

Resolution

No. 25-215

PROPOSING AMENDMENTS TO THE CHARTER OF
THE COUNTY OF MAUI (1983), AS AMENDED,
RELATED TO THE NOTICE AND CONDUCT OF
PUBLIC MEETINGS, PURSUANT TO THE HAWAII
SUNSHINE LAW

WHEREAS, with declining readership, limited publication schedules, and decreasing distribution, Council finds that traditional printed newspapers no longer provide adequate notice of governmental processes to the public; and

WHEREAS, Council finds that digital publication of notices, agendas, and public hearings or meetings in conformance with Chapter 92, Hawaii Revised Statutes (the “Sunshine Law”) provides greater efficiency, cost-effectiveness, timeliness, and environmental sustainability; and

WHEREAS, various provisions of the Charter of the County of Maui (1983), as amended, require newspaper publication; and

WHEREAS, the Charter also requires “public hearings” for certain actions, which term is synonymous with the opportunity for the public to provide testimony in a public meeting held in accordance with Sunshine Law; and

WHEREAS, the Sunshine Law details specific requirements for the notice and conduct of public meetings; and

WHEREAS, Council finds that references to “public hearings” should be replaced with the term “public meetings,” to clarify and confirm that such meetings will be noticed, held, and conducted in accordance with the Sunshine Law; now, therefore,

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

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1. That, in accordance with Charter Section 14-1(1), it proposes that the following sections of the Charter of the County of Maui (1983), as amended, be amended to read as set forth in the attached Exhibit "1", with deleted material in brackets and new material underscored:
2. That, in accordance with Charter Section 14-2(1), this Resolution be submitted to the voters of the County of Maui at the next General Election;
3. That the County Clerk prepare the necessary ballot for presentation to the voters at the next General Election;
4. That, in accordance with Charter Section 14-1(1), it proposes that the following question be placed on the next General Election ballot:

"Shall the Charter be amended, effective January 1, 2027, to clarify that Council meetings must be publicly noticed and held in compliance with state law by eliminating the outdated requirement to publish notice in a newspaper of general circulation in the County and replacing the term 'public hearing' with 'public meeting'?"
5. That, in accordance with Charter Section 14-2(2), the County Clerk must publish the proposed amendment in this Resolution in its entirety in a newspaper of general circulation;
6. That the amendments proposed in this Resolution take effect on approval by a majority of the voters voting on the proposed amendment and on official certification of the result;
7. That, as authorized by Charter Section 14-4, the County Clerk must revise and publish in its entirety a revised Charter including amendments adopted in this Resolution and renumber provisions and cross-references as may be necessary by the approval of the revisions or amendments; and

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8. That certified copies of this Resolution be transmitted to the Mayor and the County Clerk.

INTRODUCED BY:

A handwritten signature in cursive script, appearing to read "Alice L. Lee". The signature is written in black ink and is positioned above a horizontal line.

ALICE L. LEE

Exhibit 1

Section 4-2 Introduction, Consideration, and Passage of Ordinances and Resolutions.

“3. Upon the request of three members of the council, a public [hearing shall] meeting must be held on any proposed ordinance or resolution.

4. Digests of all bills that pass first reading and the votes thereon [shall be published once in a newspaper of general circulation in the County] must be publicly posted at least three days before final reading.

5.] After passage, all bills [shall be promptly advertised once by title only in a newspaper of general circulation in the County,] must be publicly posted with the ayes and noes.”

Section 8-8.4. Planning Commissions. “Each planning commission consists of nine members appointed by the mayor with the approval of the council. The members of each planning commission [shall] must be residents of the island of the planning commission on which the member serves. The directors of the departments of ‘Ōiwi resources, public works, environmental management, and water supply shall be non-voting ex-officio members of each commission.

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

1. The Maui planning commission shall be concerned with the area encompassing the islands of Maui and Kaho‘olawe and all other islands lying within three nautical miles of the shores thereof, and the waters adjacent thereto. The nine members must include at least one and no more than two members who reside in each council residency area on the island of Maui.

2. The Moloka‘i planning commission shall be concerned with the area encompassing the island of Moloka‘i and all other islands lying within three nautical miles of the shores thereof, and the waters adjacent thereto, except that portion of the island of Moloka‘i excluded from the County’s jurisdiction by state law.

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

The appropriate planning commission shall:

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

2. Review the general plan and revisions thereof prepared by the planning director or at the request of the council. The commission shall hold public [hearings] meetings on such plans and revisions thereof and

shall transmit them, with its findings and recommendations to the council for consideration no later than one hundred eighty days after the final public [hearing.] meeting.

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

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

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

6. Have other powers and duties as provided by law.”

Section 9-4. “Budget and Capital Program: Notice and Hearing. “[A] Council must hold a public [hearing] meeting [shall be held by the council] on the proposed budget and capital program [no sooner than the first day of April and no later than the thirtieth day of April] between April 1 and April 30 of the year of submission. [At this hearing,] In accordance with state law, Council must provide notice of the public meeting and offer interested [all] persons [interested shall have an opportunity to be heard.] the opportunity to testify. At least two weeks before the [hearing,] meeting, [the] council [shall publish in a newspaper of general circulation in the County] must publicly post general summaries of the budget and capital program and a notice setting out the time and place for the public [hearing.] meeting.”

