures prescribed by the director of finance and approved by the mayor, all officers and employees of the county shall be entitled to travel or other necessary expenses in the performance of their official duties as provided by ordinance.

Section 13-18. Claims.

No action shall be maintained for the recovery of damages for any injury to persons or property by reason of negligence or other act of any official or employee of the county unless a written statement stating fully when, where and how the injuries occurred, the apparent extent thereof and the tentative amount claimed therefor shall have been filed with the county clerk within two years after the date the injury was sustained.

(1979, Prop. 13.)

Section 13-19. Annual Reports.

Not later than ninety days after the close of the fiscal year, each agency of the county shall make an annual written report of its activities to the mayor in such form and under such rules as the mayor may prescribe.

Not later than one hundred twenty days after the close of the fiscal year, the mayor shall publish an annual report concerning the activities of all agencies of the county. A copy of such report shall be filed in the office of the county clerk.

Section 13-20. Records and Meetings Open to The Public.

- (a) All books, minutes and records of every agency of the county 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 who has custody of same to any person requesting such copies and extracts and paying or tendering a reasonable fee to be fixed by the council.
- (b) All meetings of the council, boards and commissions shall be held in the council meeting room or other public places and no such bodies shall take any official action except at a meeting open to the public. Where personal matters affecting the privacy of an individual are to be considered, the council, board or commission may, at the request of the individual involved, consider such matters in closed session; however, any official action resulting therefrom shall be acted upon in an open meeting. Boards and commissions that are empowered to give examinations to determine the capabilities of individuals shall be excepted from the provisions of this section when technical examinations and questionnaires are being drafted by such bodies.

The term “official action” as used in this section means a collective decision made by a majority of the members of the council, board or commission, or an actual vote by a majority of the members of the council, board or commission, when sitting as a body or an entity, upon any matter before the council, board or commission.

- (c) The council, board or commission shall provide notice of any regular, special, rescheduled or emergency meeting according to the provisions of the Hawai‘i Revised Statutes.
- (d) Business conducted by the council, board or commission during a meeting which does not conform to the provisions of this section shall be null and void.
- (e) News gatherer’s sources, privileged. No legislative or administrative body, or any other county body having the power to issue subpoenas shall adjudge in contempt any publisher, editor, or reporter, who is or was connected with or employed by a newspaper, press association, wire service, or a radio or television station, for refusing to disclose, in any county action, hearing, investigation, inquest, or inquiry, the source of any information procured while connected or employed by the newspaper, press association, wire service, or station for publication in a newspaper or for news or news commentary purposes on radio or television.

(1974, Ord. No. 58, sec. 1; 1990, Prop. 10, sec. 5; 2010, Prop. 7, secs. 60 and 61, Prop. 18, sec. 1, and Prop. 19, sec. 6; 2012, Ord. No. 11-85, sec. 2.)

Section 13-21. Cooperation with Other Agencies.

In the performance of its functions, each agency of the county shall cooperate with private agencies and with agencies of the governments of the United States, the State and other states and with any of their political subdivisions having similar functions.

Section 13-22. Coordination of Work.

The mayor shall devise a practical and working basis for the cooperation and coordination of work by the various agencies to eliminate duplication and overlapping of functions, and such agencies shall, so far as practicable, cooperate with each other in the use of employees, land, building, quarters, facilities and equipment. The head of any agency may empower or require an employee of another agency, subject to the consent of the head of such other agency, to perform any duty which might be required of the employees of that agency. Whenever in this charter power is vested in an agency to inspect, examine or secure data or information or to procure assistance from any other agency, a duty is hereby imposed upon the agency upon which demand is made to render such power effective.

(1990, Prop. 14, sec. 1.)

Section 13-23. Declaration of Emergencies.

The mayor may declare emergencies when the peace, life, property, health, safety or morals of the community are endangered, but failure or refusal to make such a declaration shall not preclude the council from finding that an emergency exists.

(1990, Prop. 14, sec. 1.)

Section 13-24. Waiver of Charter Provisions.

If any provision of this charter jeopardizes the receipt by the county of any federal grant-in-aid or other federal allotment of money, such provision may, insofar as such fund is jeopardized, be waived by the council upon recommendation of the mayor. Waiver shall be accomplished by ordinance adopted as prescribed in Section 3-11 except that a duly advertised public hearing shall be held between first and second readings. Such waiver shall continue in effect only for the period of time required by the specific grant-in-aid or allotment.

