

REPORT  
of the  
MAUI COUNTY CHARTER COMMISSION

I. GENERAL

A. BACKGROUND

The Maui County Charter Commission was appointed in February, 1975, according to the provisions of Sec. 14-3 of the Charter of the County of Maui. It proceeded with its work on the assumption that the present Charter is basically a sound document, and therefore, no wholesale changes would be proposed.

A thorough study and review of the operation of the County government under the present Charter was made. The operations of local government under existing charters in other counties were studied. Informative talks were had with public officials, including the County Council members in Maui and other Counties of the State. Studies of various forms of local government were also made and some of the best printed materials available were gone over in the process.

After this preliminary study and review, the Charter Commission singled out those areas of the Charter that it believed needed revisions, or where it felt that alternative choices should be presented to the voters.

These proposals were presented at public hearings both early in its deliberations and later after it had refined its work, alternatives were discussed, advantages and disadvantages were laid out.

Although the Commission was somewhat disappointed in the small numbers of Maui County residents that turned out for these public meetings, nonetheless a feeling of general concern amongst the people was determined. Accordingly, those concerns were taken into account by the Commission in its final draft of proposed revisions.

B. ACCOUNTABILITY, RESPONSIVENESS, EFFICIENCY

The discussions within the Commission centered mainly on

three recurring themes:

1. Accountability, and
2. Responsiveness of public officials to the needs and desires of the citizens of Maui, and
3. Maximizing efficiency of governmental operations.

How to bring about an increase of these attributes in County government was an overriding concern. While there are no radical changes in the proposed revised Charter within the context of these three areas, there are a number of proposed amendments that are deemed significant. The proposals represent a serious effort to achieve the desired characteristics. While no Charter, however carefully drafted can guarantee these attributes, the Commission does believe that its proposals will go far towards attaining these desirable results.

## II. LEGISLATIVE BRANCH

### A. COUNCIL COMPOSITION

A major concern, and one that aroused the greatest response at public hearings, was that of council composition.

The unique geography of Maui County does not easily permit traditional or pure textbook district representation which would be acceptable to residents of outlying areas.

At the same time, it seemed evident that there was a general feeling of a need for more responsiveness and identity of Council representatives with a particular residency, all the while recognizing the need for Council members that would represent the County at large.

The Commission believes that proposed composition of the Council represents a reasonable compromise between pure districting and the existing councilmanic representation. Moreover, the proposal realistically takes into account our unique geographic characteristics.

All Council members will run at large; seven will have residency requirements and two will not.

## B. TERM OF OFFICE

Corollary to the question of Council Composition was the issue of term of office.

The Commission voted to place two alternatives (options) before the people of the County to allow the voters to determine whether they prefer a two-year or four-year term for Council members. Because community discussions seemed divided on the issue of Council terms, the Commission preferred not to decide the issue arbitrarily, but to leave it to the voters of the County to decide.

## C. OFFICE OF COUNCIL SERVICES

In order to strengthen the County Council in its policy making role, the Commission has proposed a new Office of Council Services to be filled as the need may arise. It will allow the legislative body to carry on its own study and research independent of the executive branch and thereby generate some ideas and proposals independent of what may be presented to it by the administration.

## III. EXECUTIVE BRANCH

### A. OFFICE OF THE MAYOR

In its efforts to assure more accountability in our County government, the Commission also realized that the responsibility for this goal would rest finally with the Mayor as the chief administrator.

The Commission felt therefore, that the Mayor should be given time to fully plan, develop and effectively carry out programs beneficial to the County. Long-range planning and the time needed to successfully implement these, prompted the Commission to increase the Mayor's term of office from two to four years with a limitation of two consecutive terms.

### B. OTHER EXECUTIVE PROPOSALS

Two new departments, a new chief administrative officer, a new commission, and new board are proposed.

#### 1. DEPARTMENT OF CORPORATION COUNSEL AND PUBLIC PROSECUTOR

In keeping with one of the golden threads that weaves its way through the Commission's deliberations, it was proposed to

separate the civil law functions from the criminal law functions presently handled by a single department, viz., the County Attorney's Office. It was the belief of the Commission that greater expertise could and would be developed in each of these fundamental areas of the law, if each was entrusted to a separate department. Thus, there would be greater efficiency, and perhaps more accountability as well, in the operations of these areas of County government. The Commission therefore, proposed a new Department of the Prosecuting Attorney, and a Department of Corporate Counsel.

## 2. DEPARTMENT OF HUMAN CONCERNS

Under the existing Charter, with the passage of time, there appeared to be a variety of functions carried on by different departments and agencies that had to do with what the Commission characterized as "human concerns." It was felt that for greater efficiency, the elimination of overlap, and for the purpose of giving greater attention to these human concerns, the time had come for the centering of these responsibilities in a single department. A new Department of Human Concerns has therefore been proposed.

## 3. MANAGING DIRECTOR

The Commission felt that the size of operations of the executive branch of County government, together with the ever increasing demands being made upon the time available to the Mayor, that greater efficiencies in the executive branch would be effected in providing the Mayor with a chief administrative officer. Thus, the Commission has provided for a Managing Director who will act as the Chief Administrative Assistant to the Mayor who will be responsible for the coordination and efficiency in the various departments and agencies of the executive branch of County government. This office has proven successful in the County of Hawaii and the City and County of Honolulu.

## 4. COST OF GOVERNMENT COMMISSION

Something entirely new has been proposed by way of a Cost of Government Commission. The Charter Commission is of the be-

lief that the problem of ever increasing costs of operating local government on the one hand, with limited financial resources to meet those costs on the other hand, has given rise to the need to keep the cost of government minimized, and to maximize its efficiency.

The Cost of Government Commission would provide a cyclical review of cost and efficiency of both the legislative and executive branches of County government. The Commission believes that this Commission, if adopted, will be one of the first of its kind in local government.

#### 5. BOARD OF ETHICS

A complete revision of the Code of Ethics is proposed. One of its chief characteristics is to provide for a Board of Ethics.

In general, the Code of Ethics requires public disclosure by public servants, so that, should conflicts of interest arise they would be made generally known to the public.

The Board of Ethics is empowered to initiate on its own, or receive complaints from the public and to hear and investigate alleged violations of the Code of Ethics and to make its findings known to the prosecuting attorney for appropriate action.

#### IV. FINANCIAL ACCOUNTABILITY

The Commission has proposed a newly drafted section calling for the annual auditing of all accounts and financial transactions of the County by independent certified public accountants.

The audit shall include both financial accountability and adequacy of the County's financial and accounting system. In short, this function together with the services of the Cost of Government Commission and a newly drafted provision for statements to be provided by the Director of Finance to the County Council should provide a sound "watch dog" service over the public purse.

#### V. PLANNING

##### A. PRESENT CHARTER PROVISIONS

The existing Maui Charter gives the County Planning Director little guidance other than to direct him to "Prepare a general plan to guide the development of the County by district or districts."

## B. COMMISSION PROPOSAL

The Commission is aware that the present planning process has concerned itself with more than mere physical planning. Indeed, after a review of what in fact our Planning Department is doing, the Commission has proposed a definition of the General Plan, and the General Plan process, that is both in keeping with current practices by the Planning Department and with current advanced thinking by professional planners elsewhere. In essence, the Commission's proposal is a codification, if you will, of the best thinking in this dynamic area of local government functions. It speaks in terms of a broad long-range statement of development policies and the effects that such policies might have on the social, economic, and environmental aspects of our community.

The Commission believes that this recognition of the impact that general planning will have on the social, economic and environmental character of the County is indeed being responsive to the needs and desires of the people of Maui. This responsiveness is further preserved by the continuation of a lay Planning Commission which is obliged to hold public hearings on any proposed General Plan or revisions thereto.

The Commission also believes that accountability to the people is further strengthened by providing for the appointment of the Planning Director directly by the Mayor rather than by a multimember Planning Commission appointed under staggered terms.

If the Planning Director is not performing in keeping with the desires of the voters of Maui, the latter can direct its displeasure to the elected appointing authority.

This same reasoning caused the Commission to propose the direct appointment by the Mayor of the head of the Board of Water Supply and the head of the Department of Personnel Services.

## VI. CONCLUSION

Therefore, this Commission presents the proposed new Charter as the culmination of a year's study and discussion. The Commission made every effort to structure a County government based on the elected officials who would always be accountable to the

people for the actions of government.

In view of this accountability theme therefore, the highest administrator (the Mayor) would be held responsible for all departments of the County administration. In the same way, the legislative branch of the County government as the policy making body, would be responsible for all matters pertaining to legal enactments and legal appropriations made by them.

The Commission believes that the proposed Charter will give the citizens of Maui County the kind of responsive and sensitive government that the public has made clear it desired.

Dated this 27th day of February, 1976; County of Maui, State of Hawaii.

Respectfully submitted,

*Charles A. Kekumano*  
MONSIGNOR CHARLES A. KEKUMANO,  
CHAIRMAN

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EDWINA U. BRIGHT,  
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*Hideo Abe*  
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## PREAMBLE

WE THE PEOPLE OF THE COUNTY OF MAUI, to secure the benefits of an improved form of county government and to exercise the powers and assume the responsibilities of county government to the fullest extent possible, do hereby adopt this charter of the County of Maui, State of Hawaii.

## ARTICLE 1. INCORPORATION AND GEOGRAPHICAL LIMITS

### Sec. 1-1. INCORPORATION.

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

### Sec. 1-2. GEOGRAPHICAL LIMITS.

The islands of Maui, Molokai, Lanai and Kahoolawe and all other islands lying within three nautical miles off the shores thereof and the waters adjacent thereto, except that portion of the island of Molokai known as Kalaupapa, Kalawao and Waikolu, and commonly known and designated as the Kalaupapa settlement, shall constitute the County of Maui.

