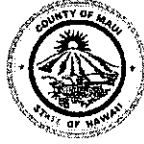


KATHY L. KAOHU
County Clerk



JAMES G.M. KRUEGER
Deputy County Clerk

RECEIVED

OFFICE OF THE COUNTY CLERK
COUNTY OF MAUI
200 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.mauicounty.gov/county/clerk

'22 MAR 10 A 9:00

OFFICE OF THE MAYOR

March 9, 2022

Honorable Michael P. Victorino
Mayor, County of Maui
200 South High Street
Wailuku, Hawaii 96793

APPROVED FOR TRANSMITTAL

Michael P. Victorino 3-11-22
Mayor Date

For transmittal to:

Ms. Lori Tsuhako, Director
Department of Housing and Human Concerns
County of Maui
Wailuku, Hawaii 96793

Dear Ms. Tsuhako:

Transmitted herewith for your records is a copy of the DEPARTMENT OF HOUSING AND HUMAN CONCERNS - COUNTY OF MAUI - ADOPTION OF CHAPTER 07-801 - RULES OF PRACTICE AND PROCEDURE FOR THE COMMISSION ON HEALING SOLUTIONS FOR HOMELESSNESS.

Respectfully yours,

Kathy L. KaoHu

KATHY L. KAOHU
County Clerk

/jym

Enclosure

DEPARTMENT OF HOUSING AND HUMAN CONCERNS

COUNTY OF MAUI

Adoption of Chapter 07-801
Rules of Practice and Procedure for the Commission on Healing
Solutions for Homelessness

SUMMARY

1. Chapter 07-801, entitled "Rules of Practice and Procedure for the Commission on Healing Solutions for Homelessness," pursuant to Section 2.31.070, Maui County Code, is adopted to read as follows:

"TITLE MC-07

DEPARTMENT OF HOUSING AND HUMAN CONCERNS

SUBTITLE 08

COMMISSION ON HEALING SOLUTIONS FOR HOMELESSNESS

CHAPTER 801

RULES OF PRACTICE AND PROCEDURE FOR THE COMMISSION ON
HEALING SOLUTIONS FOR HOMELESSNESS

Subchapter 1 Authority, Purpose, and Definitions

§07-801-01	Title
§07-801-02	Authority
§07-801-03	Purpose
§07-801-04	Construction
§07-801-05	Definitions

Subchapter 2 Organization and Parliamentary Rules

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§07-801-08	Organization
§07-801-09	Agendas
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§07-801-11	Quorum
§07-801-12	Minutes
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§07-801-19	Attendance
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§07-801-21	Removal from proceeding
§07-801-22	Subcommittees and temporary investigative groups

Subchapter 3 Procedures to Adopt Administrative Rules and
Regulations and Declaratory Rulings

§07-801-23	Authority
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§07-801-24 Petition and procedures for adoption, amendment, or repeal
 of rules
§07-801-25 Declaratory rulings
§07-801-26 Validity
§07-801-27 Effective date

SUBCHAPTER 1

AUTHORITY, PURPOSE, AND DEFINITIONS

§07-801-01 Title. The rules in this chapter shall be known as the "Rules of Practice and Procedure for the Commission on Healing Solutions for Homelessness" (hereinafter referred to as the "Rules"). [Eff 3/12/2022] (Auth: MCC Ch. 2.31) (Imp: HRS §91-2)

§07-801-02 Authority. The rules herein are established pursuant to the provisions of section 2.31.070 of the Maui County Code and chapter 91 of the Hawaii Revised Statutes ("HRS"). [Eff 3/12/2022] (Auth: MCC Ch. 2.31) (Imp: HRS §91-2)

§07-801-03 Purpose. These rules and regulations govern the procedures of the Commission on Healing Solutions for Homelessness, County of Maui. [Eff 3/12/2022] (Auth: MCC Ch. 2.31) (Imp: HRS §91-2)

§07-801-04 Construction. (a) These rules and regulations shall be construed to secure the just and efficient determination of matters brought before the Commission on Healing Solutions for Homelessness. These rules and regulations should be read in conjunction with the provisions of the Hawaii Revised Statutes, the Charter of the County of Maui and the Maui County Code. If there is a conflict between state law, the Charter, or the Maui County Code and the provisions herein, state law, the County Charter or the Maui County Code shall govern.