(1979, Prop. 13; 2010, Prop. 7, sec. 62.)

Section 13-25. Separability.

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

Section 13-26. Public Defender.

The office of public defender shall be established by ordinance of the council when there is no other private or public agency which is adequately performing this function.

Section 13-27. County Election.

- (a) No person shall be a candidate for more than one elective office in the same election. If no person is elected to a county office, the county council shall appoint a person to fill such office. County elections shall be conducted in accordance with the election laws of the state insofar as applicable.
- (b) All county elective officers—mayor, council members, and prosecuting attorney—shall be elected in nonpartisan special elections. Such special elections shall be held with the primary and general elections of the applicable year.

- (c) First special election. The first special election shall be held with the regularly scheduled primary election. Any candidate for mayor, prosecuting attorney or council receiving a majority of all votes validly cast for candidates for that office, excluding blank and spoiled ballots, shall be deemed elected. If there is only one candidate for the office, that candidate shall be deemed elected regardless of the number of votes received.
- (d) Second special election. The second special election shall be held with the regularly scheduled general election. Unless a candidate has been elected in the first special election, the two candidates receiving the highest number of votes for the office in question in the first special election shall be placed on the ballot for the second special election. At the second special election the candidate receiving the highest number of votes for each respective office shall be deemed elected.

(1979, Prop. 10; 2000, Prop. 1, sec. 1.)

Section 13-28. Compensation; Salary Commission.

- (a) The salary of all county elected officials and appointed directors and deputy directors of departments and executive agencies shall be established by a salary commission which shall consist of nine members appointed by the mayor with the approval of the council, in the manner prescribed in Section 13-4(b). The members may be removed in the manner prescribed in Section 13-4(b).
- (b) One member shall be a resident of each council district. In addition, the director of human resources and deputy director of human resources shall serve as ex-officio members of the commission in an advisory capacity.
- (c) The commission shall establish its rules of procedure, which shall provide that it meet at least annually, and adopt rules and regulations having the force and effect of law.
- (d) The commission shall review and compensate all county elected officials and appointed directors and deputy directors so that their total salaries and benefits have a reasonable relationship to compensation in the public and private sectors. The salary commission shall consult with those boards and commissions which have appointing authority for department heads.

(1974, Ord. No. 56, sec. 2; 1979, Prop 13; 1990, Prop. 5, sec. 1; 2000, Prop. 10, sec. 1; 2006, Ord. No. 06-60, sec. 4.)

Section 13-29. Conservation of Natural and Cultural Resources.

For the benefit of present and future generations, the county shall conserve and protect Hawai'i's natural beauty and all natural and cultural resources, including but not limited to land, water, air, minerals, energy sources, wahi pana, surf spots, historic sites, and historic structures, and shall promote the development and utilization of these resources in a manner consistent with their conservation and in furtherance of the self-sufficiency of the county. All public natural and cultural resources are held in trust by the county for the benefit of the people.

(2010, Prop. 6, sec. 1.)

**ARTICLE XIV
CODE OF ETHICS**

Section 14-1. Enactment and Policy.

- (a) The council shall adopt by ordinance a code of ethics which shall provide as a minimum standard the provisions of this article. More stringent provisions may be enacted.
- (b) Elected and appointed officers and employees shall demonstrate the highest standard of ethical conduct so that the public may have trust and confidence in the integrity of the government.

(2000, Prop. 15, sec. 1.)

Section 14-2. Standards.

It shall constitute a conflict of interest for employees or officers of the county to:

- (a) Solicit or accept gifts, loans, gratuities, favors, promises or services with the understanding that the same may influence the employees or officers in the proper discharge of their official duties.
- (b) Use their official position to secure special privileges, consideration, treatment or exemption to themselves or any person beyond that which is available to every other person.
- (c) Engage in any business, transaction or activity or have a financial interest, direct or indirect, which might reasonably tend to be incompatible with the proper discharge of their official duties or to impair their independence of judgment in the performance of their official duties.
- (d) Receive any compensation for their services as an officer or employee of the county from any other source other than the county, except as otherwise provided by this charter or by law.
- (e) Appear in behalf of private interests for compensation before any agency of the county other than a court of law, nor represent private interests in any action or proceeding against the interest of the county in any litigation to which the county is a party. An officer serving the county without compensation, however, may appear for compensation in behalf of private interests before county agencies other than the one on which the officer serves and other than those agencies that have the power to review the actions of the agency on which the officer serves, or to act on the same subject matter as the agency on which the officer serves.
- (f) Accept a retainer, compensation or election campaign contribution that is contingent upon action by a county agency.