## ARTICLE 2. POWERS OF THE COUNTY

### Sec. 2-1. POWERS OF THE COUNTY.

The County of Maui shall have all powers possible for a county to have under the constitution and laws of the State of Hawaii. These powers shall include, but shall not be restricted to, or by, the following: all powers now or hereafter given by the constitution or other laws, and all other powers not prohibited by such constitution or by this charter, to the County of Maui or its departments, or to counties or county departments; and all powers necessary and proper to carry into execution other powers of the County of Maui. The county shall have



all such powers as fully and completely as though they were specifically enumerated in this charter; and no enumeration of powers in this charter shall be deemed exclusive or restrictive.

Sec. 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, as provided by ordinance or resolution of the county council.

ARTICLE 3. COUNTY COUNCIL

Sec. 3-1. COMPOSITION.

There shall be a county council composed of nine members who shall be elected at-large. Of the nine members elected to the county council, one shall be a resident of the Island of Lanai, one a resident of the Island of Molokai, one a resident of the district of East Maui, one a resident of the district of West Maui, three as residents of Central Maui, and in the case of the two remaining members, no particular district residency shall be required. The person charged with the duty of conducting elections in the county shall prepare the nomination papers in such a manner that candidates desiring to file for the office of councilman shall be able to specify whether they are seeking a seat with a district residence requirement or a seat with no district requirements as the case may be. The ballots for the primary and general elections shall, nevertheless, be prepared to give every voter in the county the right to vote for each and every council seat.

1. The district of East Maui shall consist of: The 2nd, 3rd, 4th, 5th, 6th, 7th, 8th, 12th, 13th and 14th Precincts, in the Fifth Representative District.\*

2. The district of West Maui shall consist of: The 10th, 11th, 12th, and 13th Precincts in the Sixth Representative District.\*

3. Central Maui shall consist of the remaining area between the districts of East Maui and West Maui.\*

\*The district and precinct boundaries are described in the DISTRICT AND PRECINCT BOUNDARIES MANUAL prepared and published by the Lieutenant Governor's Office and located in the County Clerk's Office. 1976.

Sec. 3-2. TERMS. (OPTION 1)

The terms of office of councilmen shall be for two years, beginning at twelve o'clock meridian on the second day of January following their election.

Sec. 3-2. TERMS. (OPTION 2)

The terms of office of councilmen shall be for four years, beginning at twelve o'clock meridian on the second day of January following their election.

Sec. 3-3. QUALIFICATIONS.

To be eligible for election or appointment to the council, a person must be a citizen of the United States, a voter in the county, and where residency in a district is a requirement, a voter in the district from which he seeks to be elected. If a councilman ceases to be a resident of the county, or in the case of a councilman who is elected to a seat requiring residency in a district ceases to be a resident of the district during his term of office, or in either case a councilman is convicted of a felony, he shall immediately forfeit his office and his seat shall thereupon become vacant.

The council shall be judge of the qualifications of its members and for that purpose shall have power to subpoena witnesses, take testimony and require the production of records. Decisions made by the council in the exercise of powers granted by this subsection shall be subject to review by a court of competent jurisdiction.

Sec. 3-4. VACANCY IN OFFICE.

In the event a vacancy in the office of any councilman shall occur, the remaining members of the council shall elect a person with the same qualifications required of a candidate elected by

the voters and of the same political party as the person he succeeds to fill the vacancy for the current unexpired term. Should the council fail to fill any vacancy within thirty (30) days after its occurrence, the mayor shall appoint a like qualified successor of the same political party as the person he succeeds to fill the vacancy for the current unexpired term.

Sec. 3-5. SALARIES OF COUNCILMEN.

The salaries of the councilmen shall be established by ordinance. The council may change the salaries of councilmen by ordinance, but no increase of salaries shall be effective during the term in which an increase is enacted. No ordinance changing the salaries of councilmen shall be adopted during the last sixty (60) days of a term.

Sec. 3-6. PROCEDURE; MEETINGS; RULES AND JOURNAL; VOTING.

1. The council shall meet in the council room at the county building for its organization at two o'clock p.m. on the second day of January following its election, or on the following day if the second day be a Sunday, at which time it shall elect one of its members as chairman and presiding officer of the council. Until such time as the chairman and presiding officer shall be elected, the mayor shall preside at such meeting, provided that the mayor shall not have a vote. The council shall also elect a vice-chairman who shall act as the presiding officer in the event of the chairman's absence or disability. The council shall appoint a presiding officer pro tempore from its own members in the event of the absence or disability of both the chairman and vice-chairman.

2. The county council shall meet regularly at least twice in every month at such times and places as the council may prescribe by rule. Special meetings may be held on the call of the mayor, chairman or of five or more members and, whenever practicable, upon no less than seventy-two hours effective notice to each member.

3. The council shall determine its own rules and order

of business and shall provide for keeping a journal of its proceedings. This journal shall be a public record.

4. Voting, except on procedural motions, shall be by roll call and the ayes and noes shall be recorded in the journal. Five members of the council shall constitute a quorum, but a smaller number may convene from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the council. No action of the council shall be valid or binding unless adopted by a vote of five or more members of the council.

Sec. 3-7. POWERS OF COUNTY COUNCIL.

The county council shall be the policy-determining body of the county. Without limitation of the foregoing grant or of other powers given it by this charter, the council shall have the power:

1. To establish county departments in the manner provided by this charter.

2. To levy taxes and special assessments and to borrow money, subject to the limitations provided by law.

3. To make appropriations for county purposes.

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

5. To enter into bilateral and multilateral contracts with other counties, the State, or the United States for the performance of any function or activity which the county is authorized to perform.

6. To appoint and fix the salaries of such employees as may be necessary.

7. To require periodic and special reports concerning their functions and operations from all county departments; and such reports, in the case of departments subject to the direction and supervision of the mayor, shall be submitted by and through the mayor.

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

Sec. 3-8. OFFICE OF COUNCIL SERVICES.

The council may establish an Office of Council Services and create such positions therein as it deems necessary to assist it in the exercise of its legislative power. The council shall fix the salaries of such positions by ordinance. Persons hereafter appointed to such positions by the council shall be exempt from civil service.

Sec. 3-9. RESTRICTIONS ON COUNCIL AND COUNCIL MEMBERS.

1. Neither the council nor any of its members shall, in any manner, dictate the appointment or removal of any officer or employee appointed by the mayor or by his subordinates.

2. Except for the purpose of inquiries under section 3-7 (4), the council or its members, in dealing with county employees or with county officers, shall deal solely through the mayor, and neither the council nor its members shall give orders to any such employee or officer either publically or privately. Any willful violation of the provisions of this subsection by a member of the council shall be sufficient grounds for his removal from office by impeachment.

ARTICLE 4. ORDINANCES AND RESOLUTIONS

Sec. 4-1. ACTIONS OF THE COUNCIL.

Every legislative act of the council shall be by ordinance, provided that for the purposes of this section the transfer of funds within the same department, whether in the operating budget or capital budget, shall not be considered a legislative act and such transfer may be effected by resolution. The enacting clause of every ordinance shall be "Be it ordained by the people of the County of Maui." Non-legislative acts of the council may be by

resolution, and except as otherwise provided, no resolution shall have the force or effect of law. The enacting clause of every resolution shall be "Be it resolved by the council of the County of Maui."

Sec. 4-2. INTRODUCTION, CONSIDERATION AND PASSAGE OF ORDINANCES AND RESOLUTIONS.

1. Every proposed ordinance shall be initiated as a bill and shall be passed by a vote of a majority of the entire council after two readings on separate days. The vote on final passage shall be taken by ayes and noes and entered in the journal. Full readings of bills may be required by a vote of three or more members of the council.

2. Ordinances shall take effect on the date specified therein or, in the absence of such specification, upon approval thereof by the mayor.

3. Except as otherwise provided in this charter, resolutions may be adopted on one reading by a vote of a majority of the entire council taken by ayes and noes and entered in the journal. The reading shall be in full except by unanimous consent of all councilmen present, in which case the reading may be by title only.

4. Upon the request of three members of the council, a public hearing shall be held on any proposed ordinance or resolution.

5. All bills shall pass first reading by a vote taken by ayes and noes, and digests of such bills shall be advertised once in a newspaper of general circulation in the county, with the 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.

6. All ordinances shall be promptly advertised once by title only in a newspaper of general circulation in the county, with the ayes and noes after enactment.

7. Should the council find by a two-thirds vote of its

entire membership the existence of an emergency due to a public calamity, the council may waive all of the requirements of this section pertaining to procedure, except those relating to the number of votes required for passage and recording of the vote in the journal. Every emergency ordinance, including any amendments made therein after its adoption, shall automatically stand repealed as of the ninety-first day following the date on which it became effective.

8. Resolutions authorizing proceedings in eminent domain shall be adopted in such manner as may be provided by law.

9. Ordinances and resolutions may be passed on first reading by one administration and passed on second reading and approved by the mayor of a succeeding administration.

Sec. 4-3. SUBMISSION OF BILLS TO THE MAYOR.

1. Every bill which has passed the council and has been duly authenticated by the county clerk and the presiding officer shall be presented to the mayor for his approval. If he approves it, he shall sign it and the bill shall then become effective as an ordinance as provided herein. If he disapproves it, he shall specify his objections thereto in writing and return the bill to the county clerk with his objections within ten (10) days (excluding Saturdays, Sundays and holidays) after receiving it. If he does not return it with his disapproval within that time, it shall take effect as an ordinance as if he had signed it. The objections of the mayor shall be entered at large in the journal of the council and the council may, after five (5), and within thirty (30) days after the bill has been so returned, reconsider the vote upon the bill. If the bill, upon reconsideration, is again passed by a two-thirds vote of the entire membership of the council, the presiding officer shall verify that fact on the bill and, when so certified, the bill shall take effect as an ordinance as if it had been signed by the mayor. If the bill fails to receive the two-thirds vote of the entire membership of the council, it shall be deemed lost. The vote upon reconsideration shall be taken by ayes and noes and entered in the journal.

