

**RULES OF PRACTICE AND PROCEDURE OF THE HAWAI'I COUNTY
PUBLIC ACCESS, OPEN SPACE, AND NATURAL RESOURCES
PRESERVATION COMMISSION**

RULE 1. AUTHORITY

These rules and regulations are promulgated by the public access, open space, and natural resources preservation commission in furtherance of the county charter of the County of Hawai'i, State of Hawai'i Sections 10-15 and 10-16 and pursuant to Chapter 2, Article 42, Sections 2-214 through 2-218, of the Hawai'i County Code, 1983 (2005 Edition, as amended).

RULE 2. GOALS

The goals of the commission are:

- (a) to solicit suggestions from the community for lands considered to be worthy of preservation;
- (b) to provide the mayor of the County of Hawai'i with an island wide list of prioritized properties;
- (c) to review stewardship grant applications and to recommend recipients of stewardship grants from the maintenance fund to the department of finance;
- (d) to monitor the performance of the stewardship grant recipients to ensure proper stewardship, preservation and conservation of the lands and easements acquired by the public access, open space,, and natural resources preservation fund; and
- (e) to explore methods of funding land acquisition, stewardship, and make recommendations to the mayor.

RULE 3. DEFINITIONS

Wherever used in these rules and regulations, the following terms shall be taken to have the following meaning:

- (a) "Charter" means the county charter of the County of Hawai'i, State of Hawai'i.
- (b) "Commission," "Chair," "Vice Chair" and "Commissioner" mean the public access, open space, and natural resources preservation commission of the County of Hawai'i, its chair, its vice chair and a member thereof, respectively.
- (c) "Council" means the county council of the County of Hawai'i.
- (d) "Department" means the department of finance of the County of Hawai'i or its authorized representative.
- (e) "Director" means the director of finance of the County of Hawai'i.

- (f) "HRS" means Hawai'i Revised Statutes, as may be amended from time to time.
- (g) "Mayor" means the mayor of the County of Hawai'i.
- (h) "Meeting" means the convening of the commission for which a quorum is required to make a decision or to deliberate toward a decision upon a matter over which the commission has advisory power.
- (i) "Person" means when appropriate to the context, not only individuals, but corporations, firms, associations, societies, and federal, state, and county departments or agencies.
- (j) "Presiding Officer" means the chair of the commission, or in the chair's absence, the vice chair, or in the absence of both the chair and the vice chair, the acting chair appointed pursuant to Rule 6-2.
- (k) "Public Record" shall have the meaning set forth in Chapter 92, HRS, and shall include maps, rules and regulations, written statements of policy or interpretation formulated, adopted or used by the commission in its functions, all decisions, orders, minutes of the meetings and records of any docket on file with the commission but shall not include records which invade the right of privacy of an individual.
- (l) "Rules" means these rules of practice and procedure of the commission.
- (m) "Secretary" means the secretary of the commission.

RULE 4. DUTIES AND RESPONSIBILITIES

The duties and responsibilities include:

- (a) The commission staff may accept suggestion forms from the public at any time throughout the year and shall forward to the commission all complete suggestion forms received by January 31 of each year to the commission for evaluation. The commission may conduct interviews and perform site visits in accordance with Rule 6-4(h) and other activities reasonably necessary to formulate a recommendation;
- (b) The commission shall adopt and utilize a standard assessment criteria form for use in evaluating and scoring each parcel or easement. The factors for scoring shall be those set forth in the charter and Hawai'i County Code Section 2-214.1(c). The assessment criteria form shall assign each factor set forth in the code a range of points, the total of which shall be one hundred (100) points. The commission shall give emphasis to acquisitions where the County's contribution can be leveraged to obtain State, Federal, and/or private funds. Those proposed parcels or easements receiving fifty (50) points or more of the total available assessment criteria points in conformance with the assessment criteria form shall be included in the priority list. Those parcels or easements receiving less than fifty (50) points of the total available assessment criteria points in conformance with the assessment criteria form shall be noted in the annual report but not included in the priority list;
- (c) From the submitted suggestions received annually, the commission shall develop and submit to the mayor an island-wide priority list of qualifying lands or easements worthy of preservation. The priority list shall prioritize parcels and easements on an

- island-wide rather than district basis. The list shall include the significance of each parcel or easement identified, the reason for its priority, and its anticipated use after acquisition;
- (d) The commission shall update the priority list by December 31 of each year and include the priority list in an annual report to the mayor, which shall be transmitted to the mayor within a reasonable period of time following the annual update of the priority list;
 - (e) The commission shall explore methods of funding land acquisition and make recommendations to the mayor;
 - (f) The commission staff may receive grant applications from the public at any time throughout the year and shall forward all complete grant applications received by August 15 of each year to the commission for evaluation. Incomplete applications and applications received after the August 15th deadline shall be rejected for the current year but may be accepted for following year consideration. The commission shall review stewardship grant applications, business plans, management plans, agreements, and other documentation accompanying grant applications. The commission may conduct interviews and perform site visits in accordance with Rule 6-4(h) and other activities reasonably necessary to formulate a recommendation. The commission shall make recommendations to the director of the department regarding applications for stewardship grants from the maintenance fund. Recommendations shall address whether grant applicants have the ability to complete their proposed projects according to the project plan, on time, and within cost estimates, in accordance with section 10-16(h) of the Charter; and
 - (g) The commission shall review stewardship grant recipient performance reports, conduct interviews, and perform site visits and other activities necessary to verify that grant objectives are being met. The commission shall forward its findings to the director.