(1979, Prop. 13; 1990, Prop. 14, sec. 1.)

Section 14-3. Disclosure of Interest.

It shall be incumbent upon all employees or officers of the county to:

- (a) Make full disclosure in writing to the appointing authority or to the council in the case of an elective officer, the possession or acquisition of any interests, financial or otherwise as might reasonably tend to create a conflict with the public interest. Any member of the council who knows of a personal interest, direct or indirect, in any action proposed or pending before the council shall disclose such interest prior to the taking of any vote thereon.
- (b) File a copy of such disclosure with the county clerk which shall become a matter of public record.

(1990, Prop. 14, sec. 1.)

Section 14-4. Conduct of Employees.

Officers and employees of the county while discharging their duties and dealing with the public shall adhere to the following precepts:

- (a) All public property and equipment are to be treated as a public trust and are not to be used in a proprietary manner or for personal purposes without proper consent.
- (b) No person in a supervisory capacity shall engage in personal or business relationships with subordinates which might intimidate said subordinates in the discharge of their official duties.
- (c) All persons shall be treated in a courteous, fair and impartial manner.

(2010, Prop. 7, sec. 63.)

Section 14-5. Board of Ethics.

There shall be a board of ethics appointed by the mayor with the approval of the council. It shall consist of five members who shall be residents of the county. Each shall serve for a term of five years. Upon the initial appointment of members pursuant to this charter, one shall be appointed for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years and one for a term of five years. The board shall establish its rules of procedure. Without limitation of its functions, the board shall:

- (a) Interpret the code of ethics for both county officials and the public and on its own may initiate and render opinions with respect thereto.
- (b) Render advisory opinions to county officers and employees with respect to the code of ethics pursuant to written requests by officers and employees.
- (c) Receive and initiate complaints of violations of the code of ethics and transmit such complaints to the council or the appropriate appointing authority, along with any pertinent advisory opinions thereto.
- (d) Hold hearings or conduct investigations concerning application of the code of ethics and make public such violations of the code that come to its attention.
- (e) Publish advisory opinions with such deletions as may be necessary to prevent disclosure of identity of persons involved where such opinions are rendered pursuant to subsection (b) above.
- (f) Propose revisions to the code of ethics where not inconsistent with this charter.

(2010, Prop. 7, sec. 64.)

Section 14-6. Penalties.

The failure to comply with the provisions of Sections 14-2 to 14-4, inclusive, shall constitute a cause for suspension, removal from office or employment, or such other penalty as the council may prescribe by ordinance. Nothing herein shall preclude any other remedy available against the officer or employee of the county as provided by law.
(2010, Prop. 7, sec. 65.)

**ARTICLE XV
CHARTER AMENDMENT OR REVISION**

Section 15-1. Initiation of Amendments or Revisions.

Amendments or revisions of this charter may be initiated only in the following manner:

- (a) By ordinance of the council adopted after three readings on separate days and passed by the affirmative vote of two-thirds of the entire membership.
- (b) By petition presented to the council, signed by qualified electors equal in number to at least twenty percent of the total ballots cast in the last preceding general election, setting forth the proposed amendments or revisions. Such petition shall designate and authorize not less than three nor more than five of the signers thereto to approve any alteration or change in the form or language or any restatement of the text of the proposed amendments or revisions which may be made by the corporation counsel.

Each elector signing such petition shall print their name, which shall be reasonably similar to their name as it appears on the general county register for the County of Hawai'i, residence address, and add their signature, month and day of their birth date, and the last four digits of their social security number on said petition. Signatures may be on separate sheets but each sheet shall have appended to it the affidavit of some person that to the best of the affiant's knowledge and belief the persons whose signatures appear on the sheet are registered electors of the county, that they signed with knowledge of the contents of the petition and that their residences are correctly given.

Upon filing of such petition with the council, the county clerk shall examine the same to see whether it contains a sufficient number of apparently genuine signatures of registered voters. The clerk may question the genuineness of any signature appearing on the petition or affidavit. If the clerk finds that any such signature on the petition or affidavit is not genuine, the clerk shall disregard such signature. The clerk shall eliminate any sheet of the petition which is not accompanied by a valid affidavit. The invalidity of any sheet shall not affect the validity of the petition if a sufficient number of signatures remain after eliminating such invalid sheet. The clerk shall complete the examination of the petition within thirty working days.