2. If any bill is presented to the mayor appropriating money, he may veto any item or items or portion or portions thereof by striking out or reducing the same. In the case of such a veto, the mayor shall append to the bill at the time of signing it a statement of the item or items or portion or portions thereof to which he objects and the reasons therefor, and the item or items or portion or portions thereof so vetoed shall not take effect unless passed notwithstanding the mayor's veto. Each item so vetoed may be reconsidered by the council in the same manner as bills which have been disapproved by the mayor.

Sec. 4-4. AMENDMENT, REVISION OR REPEAL; ADOPTION OF CODES BY REFERENCE.

1. Any ordinance or resolution may be repealed by reference to its number or section number.

2. Any code or portions thereof may be adopted by reference thereto by the enactment of an ordinance for the purpose. Not less than three copies of such code or portions thereof shall be filed for use and examination by the public in the office of the county clerk not less than fifteen (15) days prior to the final reading thereof, and notice of the availability of said copies shall be published by the clerk in a newspaper of general circulation in the county.

Sec. 4-5. CODIFICATION OF ORDINANCES.

1. The council shall cause any codification of all of the ordinances of the county heretofore prepared and published to be revised and updated at least every ten years. Such revision and updating may be prepared by the corporation counsel, or the county council may contract for such revision and updating by professional persons or organizations experienced in the revision and codification of ordinances or statutes.

2. The code may be adopted by reference by the passage of an ordinance for that purpose. Copies of the code shall be made available to the public at a reasonable price. Not less than three copies of the code shall be filed for use and examination



by the public in the office of the county clerk at least sixty (60) days prior to the adoption thereof.

3. All proposed ordinances of general application introduced after the approval of the code shall be adopted as amendments of or additions to the code and by reference thereto.

#### ARTICLE 5. COUNTY CLERK

##### Sec. 5-1. ORGANIZATION.

There shall be an office of the county clerk consisting of the county clerk and the necessary staff.

##### Sec. 5-2. COUNTY CLERK.

The county clerk shall be appointed and may be removed by the council.

##### Sec. 5-3. POWERS, DUTIES AND FUNCTIONS.

The county clerk shall:

1. Be the clerk of the council.
2. Take charge of, safely keep and dispose of all books, papers and records which may properly be filed in his office and keep in separate files all ordinances, resolutions and regulations and cumulative indices of the same, or exact copies thereof, enacted or adopted by the council.
3. Have custody of the county seal.
4. Conduct all elections held within the county.
5. Perform such other functions as the council may prescribe.

#### ARTICLE 6. EXECUTIVE BRANCH

##### Sec. 6-1. EXECUTIVE POWER.

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

##### Sec. 6-2. ORGANIZATION.

Except as otherwise provided, within one year after the effective date of this charter, the mayor shall recommend and

the council shall, by ordinance, adopt an administrative code providing for a complete plan of administrative organization of the departments of the county government not inconsistent with the provisions of this charter. Upon recommendation of the mayor, the council may, by a two-thirds vote of its entire membership, create, change, abolish, combine or rearrange the departments of the county.

Sec. 6-3. APPOINTMENT AND REMOVAL OF OFFICERS AND EMPLOYEES.

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

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

Sec. 6-4. POWER AND DUTIES OF ADMINISTRATIVE HEADS OF DEPARTMENTS.

1. Subject to the provisions of this charter and applicable regulations adopted thereunder, the administrative heads of departments shall have the power to take all personnel actions.

2. The administrative head of a department may assign and reassign duties to employees and supervise the performance thereof.

3. The administrative head of a department which is not governed by a board or commission may, subject to the approval of the mayor, prescribe such rules as are necessary for the organization and internal administration of the department.

4. The administrative head of a department shall perform such duties not inconsistent with the duties of his office, as may be assigned by the mayor, provided that this shall not apply to the administrative head of a department which is governed by a board or a commission.

ARTICLE 7. MAYOR

Sec. 7-1. ELECTION AND TERM OF OFFICE.

The voters of the county shall elect a mayor whose term of office shall be four years beginning at twelve o'clock meridian on the second day of January following his election. A mayor, duly elected, may not serve more than two consecutive full terms of office.

Sec. 7-2. QUALIFICATIONS.

Any citizen of the United States who is a voter of the county shall be eligible to fill the office of mayor. Upon removal of his residence from the county, the mayor shall by that fact be deemed to have vacated his office. If the mayor ceases to be a voter of the county or is convicted of a crime involving moral turpitude, he shall immediately forfeit his office.

Sec. 7-3. THE SALARY OF THE MAYOR.

The salary of the mayor shall be established by ordinance.

Sec. 7-4. POWERS, DUTIES AND FUNCTIONS.

The mayor shall be the chief executive officer of the county. He shall have the power to:

1. Except as otherwise provided, exercise supervision directly or through the managing director over all agencies enumerated in Article 8 of this charter and other agencies as he may deem desirable.

2. Appoint the necessary staff for which appropriations have been made by the council.

3. Create positions authorized by the council and for which appropriations have been made, or abolish positions, but a monthly report of such actions shall be made to the council.

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

5. Recommend to the council a pay plan for all department heads and all persons employed by the county or any of its

departments, whether as officers or otherwise, except those whose pay is otherwise provided for, provided that the salary of any officer or employee not within civil service established by any department, including any board or commission, shall be subject to approval by the council and the mayor.

6. Submit an operating budget and a capital program annually to the council for its consideration and adoption.

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

8. Present messages or information to the council which, in his opinion, are necessary or expedient.

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

10. Approve or veto ordinances and resolutions.

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

12. Enforce the provisions of this charter, the ordinances of the county and all applicable laws.

13. Exercise such other powers and perform such other duties as may be prescribed by this charter or by ordinance.

Sec. 7-5. VACANCY IN OFFICE.

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

a. If the unexpired term is less than one year, the managing director shall act as mayor. If the office of managing director is vacant or during such periods that the managing director is unable to so act, the director of planning shall then act as mayor.

b. If the unexpired term is one year or more, the vacancy shall be filled by a special election to be called by the council within thirty (30) days and to be held within ninety (90) days after the occurrence of the vacancy.

The electors of the county shall then elect a successor with requisite qualifications to fill the vacancy for the remainder of the term. If any special or general election is to be held in the county after thirty (30) days and within one hundred eighty (180) days after the occurrence of the vacancy, then the election shall be held in conjunction with such other election.

2. Pending the election of a mayor in the case of a vacancy or in the temporary absence of the mayor from the State, or a temporary disability of the mayor, the managing director shall act as mayor. If there is no managing director or if he is unable to act, the planning director shall act as mayor.

## ARTICLE 8. COUNTY DEPARTMENTS

For the purpose of carrying out the policies of the county and administering its affairs, the county departments hereinafter described are hereby recognized, continued and established and shall have the functions hereinafter described.

### CHAPTER 1.

#### MANAGING DIRECTOR

##### Sec. 8-1.1. MANAGING DIRECTOR.

a. There shall be a managing director who shall be appointed and may be removed by the mayor, and who shall be exempt from civil service. He shall be the principal management aide of the mayor.

b. The salary of the managing director shall be established by ordinance.

##### Sec. 8-1.2. POWERS, DUTIES AND FUNCTIONS.

The managing director shall:

a. Supervise the administrative functions of all agencies, departments, boards and commission assigned by the mayor.

b. Evaluate the management and performance of each agency.

c. Prescribe standards of administrative practice to be followed by all agencies under his supervision.

d. Attend meetings of the council and any board, commission or committee when requested by the mayor.

e. Perform all other duties required of him by this charter or assigned to him by the mayor.

## CHAPTER 2.

### DEPARTMENT OF THE CORPORATION COUNSEL

#### Sec. 8-2.1. ORGANIZATION.

There shall be a department of the corporation counsel consisting of the corporation counsel and the necessary staff.

#### Sec. 8-2.2. CORPORATION COUNSEL.

The corporation counsel shall be appointed by the mayor with the approval of the council and may be removed by the mayor with the approval of the council. The corporation counsel shall be an attorney licensed to practice and in good standing before the Supreme Court of the State and shall have engaged in the practice of law in the State for at least three years.

#### Sec. 8-2.3. POWERS, DUTIES AND FUNCTIONS.

The corporation counsel shall be the chief legal adviser and legal representative of all departments, including the council, and of all officers and employees in matters relating to their official powers and duties, and he shall represent the county in all legal proceedings.

#### Sec. 8-2.4. DEPUTY CORPORATION COUNSELS.

The corporation counsel shall have the power to appoint such deputy corporation counsels and necessary staff as shall be authorized by the council. Such appointees shall be in the exempt class of civil service and shall serve at the pleasure of the corporation counsel.

#### Sec. 8-2.5. SERVICE OF LEGAL PROCESS.

Legal process against the county shall be served upon the corporation counsel or any of his deputies.

CHAPTER 3.

DEPARTMENT OF THE PUBLIC PROSECUTOR

Sec. 8-3.1. ORGANIZATION.

There shall be a department of the public prosecutor headed by a prosecuting attorney and the necessary staff.

Sec. 8-3.2. PROSECUTING ATTORNEY.

The prosecuting attorney shall be appointed by the mayor with the approval of the council and may be removed by the mayor with the approval of the council. The prosecuting attorney shall be an attorney licensed to practice and in good standing before the Supreme Court of the State and shall have engaged in the practice of law in the State for at least three years.

Sec. 8-3.3. POWERS, DUTIES AND FUNCTIONS.

The prosecuting attorney shall:

a. Appoint such deputy prosecuting attorneys and necessary staff as shall be authorized by the council. Such appointees shall be in the exempt class of civil service and shall serve at the pleasure of the prosecuting attorney.

b. 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.

c. 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.

d. Institute proceedings, or direct the chief of police to do so, before a judge of a court of competent jurisdiction for the arrest of persons charged with or reasonably suspected of public offenses, when he has information that any such offenses have been committed, and for that purpose take charge of criminal cases before a judge of a court of competent jurisdiction.

either in person or by a deputy or by such other prosecuting officer as he shall designate.

e. 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 a judge or courts of record under the direction of the prosecuting attorney.