(b) If there are conflicts between the general provisions herein and specific rules of any other chapters, the specific rules shall govern. [Eff 3/12/2022] (Auth: MCC Ch. 2.31) (Imp: HRS §91-2)

§07-801-05 Definitions. The following definitions shall apply for all matters before this commission:

"Agency" means any agency, board, commission, department or officer of the county or state government, including the commission.

"Commission" means the Commission on Healing Solutions for Homelessness.

"Council" means the Maui County Council.

"County" means the County of Maui.

"Department" means the department of housing and human concerns of the County.

"DHHC" means the department of housing and human concerns of the County.

"Director" means the director of the department of housing and human concerns of the County or the director's authorized representative.

"Government record" means information maintained by an agency in written, auditory, visual, electronic or other physical form, or as otherwise defined in chapter 92F, Hawaii Revised Statutes, as amended.

"HRS" means the Hawaii Revised Statutes.

"Mayor" means the mayor of the County of Maui.

"Meeting" means the convening of the commission for which a quorum is required in order to make a decision or to deliberate toward a decision upon a matter over which the commission has supervision, control, jurisdiction, or advisory power.

"Person" means any agency, individual, partnership, firm, association, community group, trust, estate, private corporation, or other legal entity, whether or not incorporated, including governmental departments or agencies.

"Proceeding" means any matter brought before the commission over which the commission has jurisdiction. [Eff 3/12/2022] (Auth: MCC Ch. 2.31) (Imp: HRS §§91-1, 91-2)

SUBCHAPTER 2

ORGANIZATION AND PARLIAMENTARY RULES

§07-801-06 Office. The office of the commission is at Wailuku, Maui, Hawaii. [Eff 3/12/2022] (Auth: HRS §§46-5, 91-2; MCC Ch. 2.31) (Imp: HRS §91-2)

§07-801-07 Communications. Unless otherwise specifically directed, all communications to the commission shall be directed to the office of the commission at the department of housing and human concerns of the County of Maui, 250 South High Street, Wailuku, Hawaii 96793. [Eff 3/12/2022] (Auth: HRS §§46-5, 91-2; MCC Ch. 2.31 (Imp: HRS 91-2)

§07-801-08 Organization. The commission shall elect a chairperson and vice-chairperson from among its members. Their terms shall be for one year beginning April 1 of each year. The chairperson and vice chairperson shall be elected by the members of the commission after the new commission members have been impaneled beginning April 1 of each year. If the term of office of the commissioner who is chairperson has not expired on March 31, he or she shall continue as acting chairperson until the impaneled commission holds its first meeting on or after April 1. If the term of office of the commissioner who is chairperson has expired on March 31, the vice chairperson shall be the acting chairperson until the newly composed commission holds its first meeting on or after April 1. If both commissioner's terms expire on March 31, the remaining commission members may elect an acting chairperson until a new chairperson is elected. [Eff 3/12/2022] (Auth: MCC Ch. 2.31) (Imp: HRS §91-2)

§07-801-09 Agendas. The chairperson, or in the event the chairperson is unavailable to do so, the vice-chairperson, shall determine what items will be placed on the agenda for each meeting. Any commission member may suggest items to be agendized by forwarding suggested topics and items to the chairperson no later than ten days prior to the next regularly scheduled meeting. During any meeting, the chairperson shall have the discretion to defer items on the agenda to future meetings. [Eff 3/12/2022] (Auth: MCC Ch. 2.31) (Imp: HRS §91-2)

§07-801-10 Meetings. (a) All meetings of the commission shall be conducted in accordance with the provisions of chapter 92, HRS, as amended.