(1979, Prop. 13; 1990, Prop. 14, sec. 1; 2006, Ord. No. 06-96, sec. 5; 2010, Prop. 3, sec. 1.)

Section 15-2. Elections to be Called.

Upon adoption of an ordinance proposing amendments or revisions of this charter, or upon the determination by the clerk that a petition for proposed amendments or revisions of this charter contains the required number of signatures, the council shall by resolution provide that the proposed amendments or revisions be submitted to the electors of the county for approval at the next general election. Any such resolution shall provide for the publication of the full text of the proposed amendments or revisions in a daily newspaper of general circulation in the county at least forty-five days prior to submission to the electors of the county as well as via an electronic medium, such as the Internet.

(2010, Prop. 19, sec. 7.)

Section 15-3. Mandatory Charter Reviews.

The charter shall be reviewed in 1989 and every tenth year thereafter. Not later than the first day of July prior to the charter review year, the mayor with the confirmation of the council, shall appoint a charter commission composed of eleven members to study and review the operation of the government of the county under this charter. Commission members, no more than a majority of whom shall belong to the same political party, shall be representative of the various geographical areas of Puna, Ka'ū, Kona, Kohala, Hāmākua, and Hilo. The council shall appropriate funds to enable the commission to carry out its duties, including the hiring of necessary staff.

The commission shall hold at least one public hearing in each of the geographical areas. The commission may propose amendments to the existing charter or a draft of a new charter which shall be submitted to the county clerk. Upon receipt of the amendments or charter in the form as proposed by the commission, the county clerk shall provide for the submission of such amendments or charter to the electors of the county at either a special election as determined by the commission or at the first general election following the charter review year. The commission shall prepare the language of the question to be submitted to the voters for each of the amendments it proposes.

The commission shall publish not less than forty-five days before any election, at least once in at least two daily newspapers of general circulation within the county, as well as via an electronic medium, such as the Internet, a brief digest of the amendments or charter and the purpose thereof and a notice to the electorate that copies of the amendments or charter are available at the office of the county clerk.

Members of the commission shall hold office until the amendments or charter is ratified or rejected.

If the majority of the voters voting upon a charter amendment votes in favor of it or a new charter, if a new charter is proposed, the amendment or new charter shall become effective at the time fixed in the amendment or charter.

(1979, Prop. 13; 1990, Prop. 10, sec. 6 and Prop. 15, sec. 1; 2010, Prop. 7, sec. 66, Prop. 16, sec. 1, and Prop. 19, sec. 8.)

ARTICLE XVI
TRANSITIONAL PROVISIONS

Section 16-1. Schedule.

After its ratification by the electorate, this charter, as amended, shall take full effect on January 1, 1980.
(1979, Prop. 13.)

Section 16-2. Initial Elections Under the Charter.

The first county primary and general elections under this charter shall be held in the year 1980.
(1979, Prop. 13.)

Section 16-3. Existing Laws and Conflicting Laws.

All laws, ordinances, resolutions, rules and regulations in force at the time this charter takes full effect, and not in conflict or inconsistent with this charter, are hereby continued in force until repealed, amended or superseded by proper authority. All laws relating to or affecting this county or its agencies, officers or employees, and all county ordinances, resolutions, orders and regulations which are in force when this charter takes full effect are repealed to the extent that they are inconsistent with or interfere with the effective operation of this charter or ordinances or resolutions adopted by the county council under the provisions of this charter.
(1979, Prop. 13.)

Section 16-4. Status of Agencies and Transfer of Functions.

When this charter takes full effect:

- (a) All offices, departments, boards and commissions, the status of which are not specifically changed or abolished by this charter, are hereby recognized, continued and established and shall have such powers, duties and functions as provided by law or ordinance. Members of the various boards and commissions, excluding the Hawai'i redevelopment agency, holding office at the effective date of this charter shall continue in office unless they resign or until their terms of office shall expire, at which time new members shall be appointed in accordance with this charter.
- (b) The public works board of appeals and the board of appeals under the planning department shall stand abolished and their functions transferred to the extent provided in Section 6-9.2.
- (c) Each county civil service employee affected by the status of agencies and transfer of functions under this charter shall be assigned to other agencies or executive agencies in the county without any loss in pay, provided the employee had held the position for at least one year prior to the full effective date of this charter. When an employee's position which has been so affected becomes vacant, that position shall stand abolished unless the position is permanently created in the table of organization of the agency or executive agency concerned.