#### CHAPTER 4.

#### DEPARTMENT OF FINANCE

##### Sec. 8-4.1. ORGANIZATION.

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

##### Sec. 8-4.2. DIRECTOR OF FINANCE.

The director of finance shall be appointed and may be removed by the mayor. The director of finance shall have had a minimum of five years of training and experience in a public or private financial position, at least three years of which shall have been in a responsible administrative capacity.

##### Sec. 8-4.3. POWERS, DUTIES AND FUNCTIONS.

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

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

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

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

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



5. Assist the mayor in the preparation and execution of the budget.

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

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

8. Prepare and issue warrants.

9. Prepare payrolls and pension rolls.

10. Be responsible for the management of county funds.

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

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

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

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

15. Have custody of all official bonds, except the bond of the director of finance, which shall be in the custody of the county clerk.

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

17. Establish central services, such as computing center, motor pool, duplicating service, mail and messenger service, and others, whenever efficiency studies have been conducted and determination made that economies can be made by providing such services centrally.

18. Prepare and process applications for state, federal or other funds on behalf of the county.

#### CHAPTER 5.

#### DEPARTMENT OF PUBLIC WORKS

##### Sec. 8-5.1. ORGANIZATION.

There shall be a department of public works consisting of a director of public works, board of adjustment and appeals, and the necessary staff.

##### Sec. 8-5.2. DIRECTOR OF PUBLIC WORKS.

The director of public works shall be appointed and may be removed by the mayor. The director of public works shall have had a minimum of five years of training and experience in a responsible administrative capacity, either in public service or private business, or both.

##### Sec. 8-5.3. POWERS, DUTIES AND FUNCTIONS.

The department shall have the following powers, duties and functions and such other powers, duties and functions as shall be prescribed by ordinance, provided that the powers, duties and functions of the department existing at the effective date of this charter shall continue to be exercised and performed by the department until changed or modified by ordinance:

1. Prepare a proposed ordinance governing the subdivision of lands within the county.

2. Be charged with the administration of the subdivision and zoning ordinances and rules or regulations adopted thereunder.

3. Be charged with the approval of proposed subdivision plans which are in conformity with the subdivision ordinance and rules or regulations adopted thereunder.

Sec. 8-5.4. BOARD OF ADJUSTMENT AND APPEALS.

The board of adjustment and appeals shall consist of five members appointed by the mayor with the approval of the council for terms of five years.

The board of adjustment and appeals shall:

1. Hear and determine appeals from any decision or order of any department charged with the enforcement of the zoning and subdivision ordinances, wherever error in such decision or order has been alleged.

2. Hear and determine petitions for variances and, subject to such principles, conditions or procedures as the council may by ordinance provide, to vary the strict application of any provision of the zoning and subdivision ordinances to any specific parcel of land when, by reason of peculiar and unusual circumstances pertaining to such parcel, such strict application would deprive the owner of the reasonable use thereof or cause undue hardship.

3. Hear and determine, on application therefor, all other matters which the board may be required to pass on pursuant to the terms of the zoning and subdivision ordinances and subject to the standards and requirements prescribed therein.

4. Hear and determine applications for a permit for a building or structure to be erected on any land shown as a highway, street, or drainage right of way on the general plan. Upon such application and after a hearing, the board shall grant a permit, subject to such conditions as it may impose, for such a building or structure, if upon balancing the owner's interest against the interest of the county in preserving the integrity of the general plan, it finds that otherwise the owner of such land would suffer unnecessary hardship.

5. Hear and determine appeals by persons whose applications for building permits have been denied under the subdivision ordinances or regulations, zoning ordinances or regulations, or under any other ordinances or regulations.

6. Prior to the granting of any variance, the board of adjustment and appeals shall hold a public hearing thereon, at which time the board will afford interested persons a reasonable opportunity to be heard and which hearing may be held in the area directly affected.

7. Whenever the board grants a variance pursuant to a petition therefor, it shall specify the particular evidence which supports the granting of the variance.

8. Adopt such rules and regulations as may be necessary to the performance of its duties as authorized and in accordance with this charter or by law. Such rules and regulations, after public notice and public hearing and upon approval by the mayor, shall have the force and effect of law.

## CHAPTER 6.

### DEPARTMENT OF PARKS AND RECREATION

#### Sec. 8-6.1. ORGANIZATION.

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

#### Sec. 8-6.2. DIRECTOR OF PARKS AND RECREATION.

The director of parks and recreation shall be appointed and may be removed by the mayor. The director of parks and recreation shall have had a minimum of five years of training and experience in a responsible administrative capacity, either in public service or private business, or both.

#### Sec. 8-6.3. POWERS, DUTIES AND FUNCTIONS.

The department shall have the following powers, duties and functions and such other powers, duties and functions as shall be prescribed by ordinance, provided that the powers, duties and functions of the department existing on the effective date of this charter shall continue to be exercised and performed by the department until changed or modified by ordinance:

1. Plan, design, construct, maintain and operate all parks and recreational facilities of the county.

2. Develop and implement programs for cultural, recreational and other leisure-time activities for the people of the county, except as otherwise provided by law.

#### CHAPTER 7.

##### DEPARTMENT OF FIRE CONTROL

###### Sec. 8-7.1. ORGANIZATION.

There shall be a department of fire control consisting of a fire chief and the necessary staff.

###### Sec. 8-7.2. FIRE CHIEF.

The fire chief shall be appointed by the mayor and may be removed by the mayor. The fire chief shall have had a minimum of five years of training and experience in a fire department, at least three years of which shall have been in a responsible administrative capacity.

###### Sec. 8-7.3. POWERS, DUTIES AND FUNCTIONS.

The powers, duties and functions of the department of fire control shall be prescribed by ordinance, provided that the powers, duties and functions of the department existing on the effective date of this charter shall continue to be exercised and performed by the department until changed or modified by ordinance.

#### CHAPTER 8.

##### DEPARTMENT OF PLANNING

###### Sec. 8-8.1. ORGANIZATION.

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

###### Sec. 8-8.2. PLANNING DIRECTOR.

The planning director shall be appointed and may be removed by the mayor. He shall have had five years of training and experience in the field of planning, three of which shall have been in a responsible administrative capacity.

The director shall:

1. Be the administrative head of the department of planning.
2. Serve as the chief planning officer of the county and as the technical advisor to the mayor, council and planning commission on all planning and related matters.
3. Prepare a general plan and revisions thereof at least every five years to guide the development of the county by planning areas.
4. Prepare proposed zoning ordinances, zoning maps and regulations and any amendments or modifications thereto.
5. Review the lists of proposed capital improvements contemplated by the departments of the county and recommend the order of their priority to the mayor.
6. Exercise all the powers and perform all the duties of the planning director as authorized by law or ordinance and exercise such other powers and perform such other duties as shall be required or delegated by the mayor.

Sec. 8-8.3. PLANNING COMMISSION.

The planning commission shall consist of seven members appointed by the mayor with the approval of the council for terms of five years. The director of the department of public works and the director of the department of water supply shall be non-voting ex-officio members of the commission.

The planning commission shall:

1. Advise the mayor, council and the planning director in matters concerning planning programs.
2. Review the general plan and revisions thereof developed by the planning director. The commission shall hold public hearings on such plans and revisions thereof and shall transmit them, with its findings and recommendations thereon, through the mayor to the council for its consideration and action. The commission shall recommend approval in whole or in part and with or without modifications, or recommend rejection of such plans or revisions.

3. Review proposed zoning ordinances and amendments there-  
to developed by the director and, after public hearings, transmit  
such ordinances with recommendations thereon through the mayor  
to the council for consideration and action. The commission  
may recommend approval in whole or in part and with or without  
modification or recommend rejection of such proposed ordinances.

4. Recommend rules and regulations pursuant to zoning  
ordinances to the mayor for adoption under this charter or law.

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

#### Sec. 8-8.4. GENERAL PLAN.

The purpose of preparing a general plan is to recognize  
and state the major problems and opportunities concerning the  
needs and the development of the county and the social, economic  
and environmental effects of such development and to set forth  
the desired sequence, patterns and characteristics of future  
development.

The general plan shall set forth the county's broad  
policies for long-range development of the county. It shall con-  
tain statements of the general, social, economic, environmental  
and design objectives to be achieved for the general welfare and  
prosperity of the people of the county through government action,  
county, state or federal. The statements shall include, but not  
be limited to, policy and development objectives to be achieved  
with respect to distribution of social benefits, the more desir-  
able uses of land within the county and the most desirable popu-  
lation densities within the county.

#### Sec. 8-8.5. ADOPTION OF GENERAL PLAN.

1. The council shall adopt the general plan or revisions  
thereof by ordinance.

2. The general plan shall be kept on file in the depart-  
ment of planning.

3. Any revision of, or amendment to the general plan may  
be proposed by the council and shall be processed in the same

manner as if proposed by the planning director. Any such revision or amendment shall be referred to the planning commission by resolution. If the planning commission disapproves the proposed revision or amendment or recommends a modification thereof, not accepted by the council, or fails to make its report within the period of forty-five (45) days, the council may nevertheless adopt such revision or amendment, but only by the affirmative vote of at least two-thirds of its entire membership.

## CHAPTER 9.

### DEPARTMENT OF PERSONNEL SERVICES

#### Sec. 8-9.1. ORGANIZATION.

There shall be a department of personnel services consisting of a civil service commission, a director, and the necessary staff.

#### Sec. 8-9.2. CIVIL SERVICE COMMISSION.

The civil service commission shall consist of five members appointed by the mayor with the approval of the council for terms of five years.

The civil service commission shall:

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

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

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

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

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

#### Sec. 8-9.3. DIRECTOR OF THE DEPARTMENT OF PERSONNEL SERVICES.

The director of the department of personnel services shall



be appointed and may be removed by the mayor. The director of personnel services shall have had a minimum of five years of training and experience in personnel administration, either in public service or private business, or both, at least three of which shall have been in a responsible administrative capacity.