(b) The commission may meet and exercise its powers anywhere within the County. All meetings shall be open to the public except as provided in sections 92-4 and 92-5, HRS, as amended.

(c) The commission shall base the parliamentary procedures for conducting its meetings on the most recent revised edition of Robert's Rules of Order. If there is a conflict between the provisions herein and Robert's Rules, the provisions herein shall apply.

(d) The commission shall allow all interested persons an opportunity to submit data, views, arguments or present testimony on any agenda item. The commission may provide for the recordation of all presented oral testimony. A reasonable time limit may be placed on such testimony from the public which in any event shall be not less than three minutes per person, per agenda item.

(e) Regular meetings shall be held at least once a month. Meetings shall take place at the DHHC offices in Wailuku, Hawaii, or another location designated by the Director. The regular meeting may be held more frequently or at a different location within the County when necessary to enable the commission to effectively conduct its business.

(f) Special meetings may be called by the chairperson, the director, or a majority of the commission members at any time and place as scheduled.

(g) Emergency and executive meetings shall be held pursuant to the provisions of chapter 92, HRS, as amended.

(h) Executive meetings closed to the public may be held by the commission upon affirmative vote of two-thirds of the members present, provided that the affirmative vote constitutes a majority of members to which the commission is entitled. The meeting closed to the public shall be limited to matters specifically allowed by law and the reason for holding such a meeting shall be publicly announced and the vote of each member on the question of holding the meeting closed to the public shall be recorded and entered into the minutes of the meeting.

(i) Social, informal gatherings of two or more members of the commission where official business is not discussed shall be considered chance meetings and not subject to these rules. [Eff 3/12/2022] (Auth: MCC Ch. 2.31) (Imp: HRS §§91-2, 92-4, 92-5)

§07-801-11 Quorum. A majority of all members to which the commission is entitled shall constitute a quorum to transact business, and the concurrence of a majority of all members to which the commission is entitled shall be necessary to take any action. [Eff 3/12/2022] (Auth: MCC Ch. 2.31) (Imp: HRS §92-15)

§07-801-12 Minutes. (a) The commission shall keep written minutes of all meetings. 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. The minutes shall include, but need not be limited to:

- (1) The date, time, and place of the meeting;
- (2) The members of the commission recorded as present, absent, or excused;
- (3) The substance of all matters proposed, discussed, or decided; and a record, by individual member, of any votes taken; and
- (4) Any other information that any member of the commission requests be included or reflected in the minutes.

(b) The written minutes shall be public records and shall be available within forty-five days after the meeting, except where such disclosure would be

inconsistent with section 92-5, HRS, as amended, provided that minutes of executive meetings may be withheld so long as their publication would defeat the lawful purposes of the executive meeting. It shall not be necessary to transcribe the audio recording unless requested. Any person shall be entitled to a copy of the full transcript of the audio recordation or the court reporter's transcript provided that the requestor pays the costs incurred in the preparation of the record. [Eff 3/12/2022] (Auth: MCC Ch. 2.31, MCC §2.41.090) (Imp: HRS §92-9)

§07-801-13 Commission records. (a) Commission records that are "government records" as defined in chapter 92F, HRS, as amended, shall be disclosed according to the provisions of that chapter. All costs required by any law, rule, or ordinance shall be paid by the requesting party.

(b) Copies of government records printed or reproduced for persons other than governmental agencies shall be given to any person provided the fees or cost in the HRS or any rules pursuant thereto and/or the Permanent Ordinances of the County of Maui are paid. [Eff 3/12/2022] (Auth: HRS §91-2; MCC Ch. 2.31) (Imp: HRS Chapter 92F)

§07-801-14 Officers and their duties. (a) Presiding officer. The chairperson shall be the presiding officer of the commission and the vice-chairperson shall act as the presiding officer in the absence of the chairperson. The presiding officer shall:

- (1) Open all meetings of the commission at the appointed hour by taking the chair and calling the meeting to order;
- (2) Maintain order and proper decorum;
- (3) Announce the business before the commission;
- (4) Review all matters properly brought before the commission, call for votes upon the same and announce the results;
- (5) Authenticate by signature all acts of the commission as may be required by law, unless delegated to the director;
- (6) Do and perform such other duties as may be required by law, or such as may properly appertain to such office; and
- (7) Make known all rules of order when so requested and to decide all questions of order, subject to an appeal to the commission.