- (d) Nothing in this charter shall be deemed to affect the civil service status of incumbent department heads or deputies in government service prior to the adoption of this charter, and they shall continue to exercise and discharge the powers and duties of their respective offices until such time as the offices become vacant and successors shall have qualified in accordance with this charter or laws and ordinances enacted pursuant thereto.
- (e) Every non-civil service officer, deputy, assistant or bureau head affected by the status of agencies and transfer of functions under this charter may be absorbed into a permanent civil service position in the same division or other agencies or executive agencies as a consequence of the reorganization provisions of this charter without loss of vacation or sick leave allowance, service credit or other rights and privileges and without the necessity of examination; provided, that such officer, deputy, assistant or bureau head possess the minimum qualifications for the position to which transferred or appointed. The method and procedure for such appointment or transfer shall be established by resolution or ordinance. The provision of this subsection relating to civil service status shall not apply to any officer, deputy, assistant or bureau head who is appointed as a deputy or assistant to the administrative head of any agency under this charter.
- (f) Non-civil service employees or officers who are not transferred or appointed and whose employment are terminated as a consequence of the reorganization provisions of the charter shall have the right to have their names placed on appropriate re-employment lists and shall be deemed eligible for certification to positions in the class in which last occupied or in a related class in the same or lower grade for which the qualification requirements are met; provided, that written applications for re-employment with the department of human resources are filed within thirty days after the termination of employment. Such certifications shall expire three years after the effective date of this charter.

(1979, Prop. 7 and Prop. 13; 1990, Prop. 14, sec. 1; 2006, Ord. No. 06-60, sec. 5; 2010, Prop. 7, sec. 67.)

Section 16-5. Transfer of Records and Property.

All records, property and equipment whatsoever of any office, department, board or commission, the functions of which are assigned to another agency by this charter, shall be transferred and delivered to the agency to which such functions are so assigned.

Section 16-6. Status of Present Employees.

No loss of vacation allowances, service credits or other rights and privileges on the part of any officer or employee in the civil service shall be caused by the adoption of this charter, but nothing contained herein shall be construed to prevent future changes in status pursuant to civil service laws.

Section 16-7. Department Heads Continued in Office.

Notwithstanding any provision to the contrary, each department head, including elected department heads and department heads appointed by boards or commissions, holding office when this charter takes full effect shall continue in office until a successor takes office or until removed pursuant to the provisions of this charter.

(1990, Prop. 14, sec. 1; 2010, Prop. 7, sec. 68.)

Section 16-8. Pending Proceedings.

All petitions, hearings and other proceedings pending before any office, department, board or commission and not completed at the effective date of this charter shall continue and remain in full force and effect and shall be completed before or by the office, department, board or commission which succeeds to the powers and functions of such office, department, board or commission.

Section 16-9. Lawful Obligations of the County.

All lawful obligations of the county existing on the effective date of this charter and all fines, taxes, penalties, forfeitures, obligations and rights due, owing or accruing to the county and all writs, prosecutions, actions and proceedings by or against the county shall remain unaffected by the adoption of this charter.

Section 16-10. Hawai‘i Redevelopment Agency.

The Hawai‘i redevelopment agency shall be abolished, and its powers, functions, rules and regulations transferred to the planning director, on January 1, 2001.
(2000, Prop. 12, sec. 1; 2010, Prop. 7, sec. 69.)

Section 16-11. Transitional Provisions Concerning Fire Department.

The amendment concerning the fire department shall take effect at noon on the first Monday in December following its approval by the voters. The fire chief serving immediately prior to the amendment taking effect shall hold over as interim fire chief until the appointment of a fire chief by the fire commission. If the fire chief’s office becomes vacant before appointment of a fire chief by the fire commission, the mayor shall appoint an interim fire chief, who shall serve until the appointment of a fire chief by the fire commission.
(2000, Prop. 3, sec. 3.)

Section 16-12. Boards and Commissions with District Residency Requirements.

Any commission member serving at the time of the adoption of the council district residency requirement in the year 2000 may serve the remainder of the term, regardless of residency. Any vacancy must be filled by a resident of a council district not represented on the commission.
(2000, Prop. 9, sec. 4.)