RULE 5. PURPOSE

These rules govern the practice and procedure of the commission and provide a systematic and democratic method of conducting meetings in order to ensure that all persons will have an opportunity to participate in an open, productive, and orderly manner.

RULE 6. ORGANIZATION AND PARLIMENTARY RULES

6-1. ORGANIZATION

The commission shall consist of nine members. One member shall reside in each county council district. The members shall be appointed by the mayor and confirmed by the council. The members may be removed upon recommendation by the

mayor and the approval of the council. The members shall serve staggered terms of five years. Staff support shall be provided by the department.

6-2 ELECTION OF CHAIR AND VICE CHAIR

At the last regularly scheduled meeting of each year, the commission shall elect a chair and vice chair from among its members. They shall serve for a term of one year or until their successors are duly elected. No member shall succeed himself or herself as chair. In the event the commission is not able to elect a chair or vice chair from among its members at its last regularly scheduled meeting, the incumbent chair may serve on a hold-over basis for a term not to exceed ninety (90) days. In the absence of both chair and vice chair, the remaining members shall elect an acting chair who shall preside for only the meeting at which the acting chair is elected.

6-3 QUORUM AND NUMBER OF VOTES NECESSARY FOR A DECISION

A majority (five) of all the commissioners to which the commission is entitled shall constitute a quorum to transact business. The affirmative vote of a majority of those commissioners present shall be necessary to make any action valid.

6-4 MEETINGS

The commission may meet and perform its duties in any part of the County of Hawai'i. Except as provided by law, all meetings are open to the public.

- (a) Regular Meetings - Regular meetings of the commission for the transaction of its business shall be held in person on the second Monday of every alternate month, January, March, May, July, September, and November, or as otherwise scheduled and duly noticed by the commission.
- (b) Special Meetings - A special meeting may be called by the chair when the date, time, and place of such special meeting is announced prior to adjournment of a regular meeting. Otherwise, a special meeting can be called upon the satisfaction of all requirements for a meeting set forth in HRS §92-8.
- (c) Conduct of Meetings - All meetings of the commission shall be conducted in accordance with the State of Hawai'i Public Agency Meetings and Records Law, HRS, Chapter 92, and the most recent edition of Robert's Rules of Order.
- (d) Notice - The commission shall provide written public notice of every regular, special, or rescheduled meeting, or any executive meeting in compliance with HRS §92-7. The notice shall include an agenda, which lists all of the items to be considered at the forthcoming meeting, the date, time, and place of the meeting, and in the case of an executive meeting, the purpose shall be stated. The notice and agenda must be filed in the county clerk's office at least six (6) calendar days prior to the meeting.

- (e) Adjournment - Meetings may be adjourned at any time by vote of the commissioners present at the meeting, and unless otherwise specified in the motion, every adjournment shall be deemed to be until the next meeting of the commission.
- (f) Continuation of decision making - Any matter which fails to be determined by a majority concurrence of the commissioners present may be continued to any subsequent regular meeting.
- (g) Effective date of commission decision - Unless a specific effective date is set forth, the effective date of a decision rendered by the commission shall be the date of the meeting at which such valid decision was made.
- (h) Site visits policy- Site visits shall be conducted according to the provisions of HRS §92-2.5:
 - (1) Site visits conducted by the full commission shall be properly noticed and conducted according to these rules and ADA accessibility requirements. All discussion shall be “on the record” and no decision making shall occur while on the visit.
 - (2) Informal site visits may be conducted by only two commissioners on an informal basis with no report to the commission required. Any report which may be given must be put on the agenda.
 - (3) Site visits may be conducted by up to four commissioners as a “permitted interaction group” as set forth in HRS Chapter 92.
 - (4) All site visits shall be respectful of private property, and lacking owner permission to enter the subject property, shall only be conducted from nearby or adjacent public properties. Participating commissioners shall obtain permission to enter onto private property from the landowner or their representative and provide written evidence thereof to the department.

6-5 MINUTES

Minutes - In accordance with HRS §92-9, the commission shall keep written minutes of all meetings. Unless otherwise required by law, neither a full transcript nor a recording of the meeting is required, but the written minutes shall give a true reflection of the matters discussed at the meeting and the views of the participants. Minutes shall include:

- (a) The date, time, and place of the meeting;
- (b) The commissioners recorded as either present or absent;
- (c) The substance of all matters proposed, discussed, or decided; and a record, by individual commissioner, of any votes taken; and
- (d) Any other information that any commissioner requests be included or reflected in the minutes.