The director of the department of personnel services shall:

1. Be the administrative head of the department of personnel services.
2. Be responsible for the personnel management program of the county.
3. Perform such duties as are established under the civil service laws of the State or as may be assigned by the mayor.

#### Sec. 8-9.4. POSITIONS UNDER CIVIL SERVICE.

1. The provisions of this chapter shall apply to all positions in the county, except as may be exempted by this charter or state law, and except for the administrative heads of a department and the first deputy of each department.

2. In the event an employee under civil service shall be appointed as the first deputy to the administrative head of any department, such employee may reserve the right to reclaim his former position as a civil service employee upon the termination of his services as such deputy, provided that such right must be exercised within a period of two years after his appointment as such deputy.

### CHAPTER 10.

#### DEPARTMENT OF HUMAN CONCERNS

##### Sec. 8-10.1. ORGANIZATION.

There shall be a department of human concerns which shall consist of a director of human concerns, a commission on human concerns and the necessary staff. The director of human concerns shall be the administrative head of the department of human concerns.

Sec. 8-10.2. DIRECTOR OF HUMAN CONCERNS.

The director of human concerns shall be appointed and may be removed by the mayor. The director of human concerns shall have had a minimum of five years of training and experience in a responsible administrative capacity, either in public service or private business, or both.

The director of human concerns shall develop a comprehensive approach to the effective administration and coordination of programs and plans of action designed to meet human needs in Maui County.

Sec. 8-10.3. COMMISSION ON HUMAN CONCERNS.

There shall be an advisory commission on human concerns which shall consist of seven members. The commission shall be appointed by the mayor and shall advise the mayor, council and the director on matters pertaining to human concerns and shall promote community understanding and interest in such matters.

Sec. 8-10.4. SCOPE OF ACTIVITIES.

The department of human concerns shall plan, initiate, supervise, coordinate and evaluate programs and projects, with or without federal or state assistance, which provide expanded human opportunity, assistance, training, counseling, employment or other related guidance and development services for residents. Special emphasis shall be placed upon the needs, aspirations and welfare of the youth, the family and the elderly. The programs and projects of the department shall relate in general to youth welfare, manpower, family welfare, services for senior citizens and community relations.

The scope of activity in which the department of human concerns may be involved shall include, but not be limited to: housing; youth training, development and consultation services; youth employment; youth delinquency and rehabilitation programs; day care services; orientation and tutoring for new residents; career advice and job orientation; retirement planning and program development for senior citizens.

CHAPTER 11.

DEPARTMENT OF WATER SUPPLY

Sec. 8-11.1. ORGANIZATION.

There shall be a department of water supply consisting of a board of water supply, a director of the department of water supply, and the necessary staff.

Sec. 8-11.2. FUNCTION OF THE DEPARTMENT.

All water and sanitary sewerage systems of the county, including water rights and water sources, together with all materials, supplies and equipment and all real and personal property used or useful in connection with such water and sanitary sewerage systems, shall be under the control of the department.

Sec. 8-11.3. BOARD OF WATER SUPPLY.

The board of water supply shall consist of seven members appointed by the mayor with the approval of the council for terms of five years. The planning director and the director of public works shall be non-voting ex-officio members of the board of water supply.

The board of water supply shall:

1. Adopt rules and regulations relating to the management, control, operation, preservation and protection of the water-works and sanitary sewerage systems of the county to be approved by the mayor.
2. Prepare and submit to the mayor a request for an annual operating and capital improvement budget. The water board's capital improvement projects shall be consistent with the county's general plan and shall be processed through the county's planning department.
3. Recommend to the county council water and sanitary sewerage rates.

Sec. 8-11.4. DIRECTOR OF THE DEPARTMENT OF WATER SUPPLY.

The director of the department of water supply shall be

appointed and may be removed by the mayor. The director shall have had a minimum of five years of training and experience in a responsible administrative capacity, either in public service or private business, or both.

The director of the department of water supply shall:

1. Be the administrative head of the department of water supply.
2. Recommend regulations to the board.
3. Have such other powers and duties as may be provided by law or as may be assigned by the mayor.

#### Sec. 8-11.5. REVENUES.

The revenues derived by the department of water supply shall be kept in a separate fund and shall be such as to make the department self-supporting.

### CHAPTER 12.

#### DEPARTMENT OF POLICE

#### Sec. 8-12.1. ORGANIZATION.

There shall be a department of police consisting of a police commission, a chief of police, and the necessary staff.

#### Sec. 8-12.2. POLICE COMMISSION.

The police commission shall consist of seven members appointed by the mayor with the approval of the council for terms of five years.

The police commission shall:

1. Adopt such rules as it may consider necessary for the conduct of its business and regulation of the matters committed to its charge by law.
2. Prepare and submit to the mayor a request for an annual appropriation for the operation of the department.
3. Receive, review and investigate any charges brought forth by the public against the conduct of the department or any of its members and submit a written report of its findings to the chief of police for his disposition.

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

Sec. 8-12.3. CHIEF OF POLICE.

The chief of police shall be appointed and may be removed by the police commission. He may be removed by the police commission only after being informed in writing of the charges which resulted in his dismissal, and after being given a hearing before the commission. The chief of police shall have had a minimum of five years of training and experience in law enforcement, at least three of which shall have been in a responsible administrative capacity.

The chief of police shall:

1. Be the administrative head of the department of police.
2. Be responsible for the preservation of the public peace, prevention of crime, detection and arrest of offenders against the law, protection of 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.
3. Be responsible for traffic safety and traffic safety education.
4. Train, equip, maintain and supervise the force of police officers and employees of the department.
5. Have such other powers and duties as may be required by law.

Sec. 8-12.4. DISMISSAL, SUSPENSION OR DEMOTION.

The dismissal, suspension or demotion of any police officer or employee in the police department shall be under procedures set forth by law or under any lawful labor agreements entered into thereunder.

CHAPTER 13.

DEPARTMENT OF LIQUOR CONTROL

Sec. 8-13.1. ORGANIZATION.

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

Sec. 8-13.2. LIQUOR CONTROL COMMISSION.

The liquor control commission shall consist of five members appointed by the mayor with the approval of the council for terms of five years.

The liquor control commission shall:

1. Prepare and submit a request for an annual appropriation for the operation of the department.
2. 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.
3. Grant, renew or refuse applications for licenses for the manufacture, importation and sale of liquor in the county under applicable laws and regulations.
4. Have such other powers and duties as may be provided by law, not in conflict with the provisions of this section.

Sec. 8-13.3. LIQUOR CONTROL ADJUDICATION BOARD.

The liquor control adjudication board shall consist of five members appointed by the mayor with the approval of the council for terms of five years.

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 control commission, and impose such fines or punishment as may be provided by law upon the conviction thereof.

Sec. 8-13.4. DIRECTOR OF THE DEPARTMENT OF LIQUOR CONTROL.

The director of the department of liquor control shall be appointed and may be removed by the liquor control commission. The director of the department of liquor control shall have had a minimum of five years of training and experience in law enforcement, at least three of which shall have been in a responsible administrative capacity.

The director of the department of liquor control shall:

1. Be the administrative head of the department of liquor control.

2. Investigate complaints regarding violations of the liquor control laws of the State or complaints regarding violations of rules and regulations established by the liquor control commission and report such violations to the prosecuting officer of the county.

CHAPTER 14.

COST OF GOVERNMENT COMMISSION

Sec. 8-14.1. DECLARATION OF POLICY.

It is declared to be the policy of the county of Maui, while giving full recognition to the separation of powers between the legislative and executive branches of government provided in this charter and not to interfere therewith, to promote economy, efficiency and improved service in the transaction of the public business in the legislative and executive branches of the county of Maui by:

1. Limiting expenditures to the lowest amount consistent with the efficient performance of essential services, activities and functions.

2. Eliminating duplication and overlapping of services, activities and functions.

3. Consolidating services, activities and functions of a similar nature.

4. Abolishing services, activities and functions not necessary to the efficient conduct of government.

5. Defining and limiting executive functions, services and activities.

Sec. 8-14.2. COST OF GOVERNMENT COMMISSION.

For the purpose of carrying out the policy set forth herein, there shall be a cost of government commission. The commission shall consist of seven members appointed by the mayor with the approval of the council. The mayor shall appoint the members of the commission within forty-five (45) days after the effective date of this charter.

The commission shall:

1. Prepare and submit to the mayor a request for an annual appropriation for the operation of the commission.

2. Study and investigate the then existing 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.

3. Be authorized to secure directly from any department, commission, board, office, or any other instrumentality 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.

4. Shall review the salaries of the mayor and the county council and shall submit their recommendations thereon to the mayor and the council.

5. Submit a report of its findings and recommendations to the mayor and council not later than eighteen months after its appointment.

Sec. 8-14.3. TERM OF OFFICE.

Each commission shall cease to exist sixty (60) days after the submission to the mayor and council of its report. Eighteen months thereafter, the mayor shall appoint a new commission, no members of which shall have been members of the preceding commission, and in like manner shall appoint a new com-



mission at like intervals of eighteen months after the previous commission shall cease to exist.

CHAPTER 15.

CIVIL DEFENSE AGENCY

Sec. 8-15.1. ORGANIZATION AND FUNCTIONS.

There shall be a civil defense agency whose powers, duties, functions and organization shall be as provided by law.

ARTICLE 9. FINANCIAL PROCEDURES.

Sec. 9-1. FISCAL YEAR.

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

Sec. 9-2. PREPARATION AND SUBMISSION OF BUDGET AND CAPITAL PROGRAM.

1. On or before the first day of March before the ensuing fiscal year begins, the mayor shall submit to the county council (a) an operating budget for the ensuing fiscal year, (b) a capital program, and (c) an accompanying message.

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

Sec. 9-3. SCOPE OF BUDGET AND MESSAGE.