Revision History

The County Charter provides three means for proposing charter amendments: ordinance, petition, and by mandatory commission review every ten years. The commission review process has produced sixty-six proposals, of which fifty-nine were approved by the voters. The first mandatory charter review was conducted in 1979 and it was culminated by a special election held on November 3, 1979, at which ten of the thirteen proposed amendments were approved. The second mandatory charter review was conducted in 1990. At the general election on November 6, 1990, fifteen of the eighteen proposed amendments were approved by the voters. On November 7, 2000, voters approved all sixteen of the amendments proposed by the 2000 Charter Commission. On November 2, 2010, voters approved eighteen of the nineteen amendments proposed by the 2010 Charter Commission.

The other two means for proposing charter amendments have also been employed. The county council has passed thirty ordinances and submitted them to the electorate, twenty-four of which were approved. In one instance, a provision was deleted pursuant to an amendment proposed via a citizens' petition. This revision incorporates the five amendments proposed by the 2010-12 Hawai'i County Council and approved by the voters during the 2012 general election.

- January 2, 1969 County charter became effective
- November 5, 1974 County council submissions to the electorate:
 Ord. 74-56 Establishing salary commission. - **Approved**
 Ord. 74-57 Relating to budget submission dates - **Approved**
 Ord. 74-58 Protecting news gather's sources - **Approved**
 Ord. 74-59 Relating to elected officials vacancies - **Approved**
- November 2, 1976 County council submission to the electorate:
 Ord. 76-182 Lowering age requirement for office - **Rejected**
- November 3, 1979 Charter commission proposed thirteen changes:
 Prop. 1. Relating to council composition and terms - **Rejected**
 Prop. 2. Relating to council attorney - **Rejected**
 Prop. 3. Initiation of general plan amendments - **Approved**
 Prop. 4. Requiring mandatory program review - **Approved**
 Prop. 5. Redefining authority of planning director - **Approved**
 Prop. 6. Relating to department of water supply - **Rejected**
 Prop. 7. Creating board of appeals - **Approved**
 Prop. 8. Providing for centralized purchasing - **Approved**
 Prop. 9. Providing for recall of elected officials - **Approved**
 Prop. 10. Providing definition of "vacancy" in office - **Approved**
 Prop. 11. Removing restrictions on occupation for board membership - **Approved**
 Prop. 12. Providing for council confirmation of appointees - **Approved**
 Prop. 13. "Minor and miscellaneous" amendments - **Approved**

- November 2, 1982 Hawai‘i County Taxpayers Association proposed by petition deletion of section 11-2, “Limitations to Powers,” relating to initiative and referendum - **Approved**
- November 6, 1984 County council submission to the electorate:
 Ord. 84-51 Proposing single member council districts and the creation of a reapportionment commission to redistrict every eight years - **Rejected**
- November 6, 1990 Charter commission proposed eighteen changes:
 Prop. 1. Providing single member council districts, reduced terms - **Approved**
 Prop. 2. Providing changes to initiative and referendum - **Rejected**
 Prop. 3. Expanding powers of police commission and other changes - **Approved**
 Prop. 4. Changing budget process - **Approved**
 Prop. 5. Council confirmation of salary commission, expanding power - **Approved**
 Prop. 6. Setting minimum qualifications for appointed positions - **Approved**
 Prop. 7. Providing procedures to fill vacancies - **Approved**
 Prop. 8. Relating to holdover board and commission members - **Approved**
 Prop. 9. Imposing time limit for confirmation of appointees - **Approved**
 Prop. 10. Requiring charter-mandated publication of notices in two newspapers rather than one - **Approved**
 Prop. 11. Funding for deputy managing director and deputy finance director - **Rejected**
 Prop. 12. Relating to voting requirement for signers of recall petitions - **Approved**
 Prop. 13. Clarifying quorum requirements for boards - **Approved**
 Prop. 14. Providing for gender neutral language - **Approved**
 Prop. 15. Authorizes charter commission to prepare ballot language and format for its propositions - **Approved**
 Prop. 16. Authorizing charter revisions where provisions are inconsistent with State law - **Approved**
 Prop. 17. Deletion of certain powers of planning commission - **Approved**
 Prop. A. Relating to contracts for services by county council - **Rejected**
- November 3, 1992 County council submission to the electorate:
 Ord. 92-80 Proposing longer council terms, not coterminous with mayor, and term limit - **Rejected**
- November 8, 1994 County council submissions to the electorate:
 Ord. 93-68 Increasing police commission membership, district representation - **Approved**