(b) Clerk. The director, or a person designated by the director, shall serve as clerk of the commission and shall be responsible, directly or through staff members, to provide the following services:

- (1) To receive, submit, and coordinate all matters properly brought before the commission in consultation with the chairperson;
- (2) To provide the agenda support materials for all meetings;
- (3) To read bills, resolutions, and other matters to the commission, if so required;

- (4) To authenticate and forward at once to the proper parties all communications, either directly or through a committee, as the case may be;
- (5) To serve in all matters as ex-officio clerk of the commission and to do and perform all clerical duties and services pertaining to such position as the commission shall from time to time direct, and such as shall by law or these rules, or rules hereafter adopted, be assigned or such as properly pertain to such position; and
- (6) To have charge of all records of the commission and be responsible for the same. [Eff 3/12/2022] (Auth: HRS §91-2; MCC Ch. 2.31) (Imp: HRS §§91-2, 92-3)

§07-801-15 Voting. (a) All matters shall be determined by an affirmative vote of a majority of all the members to which the commission is entitled.

(b) Whenever the commission is ready to vote on any question the chairperson shall state the question, put the question to a vote, and announce the results to the commission. The clerk shall call the roll if a roll call vote is taken.

(c) Unless a present member is disqualified from voting pursuant to section 07-105-16 herein, the member's silence or refusal to vote shall be recorded as an affirmative vote. [Eff 3/12/2022] (Auth: HRS §91-2; MCC Ch. 2.31) (Imp: HRS §92-15)

§07-801-16 Disclosure of conflict. Whenever a conflict of interest or other ethical question is raised by anyone regarding any member of the commission, the affected member shall promptly make a full disclosure of the circumstances to the commission. If the commission member has a financial interest in any matter that may be affected by an action of the commission that member shall be disqualified from discussion on and voting in all actions relating to such matters. [Eff 3/12/2022] (Auth: HRS §91-2; MCC Ch. 2.31) (Imp: HRS §91-2)

§07-801-17 Motions. (a) Motions and amendments by commissioners may be verbal, but shall be reduced to writing if requested by the chairperson.

(b) No motion shall be received and considered by the commission until the same has been seconded.

(c) After a motion is stated or read by the chairperson, it shall be deemed in the possession of, and shall be disposed of by vote of the commission. [Eff 3/12/2022] (Auth: HRS §91-2; MCC Ch. 2.31) (Imp: HRS §91-2)

§07-801-18 Question of order. A question of order may be raised at any stage of the proceedings, except during a calling of the roll when the ayes and noes are called for. Such question shall be decided by the chairperson, without debate, subject to an appeal to the commission. [Eff 3/12/2022] (Auth: HRS §91-2; MCC Ch. 2.31) (Imp: HRS §91-2)

§07-801-19 Attendance. No member shall be absent for the service of the commission, unless the member is sick or otherwise unable to attend and has so advised the chairperson prior to the meeting. [Eff 3/12/2022] (Auth: HRS §91-2; MCC Ch. 2.31, MCC §2.41.090) (Imp: HRS §91-2)

§07-801-20 Transmittal of recommendations. For all actions on which the commission does not have final authority, its recommendations shall be transmitted to the final authority within a reasonable period of time and as prescribed by law. [Eff 3/12/2022] (Auth: MCC Ch. 2.31)

§07-801-21 Removal from proceeding. Any person(s) willfully disrupting or otherwise compromising the conduct of the hearing shall be removed from the hearing room. [Eff 3/12/2022] (Auth: HRS §91-2; MCC Ch. 2.31) (Imp: HRS §91-9)