The minutes shall be public record and shall be available within 40 days after the meeting except where such disclosure would be inconsistent with HRS §92-5 or Section 13-20 of the Charter; provided that minutes of executive meetings may be withheld so long as their publication would defeat the lawful purpose of the executive meeting, but no longer.

6-6 OFFICERS AND THEIR DUTIES

Presiding Officer - The chair shall be the presiding officer of the commission and the vice chair shall be the presiding officer in the absence of the chair. In the absence of both the chair and the vice-chair, the meeting may proceed upon the presence of a quorum of the members and the election by the members then present of an acting chair to act pursuant to Rule 6-2 to act as the presiding officer for the duration of the meeting. The presiding officer shall:

- (a) Open all meetings of the commission by taking the chair and calling the meeting to order;
- (b) Call for the approval of the minutes of any preceding meetings when a quorum is present;
- (c) Maintain order and proper decorum based on Robert's Rules of Order;
- (d) Announce the business before the commission in the order prescribed by these rules;
- (e) Review all matters properly brought before the commission, call for votes upon the same and announce the results;
- (f) Appoint all permitted interaction groups unless otherwise ordered by the commission;
- (g) Authenticate by signature all acts of the commission as may be required by law, unless delegated to the director;
- (h) Do and perform such other duties as may be required by law, or such as may properly appertain to such office;
- (i) Make known all rules of order when so requested, and to decide all questions of order, subject to an appeal to the commission;
- (j) Take into consideration such matters as shall not be within the scope of the duties or powers of any permitted interaction group of the commission; or as may be referred by the commission, and to report thereon, together with such recommendations relative thereto as deemed advisable; and
- (k) Represent the commission in all functions, as directed by the commission or designate a representative from the membership of the commission.
- (l) Set meeting agendas in consultation with staff.

6-7 STANDARDS OF CONDUCT

Disclosure of Interest – The conflict of interest provisions of the Hawai'i County Code shall apply to the commissioners. Whenever a possible conflict of

interest or other ethical question on any matter pending before the commission or any of its permitted interaction groups is raised by anyone regarding a commissioner, the affected commissioner shall promptly make a disclosure to the commission. When a commissioner has made a disclosure and is deemed by the commission to have a conflict of interest, such conflict shall apply to all subsequent actions relating to said matter. The conflicted commissioner shall comply with the conflict of interest provisions of the Hawai'i County Code.

6-8 SUSPENSION OF THE RULES

For good cause, the commission may vote to suspend the rules.

6-9 SEVERABILITY

If any provision of these rules or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of these rules which can be given effect without the invalid provision or application, and to this end the provisions of these rules are severable.

RULE 7. PUBLIC RECORDS, INSPECTION AND AVAILABILITY

7-1 INSPECTION OF PUBLIC RECORDS

All public records shall be available for inspection and copying by any person during established office hours and within reasonable timelines unless public inspection of such records is in violation of any other state or federal law.

7-2 WHERE AVAILABLE

- (a) The public may obtain information on matters within the jurisdiction of the commission at the department by inquiring at the principal place of business. All rules, orders or opinions of the department are on file and available for public inspection at the office during business hours at 25 Aupuni Street, Suite 1101, Hilo, Hawai'i 96720-4252.
- (b) Inquiry may be made in person at the department during business hours or by submitting a request for information in writing to the commission, c/o Department of Finance, 25 Aupuni Street, Suite 1101, Hilo, Hawai'i 96720-4252.

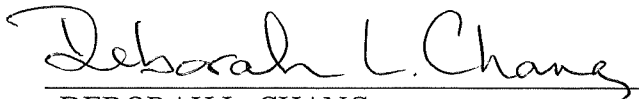
7-3 COPIES OF PUBLIC RECORDS

Copies of public records may be requested by members of the public and shall be provided as required by HRS Chapter 92 and Chapter 92F, including if applicable the payment of any fees or costs.

7-4 DENIAL OF INSPECTION

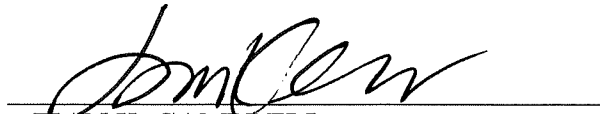
Any person aggrieved by the denial by the officer having custody of any public record of the right to inspect the record or to obtain copies of extracts thereof may seek enforcement action pursuant to HRS Chapter 92 or Chapter 92F.

Adopted on May 8, 2023, by the Public Access, Open Space, and Natural Resources Preservation Commission:


DEBORAH L. CHANG
Chairperson

May 22, 2023
Date

Approved as to form and legality:


JEAN K. CAMPBELL
Deputy Corporation Counsel

25 May 23
Date

Approved:


MITCHELL D. ROTH
Mayor, County of Hawai'i

5-26-23
Date

I hereby certify that the foregoing Rules of Practice and Procedure of the Hawai'i County Public Access, Open Space, and natural Resources Preservation Commission was received and filed in my office on this 31st day of May, 2023.


JON HENRICKS
County Clerk