1. The budget shall present a complete financial plan for the current operations of the county and its departments in the ensuing fiscal year, showing all funds and reserves. It shall be set up as provided by the administrative code, insofar as there is no provision, as provided by the county council after consultation with the mayor.

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

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

Sec. 9-4. BUDGET AND CAPITAL PROGRAM: NOTICE AND HEARING.

A public hearing shall be held on the budget and capital program no later than six weeks after their submission. At this hearing all persons interested shall have an opportunity to be heard. At least two weeks before the hearing, the county council shall publish in a newspaper of general circulation in the county the general summaries of the budget and capital program and a notice setting out the time and place for public hearing thereon and for their consideration by the council.

Sec. 9-5. BUDGET: COUNCIL ACTION.

1. After the public hearing, the county council may adopt 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, appropriations for debt service or for estimated cash deficit. But in all cases the estimated revenues, proposed expenditures and total appropriations for the ensuing fiscal year shall be equal in amount.

2. The council shall adopt the budget on or before the fifteenth day of the last month of the fiscal year currently ending. If it fails to do so, the budget submitted by the mayor shall be deemed adopted by the council as the budget for the ensuing fiscal year.

3. The adopted budget shall be in effect on and after the first day of the fiscal year to which it applies. By virtue of the adoption of the budget, the several amounts listed in the budget column entitled "Appropriations" shall be appropriated to the specified departments and programs.

Sec. 9-6. CAPITAL PROGRAM: SCOPE; COUNCIL ACTION.

1. The capital program shall contain at least the following:

a. A simple, clear general summary of the detailed contents of the program.

b. The capital improvements pending or proposed to be undertaken within the ensuing fiscal year, together with the estimated cost of each improvement and the pending or proposed method of financing it.

c. The capital improvements proposed for the five years next succeeding the ensuing fiscal year, together with the estimated cost of each improvement and the proposed method of financing it.

2. Capital expenditures to be financed from current revenues in the ensuing fiscal year shall be included in the budget as well as in the capital program. Appropriations for such expenditures shall be included in the budget.

3. After the public hearing on the capital program, the county council may adopt the program with or without amendment. In amending, the council shall request and consider, but need not follow, the recommendations of the mayor as to the proposed amendment.

4. The council shall adopt the capital program on or before the fifteenth day of the last month of the fiscal year currently ending. If it fails to do so, the program submitted by the mayor shall be deemed adopted by the council as the program for the ensuing fiscal year. The adopted program shall be in effect on and after the first day of that year.

5. At any time during a fiscal year, the council by ordinance, may amend the capital program. In amending, the council

shall request and consider, but need not follow, the recommendations of the mayor as to the proposed amendment.

Sec. 9-7. BUDGET AND CAPITAL PROGRAM: PUBLIC RECORDS.

Three copies of the budget and capital program as adopted shall be certified by the mayor and the county clerk. 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. A summary of the budget and capital program as so certified shall be published once in a newspaper of general circulation in the county within three weeks after adoption and copies thereof shall be made available to the county departments and to interested persons.

Sec. 9-8. APPROPRIATIONS AND CHANGES.

1. If during any fiscal year the mayor certifies that there are available for appropriation (a) revenues received from sources not anticipated in the budget for that year or (b) revenues received from anticipated sources but in excess of the budget estimates therefor, the council may make supplemental appropriations for that year up to the amount of the additional revenues so certified. Such appropriations shall be made by ordinance effective immediately upon adoption.

2. To meet a public emergency affecting life, health, or property, the council, upon written request by the mayor, may make emergency appropriations. Such appropriations shall be made by ordinance effective immediately upon adoption and must be approved by all council members present or by seven members of the council. 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 last day of the fiscal year next succeeding that in which the emergency appropriation was made. The total of emergency appropriations in any fiscal year shall not exceed one percent (1%) of the total operating appropriations (excluding those for debt

service) made in the operating budget for that year.

Sec. 9-9. APPROPRIATIONS: REDUCTION AND TRANSFER.

1. 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, he shall report to the county council without delay, indicating the estimated amount of the deficit, any remedial action taken by him, and his recommendations as to any further action to be taken. The council shall then take such further action as it deems necessary to prevent or minimize any deficit. For that purpose it may, by ordinance, reduce one or more appropriations: but no appropriation for debt service or for estimated cash deficit may be reduced, and no appropriation may be reduced by more than the amount of the unencumbered balance thereof or below any amount required by law to be appropriated.

2. If at any time the mayor so requests in writing, the council, by ordinance, may transfer part or all of any unencumbered appropriation balance within a department or from one department to another. No transfer, however, 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.

Sec. 9-10. LAPSE OF APPROPRIATIONS.

Every appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned. The purpose of any such appropriation for a capital expenditure shall be deemed abandoned if three years pass without any expenditure from, or encumbrance of, the appropriation concerned.

Sec. 9-11. PAYMENTS AND OBLIGATIONS.

1. With the exception of debt service charges, no payment

shall be authorized or made and no obligation incurred against the county, except in accordance with appropriations duly made and under such procedures and policies as may be established by ordinance. 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 payments or incurs any obligation in violation of the provisions of this charter, or in violation of the provisions of the procedures and policies established by ordinance, or takes part therein, that action shall be cause for his removal.

2. 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 payments 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 ordinance.

Sec. 9-12. AUDIT OF ACCOUNTS.

Within thirty (30) days after the beginning of each fiscal year, the county council shall provide for an independent audit of the accounts and other evidences of financial transactions of the county and of all operations for which the county is responsible. 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 any of its operations.

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. The scope of the audit shall be in accordance with the terms of a written contract to be signed by the presiding officer of the council, which contract shall encourage recommendations for better financial controls and procedures and shall provide for the completion of the audit within a reasonable time after the close of the previous fiscal year. A copy of the audit report shall be filed with the county clerk and shall be a public record.

Upon the death, resignation, removal or expiration of the term of any county administrative officer, including the administrative head of the office of council services, the director of finance shall cause an audit and investigation of the accounts maintained by the officer and by his department or agency to be made, and shall report the results thereof to the mayor and the council. In case of the death, resignation or removal of the director of finance, the council shall cause an independent audit to be made of his accounts. 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.

#### Sec. 9-13. SURPLUS AND RESERVES.

Any unappropriated surplus and any unencumbered balances of any appropriations in any fund at the end of any fiscal year shall be available for appropriation for the succeeding fiscal year or years. The director of finance, when authorized by the council, shall transfer all or a portion of the surplus to an emergency fund or to a capital improvement reserve fund.

The funds in an emergency reserve fund may be used to meet any emergency. Funds transferred to a capital improvement reserve fund shall be expended only for the specific improvements designated, provided that the council may change the purposes for which such capital improvement reserve fund may be expended by ordinance passed upon a vote of not less than seven members of the council. No amounts transferred into an emergency

reserve fund or a capital improvement reserve fund shall be deducted from amounts to be raised by taxes for ensuing years.

Sec. 9-14. CENTRALIZED PURCHASING.

The mayor may, at his discretion, establish procedures for the purchase of all materials, supplies, equipment and services required by any department of the county through the department of finance or such centralized purchasing department as he may establish.

Sec. 9-15. INSURANCE.

The director of finance may procure insurance for the protection of all properties and all activities of the county in such amounts and under such conditions as the council shall, by ordinance, prescribe from companies licensed to do business in the State.

Sec. 9-16. SURETY BONDS.

Except as otherwise provided, the council shall determine which officers and employees shall be required to furnish surety bonds and shall determine the kind and amount of each individual or blanket bond. All officers concerned with the receipt, collection, custody or disbursement of public funds shall be bonded. The director of finance shall procure all such surety bonds from companies licensed to do business in the State. All such bonds shall be in favor of and the premiums thereon shall be borne by the county.

Sec. 9-17. CONTRACTS.

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

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



the purposes set forth therein.

## ARTICLE 10. CODE OF ETHICS

### Sec. 10-1. DECLARATION OF POLICY.

Elected and appointed officers and employees shall demonstrate by their example the highest standards of ethical conduct to the end that the public may justifiably have trust and confidence in the integrity of government. They, as agents of public purpose, shall hold their offices or positions for the benefit of the public, shall recognize that the public interest is their primary concern, and shall faithfully discharge the duties of their offices regardless of personal considerations.

### Sec. 10-2. STANDARDS OF CONDUCT.

1. All elected and appointed officials, officers and employees shall, within thirty (30) days of assuming office or employment, file with the board a list, sworn to under oath, (a) of all real property within the county other than their principal place of residence in which they have any right, title or interest; (b) of all business firms which contract for county business in which they have any financial interest, or with whom there exists a contractual relationship; and (c) of all their places of employment, including part-time employment. Amendments to the list, including additions, deletions or changes in title, interest or employment, shall be made within thirty (30) days of the occurrence of the amendments.

2. Whenever an officer or employee has a controlling interest in any matter or a financial interest which may be affected by an action of a county agency, the nature and extent of the interest shall be disclosed by the officer or employee as promptly as possible. Such officer or employee shall not vote on any matters affected by such interest.

### Sec. 10-3. PROHIBITIONS.

1. No officer or employee of the county shall:
  - a. Solicit, accept or receive any gift; directly or

indirectly, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or in any other form, under circumstances in which it can reasonably be inferred that the gift is intended to influence him in the performance of his official duties or is intended as a reward for any official action on his part.

b. Disclose information which, by law or practice, is not available to the public and which he acquires in the course of his official duties or use such information for his personal gain or for the benefit of anyone.

c. Engage in any business transaction or activity or have a financial interest, direct or indirect, which is incompatible with the proper discharge of his official duties or which may tend to impair his independence of judgment in the performance of his official duties.

d. Represent private interests in any action or proceeding against the interests of the county or appear in behalf of private interests before any agency, except as otherwise provided by law.

e. Use county property or personnel for other than public activity or purpose.

2. The county shall not enter into any contract with an officer or employee or with a firm in which an officer or employee has a substantial interest involving services or property of a value in excess of \$500.00 unless the contract is made after competitive bidding where susceptible to competitive bidding.