Section 9-5. Budget: Council Action.

“1. After the public [hearing,] meeting, the council may pass the budget with or without amendment. In amending, it may add new items or increase items in the budget. It may decrease or delete items, except appropriations required by law and appropriations to pay any indebtedness. In all cases, the estimated revenues, proposed expenditures, and total appropriations for the ensuing fiscal year [shall] must be equal in amount.”

Section 9-6. Capital Program: Scope; Council Action.

“3. After the public [hearing] meeting on the capital program, the council may pass the program with or without amendment.”

Section 9-8. Budget and Capital Program: Public Record. “Three copies of the budget and capital program as enacted [shall] must be certified by the mayor and the county clerk[. One [of these copies shall be] and filed in the [office] offices of the mayor, [and one each in the offices of] the director of finance, and the director of planning. A summary of the

budget and capital program as so certified [shall be published once in a newspaper of general circulation in the County] must be posted publicly within three weeks after enactment[and copies shall be made available to the County departments and to interested persons].”

Section 13-2. Boards and Commissions; Nomination of Certain Officers.

“10. All boards and commissions [shall] hold public [hearings] meetings whenever required or deemed necessary and [shall provide due notice to the public by publication in a newspaper of general circulation in the County.] must provide notice in compliance with state law.”

Section 11-6. Action on Petitions.

“1. When an initiative petition has been finally determined sufficient, the council [shall] must promptly consider the proposed ordinance or reconsider the ordinance or portion thereof sought to be reconsidered. If the council fails to enact a proposed ordinance without change in substance, or fails to repeal the referred ordinance or portion thereof within sixty days after the date the petition was finally determined sufficient, the county clerk [shall] must submit the proposed or referred ordinance to the voters of the County at the next general election; provided that, if the next general election is scheduled to occur within ninety days, the county clerk [shall] must submit the proposed or referred ordinance to the voters of the County at the succeeding general election. Copies of the proposed ordinance or referred ordinance [shall be published in a newspaper of general circulation in the County] must be publicly posted at least forty-five days prior to submission to the voters and [shall] must be made available at the [polls.] voter service centers.”

Section 11-6. Action on Petitions.

“10. All boards and commissions [shall] must hold public [hearings] meetings whenever required or deemed necessary and [shall] must provide [due] notice to the public [by publication in a newspaper of general circulation in the County.] in accordance with state law.”

Section 14-1. Initiation of Amendments. Amendments to this charter may be initiated only in the following manner:

1. By resolution of the council adopted after two readings on separate days and passed by a vote of six or more members of the council.
2. By petition presented to the council, signed by not less than ten percent of the voters registered in the last general election, setting forth the proposed amendments. Such petitions [shall] must 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 that may be made by the corporation counsel.

Upon filing of such petition with the council, the county clerk shall examine it to see whether it contains a sufficient number of apparently genuine signatures of voters. The clerk shall complete the examination of the petition within fifteen days.

The council [shall] must then hold a public [hearing and shall] meeting and must determine whether the amendments proposed [shall] will be submitted to the voters for approval. The determination by the council to submit such proposed amendments to the voters [shall] must be by resolution adopted by a vote of five or more members of the council within forty-five days after the receipt of the petition.”

Section 14-2. Elections to be Called.

“2. The county clerk [shall have] must publicly post the proposed amendments [published in a newspaper of general circulation in the County] at least forty-five days prior to submission of the proposed amendments to the voters of the County at the next general election.

3. Should the majority of the voters voting thereon approve the proposed amendments to this charter, the amendments [shall] must become effective at the time fixed in the amendment, or if no time is fixed therein, thirty days after its adoption by the voters of the County. Any charter amendment [shall] must be [published in a newspaper of general circulation in the County] publicly posted within forty-five days of the effective date of such amendment.”

Section 14-3. Mandatory Review.

“The charter commission may propose amendments to the charter or draft a new charter, which must be submitted to the county clerk within sixteen months after the commission has been appointed, after earlier review by the council, if required by State law. Upon receipt of the amendments or new charter, the county clerk must provide for the submission of the amendments or new charter to the voters of the County at any general or special election as may be deemed by the commission. Any special election must be held not less than forty-five days and no more than seventy-five days after the receipt of the amendments or the new charter by the county clerk.

The commission must [publish] publicly post not less than forty-five days before any election [at least once in the newspaper of general circulation within the County] a brief digest of the amendments or new charter and notice to the voters that copies of the amendments or new charter are available at the office of the county clerk.

Following any special or general election on any proposed charter, or revision or amendment to the charter, at intervals of ten years, a charter commission composed of eleven members must be appointed, with two

appointed by the mayor, and nine appointed by the council, with each councilmember nominating one of the nine members, to study and review the operation of the government of the County under the amendments or new charter and to propose amendments or to draft a new charter in the manner set forth in this article.”