- Ord. 94-50 Changing centralized purchasing provisions - **Approved**
 Ord. 94-59 Changing from annual to biennium budget - **Rejected**
- November 5, 1996 County council submissions to the electorate:
 Ord. 95-20 Limiting number of consecutive terms for council members - **Approved**
 Ord. 96-86 Changing “resign to run” provision - **Approved**
- November 3, 1998 County council submissions to the electorate:
 Ord. 98-17 Establishing data systems department - **Approved**
 Ord. 98-78 Providing longer council terms - **Rejected**
 Ord. 98-83 Providing changes relating to planning commission and planning director - **Approved**
- November 7, 2000 Charter commission proposed sixteen changes:
 Prop. 1. Establishing nonpartisan elections - **Approved**
 Prop. 2. Expanding duties of managing director, departmental reorganization - **Approved**
 Prop. 3. Establishing fire commission - **Approved**
 Prop. 4. Establishing department of environmental management - **Approved**
 Prop. 5. Relating to holdover board and commission members - **Approved**
 Prop. 6. Eliminating safety coordinator - **Approved**
 Prop. 7. Providing stronger qualifications for department heads - **Approved**
 Prop. 8. Creating policy statement for police department, expanding police commission powers - **Approved**
 Prop. 9. Renaming water commission and expanding membership - **Approved**
 Prop. 10. Expanding authority of salary commission - **Approved**
 Prop. 11. Establishing cost of government commission - **Approved**
 Prop. 12. Eliminating Hawai‘i redevelopment agency - **Approved**
 Prop. 13. Requiring quarterly council meetings in Kona - **Approved**
 Prop. 14. Expanding liquor commission membership - **Approved**
 Prop. 15. Adding statement of purpose to code of ethics - **Approved**
 Prop. 16. Relating to residency of board members after redistricting - **Approved**
- November 7, 2006 County council submissions to the electorate:
 Ord. 06-60 Changing the name of the department of civil service - **Approved**
 Ord. 06-95 Changing the name of the fire department - **Approved**
 Ord. 06-51 Relating to terms of boards or commission members - **Approved**
 Ord. 06-84 Relating to impeachment of elected officials - **Approved**
 Ord. 06-96 Amending sections of the charter to conform to the Federal Privacy Act of 1974 - **Approved**

- November 4, 2008 County council submissions to the electorate:
- Ord. 08-01 Creating windward and leeward planning commissions - **Approved**
 - Ord. 08-80 Relating to initiative and referendum - **Approved**
 - Ord. 08-81 Creating an office of the legislative auditor - **Approved**
 - Ord. 08-82 Relating to civil and criminal penalties - **Approved**
- November 2, 2010 Charter commission proposed nineteen changes:
- Prop. 1. Establishment of an Open Space Fund - **Approved**
 - Prop. 2. Relating to recall provisions - **Approved**
 - Prop. 3. Relating to Charter amendment provisions - **Approved**
 - Prop. 4. Relating to civil service laws - **Rejected**
 - Prop. 5. Relating to the Reapportionment Commission - **Approved**
 - Prop. 6. Preservation of natural and cultural resources - **Approved**
 - Prop. 7. Grammar, spelling, and formatting - **Approved**
 - Prop. 8. Relating to the Department of Water Supply - **Approved**
 - Prop. 9. Relating to Data Systems - **Approved**
 - Prop. 10. Relating to the Fire Department - **Approved**
 - Prop. 11. Duties of the Director of the Department of Environmental Management - **Approved**
 - Prop. 12. Qualifications of the Director of the Department of Environmental Management - **Approved**
 - Prop. 13. Duties of the Prosecuting Attorney - **Approved**
 - Prop. 14. Terms of Merit Appeals Board membership - **Approved**
 - Prop. 15. Removal of directors serving under commissions - **Approved**
 - Prop. 16. Appointment of Charter Commission members - **Approved**
 - Prop. 17. Membership on boards and commissions - **Approved**
 - Prop. 18. Electronic posting of special meeting notices - **Approved**
 - Prop. 19. Publication of notices via an electronic medium - **Approved**
- November 6, 2012 County council submissions to the electorate:
- Ord. 11-85 Records and meetings open to the public - **Approved**
 - Ord. 11-94 Public Access, Open Space, and Natural Resources Preservation Fund - **Approved**
 - Ord. 12-16 Establishing a Public Access, Open Space, and Natural Resources Preservation Maintenance Fund - **Approved**
 - Ord. 12-21 Establishing and abolishing special funds - **Rejected**
 - Ord. 12-70 Members of Redistricting Commission Eligibility for County Council - **Approved**
 - Ord. 12-110 Establishing a Game Management Advisory Commission - **Approved**
- November 4, 2014 County council submissions to the electorate:
- Ord. 14-98 Term of appointment for the County Clerk - **Approved**