#### Sec. 10-4. PENALTIES.

1. Any person who violates the provisions of this code of ethics shall be subject to a fine to be provided for by ordinance adopted by the county council, and in addition to any such fine that may be imposed, may be suspended or removed from office or employment by the board of ethics.

2. The prosecuting attorney shall be responsible for the enforcement of the provisions of this article.

Sec. 10-5. BOARD OF ETHICS.

There shall be a board of ethics.

1. The board shall consist of five members appointed by the mayor with the approval of the council for a term of five years.

2. The board shall annually select a chairman and a secretary from among its members and shall adopt rules necessary for the conduct of its meetings.

3. The board shall meet at least quarterly at the call of the chairman and a majority of its members. A majority of the membership shall constitute a quorum for the conduct of business, and the affirmative vote of at least a majority shall be necessary to take any action.

4. It shall be the function of the board:

a. To initiate, receive, hear and investigate complaints of violations of the code of ethics and to transmit its findings to the prosecuting attorney.

b. To render advisory opinions with respect to application of the code on request. All requests for advisory opinions shall be answered within thirty (30) days of its filing; failure to submit an advisory opinion within the thirty (30) days shall be deemed a finding of no breach of the code.

c. To prescribe a form for the disclosure provided in this section and to implement the requirements of the disclosure provisions.

d. To examine all disclosure statements filed and to comment on or advise corrective action as to any matters that may indicate a conflict of interest.

e. To propose revisions of the code to assure its effectiveness.

f. To adopt such rules and regulations, having the force and effect of law, as will be necessary to provide for the enforcement of the provisions of the code of ethics.

5. In the course of its investigations, the board shall have the power to administer oaths and subpoena witnesses and to compel the production of books and papers pertinent thereto.

6. The board, after due deliberation on issues before it, shall make findings of facts and conclusions regarding such issues and shall transmit to the prosecuting attorney such findings of facts and conclusions for appropriate disposition.

7. If any officer or employee, or former officer or employee, obtains an advisory opinion from the board and governs himself accordingly, or acts in accordance with the opinions of the board, he shall not be held guilty of violating any of the provisions of the code.

8. The council and mayor shall cooperate and provide financing and personnel reasonably required by the board in the performance of its duties.

#### ARTICLE 11. INITIATIVE AND REFERENDUM

##### Sec. 11-1. POWERS.

The voters of the county shall have power to propose ordinances to the council and, if the council fails to adopt an ordinance so proposed without any change in substance, to adopt and reject the same at the polls, such power being known as the initiative power, and shall have power to require reconsideration by the council of any adopted ordinance and, if the council fails to repeal an ordinance so reconsidered, to approve or reject the same at the polls, such power being known as the referendum power provided that the initiative and referendum power shall not extend to any part or all of the capital program or annual budget; or to any property tax levied; or to any ordinance making or repealing any appropriation of money; or to any ordinance authorizing the issuance of bonds; or to any ordinance authorizing the appointment of employees; or to any emergency ordinance; provided that such powers shall be applicable to any ordinance concerning the salaries of officers and employees whose salaries are not otherwise established by law.

Sec. 11-2. PETITIONERS' COMMITTEE.

Any five qualified voters may commence initiative or referendum proceedings by filing with the county clerk an affidavit stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent, and setting out in full the proposed initiative ordinance or citing the ordinance sought to be reconsidered. Promptly after such affidavit is filed, the clerk shall issue the appropriate petition blanks to the petitioners' committee.

Sec. 11-3. PETITIONS.

1. NUMBER OF SIGNATURES. Initiative and referendum petitions must be signed by not less than twenty percent (20%) of the voters registered in the last general election.

2. FORM AND CONTENT. All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature shall be followed by the place of residence and voting precinct of the person signing. Petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance proposed or sought to be reconsidered.

3. AFFIDAVIT OF CIRCULATOR. Each paper of a petition shall have attached to it when filed an affidavit executed by the circulator thereof stating that he personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in his presence, that he believes them to be the genuine signatures of the persons whose names they purport to be and that each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered.

4. TIME FOR FILING REFERENDUM PETITIONS. Referendum petitions must be filed within sixty (60) days after the effective date of the ordinance sought to be reconsidered.

Sec. 11-4. PROCEDURE AFTER FILING.

1. CERTIFICATE OF CLERK; AMENDMENT. Within twenty (20) days after the petition is filed, the county clerk shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective and shall promptly send a copy of the certificate to the petitioners' committee. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners' committee files a supplementary petition upon additional papers within ten (10) days after receiving the copy of such certificate. Within five (5) days after a supplementary petition is filed, the clerk shall complete a certificate as to the sufficiency of the petition, as amended, and promptly send a copy of such certificate to the petitioners' committee as in the case of an original petition. If a petition or amended petition is certified sufficient, or if a petition or amended petition is certified insufficient, and the petitioners' committee does not elect to amend or request council review as provided hereinafter, the clerk shall promptly present his certificate to the council and the certificate shall then be a final determination as to the sufficiency of the petition.

2. COUNCIL REVIEW. If a petition has been certified insufficient, and the petitioners' committee does not file notice of intention to amend it, or if an amended petition has been certified insufficient, the committee may, within two (2) days after receiving the copy of such certificate, file a request that it be reviewed by the council. The council shall review the certificate at its next meeting following the filing of such request and approve or disapprove it, and the council's determination shall then be a final determination as to the sufficiency of the petition.

3. COURT REVIEW; NEW PETITION. A final determination as to the sufficiency of a petition shall be subject to judicial review by a court of competent jurisdiction. A final judicial determination of insufficiency shall not prejudice the filing of a new petition for the same purpose.

Sec. 11-5. SUSPENSION OF ORDINANCE.

When a referendum petition or amended petition has been certified as sufficient by the county clerk, the ordinance specified in the petition shall not go into effect, or further action thereunder shall be suspended if it shall have gone into effect, until and unless approved by the voters, as hereinafter provided.

Sec. 11-6. ACTION ON PETITIONS.

1. ACTION BY COUNCIL. When an initiative or referendum petition has been finally determined sufficient, the council shall promptly consider the proposed initiative ordinance or reconsider the referred ordinance by voting its repeal. If the council fails to adopt a proposed initiative ordinance without change in substance or fails to repeal the referred ordinance within sixty (60) days after the date the petition was finally determined sufficient, it shall submit the proposed or referred ordinance to the voters of the county.

2. SUBMISSION TO VOTERS. The vote of the county on a proposed or referred ordinance shall be held not less than ninety (90) days and not more than one year from the date of the final council vote thereon. The council may in its discretion, and it shall if no regular election is to be held within such period, provide for a special election. Copies of the proposed or referred ordinance shall be made available at the polls.

3. WITHDRAWALS OF PETITIONS. An initiative or referendum petition may be withdrawn at any time prior to the thirtieth day preceding the day scheduled for a vote of the county by filing with the county clerk a request for withdrawal signed by at least four members of the petitioners' committee. Upon the filing of such request, the petition shall have no further force or effect and all proceedings thereon shall be terminated.

Sec. 11-7. RESULTS OF ELECTION.

1. INITIATIVE. If a majority of the qualified electors voting on a proposed initiative ordinance vote in its favor, it

shall be considered adopted upon certification of the election results. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

2. REFERENDUM. If a majority of the qualified electors voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the election results.

Sec. 11-8. PUBLICATION: REPEAL AND AMENDMENT.

Initiative and referendum ordinances adopted or approved by the voters shall be published and shall take effect as prescribed for ordinances generally. Such ordinances may be amended or repealed by the council, but only by the affirmative vote of at least two-thirds of its entire membership.

ARTICLE 12. RECALL

Sec. 12-1. RECALL PROCEDURE.

Any elective officer provided for in this charter 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. Such petitions shall be signed by not less than twenty percent (20%) of the voters registered in the last general election.

Sec. 12-2. 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.

Sec. 12-3. SIGNATURES.

Each signer of a recall petition shall sign his name and shall place thereon after his name, his place of residence and



voting precinct. 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 his 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.

Sec. 12-4. FILING AND CERTIFICATION.

All papers comprising a recall petition shall be assembled and filed with the county clerk as one instrument within thirty (30) days after the filing, with the clerk, of the affidavit stating the name and office of the officer sought to be removed. Within ten (10) days from the date of the filing of such petition, the clerk shall determine the sufficiency thereof and attach thereto a certificate showing the result of his examination. If the clerk shall certify that the petition is insufficient, he 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.

Sec. 12-5. 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 12-3 of this article appended to petitions issued, signed and filed as required for the original petition at any time within twenty (20) days after the date of the certificate of insufficiency by the clerk. The clerk shall within ten (10) days after such supplemental petitions are filed make a like examination of them, and if his certificate shall show the same to be still insufficient, he shall return it in the manner described in section 12-4 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.

Sec. 12-6. RECALL ELECTION.

If a recall petition or supplemental petition shall be

certified by the clerk to be sufficient, he shall at once submit the same with his certificate to the council and shall notify the officer sought to be recalled of such action. If the official whose removal is sought does not resign within five (5) 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 (60) nor more than ninety (90) days after the petition has been presented to the council, at the same time as any other special election held within such period; but if no such election is to be held within such period, the council shall call a special recall election to be held within the time aforesaid. If less than fifty percent (50%) of the voters registered in the last general election shall vote at such recall election, the officer sought to be recalled shall not be deemed recalled regardless of the outcome of the election.

Sec. 12-7. 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?" Immediately following each such question, there shall be printed on the ballots the two propositions in the order set forth: "For the recall of (name of person)." "Against the recall of (name of person)." Immediately to the left of the proposition shall be placed a square in which the voters, by marking an X mark, may vote for either of such propositions. A majority vote shall be sufficient to recall such officer, subject to the provisions of section 12-6 of this article.

Sec. 12-8. SUCCEEDING OFFICER.

The incumbent, if not recalled in such election, shall continue in office for the remainder of his unexpired term subject to the recall as before, except as provided in this charter. If recalled in the recall election, he 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 person so removed shall hold office during the unexpired term of his predecessor.

Sec. 12-9. IMMUNITY TO RECALL.

The question of the removal of any officer shall not be submitted to the voters until such person has served six (6) months of the term during which he is sought to be recalled, nor, in case of an officer retained in a recall election, until one year after that election.

ARTICLE 13. GENERAL PROVISIONS

Sec. 13-1. DEFINITIONS.

1. The term "department" shall mean any office, department, board, commission or other governmental unit of the county, but shall not include the county council.

2. The terms "board" and "commission" shall mean a board or commission which establishes policies for a department or which performs adjudicative functions.

3. The term "employee" shall mean any person, except an officer, employed by the county, but the term shall not include an independent contractor.

4. The term "law" shall mean any law of the State of Hawaii or any ordinance of the County of Maui or any rule or regulation of any department having the force and effect of law.

5. The term "officer" shall include the following:

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

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

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

d. Deputies of the corporation counsel and prosecuting attorney.

6. The term "State" shall mean the State of Hawaii.

Sec. 13-2. BOARDS AND COMMISSION.

1. The members of all boards or commissions shall serve

for staggered terms. Upon the initial appointment of the members of a commission consisting of three members appointed for a term of five years, one shall be appointed 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 five members appointed for a term of five years, 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 appointed for a term of five years, 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.

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

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

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

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

6. No member of any board or commission shall be eligible for a second appointment to the same board or commission prior to the expiration of two years, provided that members of any board or commission initially appointed for a term of one year and two years shall be eligible to succeed themselves for an additional term. No member of any board or commission shall serve beyond the time when his term expires unless he is specifically reappointed. A vacancy shall be automatically created upon the expiration of a member's term and this vacancy shall be filled within sixty (60) days by an appointment made by the mayor with the confirmation

of the council.

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

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

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

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

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

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

13. The members of boards and commissions shall <sup>NOT</sup> receive ~~AD~~ compensation but shall be entitled to be paid for necessary expenses incurred by them in the performance of their duties. Necessary expenses may be paid in advance as per diem allowances as may be established by ordinance.

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

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

Sec. 13-3. TITLE TO PROPERTY.

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

county. Upon the retirement of all bonded indebtedness of the department of water supply, all right, title and interest in and to any real property held in the name of the board of water supply shall be promptly transferred and conveyed to the county.

Sec. 13-4. FACSIMILE SIGNATURES.

Whenever any person is required to sign negotiable instruments, multiple bonds, or certification of payrolls, the signatures may be a facsimile.

Sec. 13-5. EXPENSES.

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

Sec. 13-6. CLAIMS.

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

Sec. 13-7. ANNUAL REPORTS.

Not later than ninety (90) days after the close of the fiscal year, each department shall make an annual written report of its activities to the mayor in such form and under such rules as the mayor may prescribe. Copies of such reports shall be filed in the office of the county clerk.

Sec. 13-8. ACCEPTANCE OF GIFTS OR DONATIONS.

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

Sec. 13-9. RECORDS AND MEETINGS OPEN TO PUBLIC.

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

2. All meetings of boards and commissions shall be held in the county building or other public places and no such body shall take any official action except at a meeting open to the public in accordance with law.

Sec. 13-10. RULES AND REGULATIONS.

All rules and regulations having the force and effect of law adopted by any board, commission or administrative head of a department must be approved by the mayor prior to going into effect, provided that service rates or fees, license fees and other charges established by boards and commissions need not be so approved.

Sec. 13-11. PENALTIES.

The council shall, by ordinance, provide for the punishment of violations of any provisions of this charter and may provide for punishment of violations of ordinances and rules and regulations having the effect of law, but no penalty shall exceed the amount of \$1,000.00 or one year's imprisonment, or both.

Sec. 13-12. COUNTY ELECTIONS.

County elections shall be conducted in accordance with the election laws of the State insofar as applicable, but the county primary and general elections shall be held in every two years following the initial election.

Sec. 13-13. OATHS OF OFFICE.

Before entering upon the duties of his office, each officer elected or appointed shall take and subscribe to such oath

or affirmation as shall be provided by law.

Sec. 13-14. IMPEACHMENT OF OFFICERS.

Any officer appointed or elected to an elective office may be impeached for malfeasance, misfeasance or nonfeasance in office. Such impeachment proceedings shall be commenced in the second circuit court, State of Hawaii. The charge or charges shall be set forth in writing in a verified petition for impeachment signed by not less than five percent (5%) of the voters registered in the last general election. If the court sustains the charge or charges, such officer shall be deemed removed from office. The officer sought to be impeached and the petitioners seeking the impeachment shall bear their own attorney's fees and other costs of such proceedings.

Sec. 13-15. COOPERATION WITH OTHER ORGANIZATIONS.

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

Sec. 13-16. PROVISIONS OF CHARTER INOPERATIVE: WHEN.

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.

Sec. 13-17. TITLES, SUBTITLES, PERSONAL PRONOUNS; CONSTRUCTION.

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.

Sec. 13-18. SEPARABILITY.

If any provision of this charter is held invalid, the other provisions of this charter shall not be affected thereby.



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

#### ARTICLE 14. CHARTER AMENDMENT

##### Sec. 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 (10%) of the voters registered in the last general election, setting forth the proposed amendments. Such petitions 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 which may be made by the county attorney.

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 his examination of the petition within fifteen (15) days.

The council shall then hold a public hearing and shall determine whether the amendments proposed shall be submitted to the voters for approval. The determination by the council to submit such proposed amendments to the voters shall be by resolution adopted by a vote of five or more members of the council within forty-five (45) days after the receipt of the petition.

##### Sec. 14-2. ELECTIONS TO BE CALLED.

1. Any resolution of the council proposing amendments to the charter, whether initiated by the council or by petition, shall provide that the proposed amendments shall be submitted

to the voters of the county at the next general election.

2. The county clerk shall have the proposed amendments published in a newspaper of general circulation in the county at least forty-five (45) 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 become effective at the time fixed in the amendment, or if no time is fixed therein, thirty (30) days after its adoption by the voters of the county. Any charter amendment shall be published in a newspaper of general circulation in the county within forty-five (45) days of the effective date of such amendment.

Sec. 14-3. MANDATORY REVIEW.

Six years after adoption of the charter, the council shall submit to the voters at any general or special election the question, "Shall a charter commission be appointed to propose amendments to the charter?" Should the majority of the voters voting thereon approve the appointment of a charter commission, the mayor, with the approval 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.

The commission may propose amendments to this charter or draft a new charter which shall be submitted to the county clerk within twelve (12) months after such commission has been appointed. Upon receipt of the amendments or new charter, the county clerk shall provide for the submission of such amendments or new charter to the voters of the county at any general or special election as may be determined by the commission. Any special election shall be held not less than forty-five (45) nor more than seventy-five (75) days after receipt of the amendments or new charter by the county clerk.

The commission shall publish not less than forty-five (45) days before any election, at least once in a 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 thereof, at intervals of ten (10) years, the mayor, with the approval of the council, shall appoint a charter commission composed of eleven (11) members to study and review the operation of the government of the county under such amended or new charter and to propose amendments or to draft a new charter in the manner hereinabove set forth.

#### ARTICLE 15. TRANSITIONAL PROVISIONS

##### Sec. 15-1. SCHEDULE.

After the approval of this charter by the voters, this charter shall take full effect on January 1, 1977, except that the election of the mayor and the members of the county council in 1976 shall be in accordance with the then existing provisions of the charter of the County of Maui. Thereafter, the mayor and the members of the county council shall be elected in accordance with the provisions of this revised charter, and will assume their duties according to this revised charter both as to their terms of office and powers thereunder.

##### Sec. 15-2. 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 which are inconsistent with this charter shall be superseded by the provisions of this charter at its effective date. All laws relating to or affecting this county or its departments, officials 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 of ordinances or resolutions adopted by the county council under the provisions of this charter.

Sec. 15-3. STATUS OF DEPARTMENTS AND TRANSFER OF FUNCTIONS.

When this charter takes full effect, all departments, 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. Members of the various boards, commissions and committees holding office at the effective date of this charter shall continue in office unless they resign or until their terms of office shall expire.

Sec. 15-4. TRANSFER OF RECORDS AND PROPERTY.

All records, property and equipment whatsoever of any department which are assigned to another department by this charter shall be transferred and delivered to the department to which said functions are so assigned.

Sec. 15-5. ADMINISTRATIVE HEADS OF DEPARTMENTS CONTINUED IN OFFICE.

Notwithstanding any provision to the contrary, all administrative heads of departments holding office when this charter takes full effect shall continue in office without reappointment until they are removed by their respective appointing authorities.

Sec. 15-6. LAWFUL OBLIGATIONS OF THE COUNTY.

All lawful obligations of the county and its departments 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 its departments, and all writs, prosecutions, actions and proceedings by or against the county and its departments shall remain unaffected by the adoption of this charter.

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ADOPTED by the MAUI COUNTY CHARTER COMMISSION

THIS: 19th DAY OF FEBRUARY, 1976.

Respectfully submitted,

Charles A. Kekumano  
MONSIGNOR CHARLES A. KEKUMANO,  
CHAIRMAN

Edwina U. Bright  
EDWINA U. BRIGHT,  
VICE CHAIRMAN

Hideo Abe  
HIDEO ABE

Catalino Agliam  
CATALINO AGLIAM

Margaret Cameron  
MARGARET CAMERON

Sanae N. Moikeha  
SANAE N. MOIKEHA

Ralph M. Murakami  
RALPH M. MURAKAMI

Stephen Petro  
STEPHEN PETRO

Lloyd K. Sodehani  
LLOYD K. SODETANI

Joseph M. Souki  
JOSEPH M. SOUKI

Allan R. Sparks  
ALLAN R. SPARKS