Source Notes:

For those sections of the charter that have been amended, a note indicating the year, the proposition and/or ordinance, and the section of that proposition or ordinance that amended that section of the charter is provided. For example:

(2000, Prop. 12, sec. 2) means that the corresponding section of the charter was amended at the 2000 general election with the amendments contained within section 2 of Proposition 12; or

(1996, Ord. No. 06-60, sec. 3) means that the corresponding section of the charter was amended at the 1996 general election with the amendments contained within section 3 of Ordinance Number 06-60; or

(1990, Prop. 7, sec. 1 and Prop. 14, sec. 1) means that the corresponding section of the charter was amended at the 1990 general election with the amendments contained within section 1 of Proposition 7 and also by the amendments contained within section 1 of Proposition 14.

Source Notes indicating the year 1979 refer to the special election held that year on November 3, 1979. The Charter Commission elected to hold a special election for the consideration of charter amendments, rather than proposing amendments to the electorate during the 1980 general election.

Charter Commissions

1963-1964

Dr. Kaoru Noda, Chairman
Kengo Nagasako, Vice-Chairman
Herman Amaral
Yasuki Arakaki
Bryan W. Baldwin
Robert Fujimoto
Peter G. Kawahara
Fred J. Koehnen
R. B. Legaspi
Mary E. Loweth
Satoru Sugawara

Staff:

Masanori Kushi, Attorney
Chiyono Kinoshita, Secretary

1967-1968

Fred J. Koehnen, Chairman
Arthur Herbst, Vice-Chairman
Herman Amaral
Yasuki Arakaki
Bryan W. Baldwin
R. B. Legaspi
June Lewis
Kengo Nagasako
Akira Omonaka
Ichiro Shikada
Satoru Sugawara

Staff:

Yoshito Tanaka, Attorney
Blossom S. Kahawai, Secretary
Lucy L. Enoka, Secretary
Gertrude H. Ver Bunker, Secretary

1989-1990

Robert E. Bethea, Chairman
Sherwood Greenwell, Vice-Chairman
Pamela Cushnie
Francine Duncan
David Fuertes
Dr. James O. Juvik
Pete L'Orange
Aileen Lum
Steven Nishikawa
Akira Omonaka
Patricia Poppe

Staff:

Christopher Yuen, Attorney
R. Marie Jacobs, Secretary

1965-1966

Dr. Ralph H. Kiyosaki, Chairman
Mona Wagner, Vice-Chairman
Jackson Ah Chin
Takashi Domingo
Nobuko Fukuda
William Henry
Arthur Herbst
Robert A. Kamakura
Ernest Martinson
Akira Omonaka
Ichiro Shikada

Staff:

Donald K. Martin, Attorney
Sadako Okimoto, Secretary
June Lewis, Secretary

1979

Kimiaki Sakata, Chairman
Spencer K. Schutte, Vice-Chairman
Harlan J. Cadinha
Richard T. Ishida
Amy Iwamoto
Gloria Kobayashi
Akira Omonaka
Herman Sensano
Joseph E. Trulson
Matsuo Yanaga
Basilio Yagong

Staff:

Stuart A. Oda, Attorney
Joan Carnett, Secretary

2000

John Ray, Chairman
Roland Higashi, Vice-Chairman
Eddie M. Alonzo
Kevin M. Balog
Stephen G. Bess
Marni Herkes
Susan S. Irvine
Daryl H. Kurozawa
George A. Martin
John L. Santangelo, Jr.
Gary N. Yoshiyama

Staff:

Christopher Yuen, Attorney
Sharon Henry, Secretary

2010

Edmund Haitzuka, Chairman
David Fuertes, Vice Chair
Casey Jarman, Parliamentarian
Daphne Honma
Guy Kaulukukui
Jamae Kawauchi
Joseph Kealoha
Alapaki Nahale-a
Susie Osborne
Todd Shumway
Scott Unger

Staff:

Levi Hookano, Attorney
Karen Eoff, Secretary