§07-801-22 Subcommittees and Temporary Investigative Groups. The commission may form standing subcommittees of the commission, or temporary investigative groups, consistent with the procedures set forth in chapter 92, HRS, as amended. Subcommittees shall consist of two or more members, but less than a majority of the members of the commission, and may from time to time report to the commission on subject matters related to board business. Recommendations of the subcommittees or of a temporary investigative group shall require approval of the commission. [Eff 3/12/2022] (Auth: HRS §92-2.5; MCC Ch. 2.31) (Imp: HRS §91-9)

SUBCHAPTER 3

PROCEDURES TO ADOPT RULES AND REGULATIONS AND DECLARATORY RULINGS

§07-801-23 Authority. All rules and regulations of commission shall be adopted by the commission and approved by the mayor in accordance with chapter 91, HRS, as amended. [Eff 3/12/2022] (Auth: HRS Chapter §91; MCC Ch. 2.31)

§07-801-24 Petition and procedures for adoption, amendment, or repeal of rules. (a) The commission may adopt, amend, or repeal any of its rules by following the procedures outlined herein, except that the commission need not formally file a petition and need only submit a draft of the proposed changes.

(b) Any interested person may petition the commission requesting the adoption, amendment, or repeal of any provision of these rules.

(c) Filing of petition.

(1) Any person seeking the adoption, amendment, or repeal of any provision of these rules shall file a petition with the department on a form provided by the department, which petition shall include or be accompanied by the following information and documentation:

(A) A statement of the nature of the applicant's interest.

(B) A draft of the proposed rule or amendment or a designation of the provisions sought to be repealed.

(C) Statement of the reasons in support of the petition.

(D) A public hearing and notice fee as provided by law.

(2) Upon receipt of all required fees, information, and documentation, the director shall certify that the applicant's petition is complete and shall refer the petition to the commission.

(d) Disposition of petition. The petition shall be considered submitted to the commission as of the first meeting it is properly placed on the agenda. Within forty-five days after submission, the commission shall either deny the petition in writing and state the reasons for such denial or initiate proceedings for action according to the provisions herein.

(e) Public hearing; notice. When the commission proposes to adopt, amend, or repeal a rule, it shall schedule a public hearing by giving at least thirty days' notice. Notice shall include a statement of the substance of the proposed rule, and the date, time, and place where interested persons may be heard. Notice shall be published at least once in a newspaper of general circulation in Maui County and pursuant to section 1-28.5, HRS, and shall be mailed to all

persons who have made a timely, written request to the commission for advanced notice of its rule making proceedings.

(f) Scope. All interested persons shall be given the opportunity to submit data, views, or written or oral argument relating to the proposed adoption, amendment, or repeal of a rule. The commission shall incorporate in the record and consider all written or oral submissions regarding the proposed rule.

(g) Decision. The commission may make its decision at the public hearing or announce then the date it intends to make its decision. Upon adoption, amendment, or repeal of a rule, the agency shall, if requested to do so by an interested person, issue a concise statement of reasons for and against its determination.

(h) Mayoral approval. The adoption, amendment, or repeal of these rules shall be subject to mayoral approval in accordance to chapter 91, HRS, as amended.

(i) Emergency rules. If the commission finds an imminent peril to public health or safety requires adoption, amendment, or repeal of a rule upon less than thirty days' notice of hearing, and states its reasons in writing, it may proceed without prior notice or hearing or upon such abbreviated notice and hearing as practicable.

(j) Filing; effect. Upon mayoral approval, certified copies of all rules shall be filed in the office of the county clerk and shall become effective ten days thereafter.

(k) Emergency rules; effect; notice. Emergency rules shall be effective upon filing, but for not longer than one hundred twenty days without renewal. The commission shall publish a copy of the emergency rule at least once in a newspaper of general circulation in Maui County and pursuant to section 1-28.5, HRS, within five days of filing herein. [Eff 3/12/2022] (Auth: HRS §91-2; MCC Ch. 2.31) (Imp: HRS §§1-28.5, 91-3, 91-4, 91-6)

§07-801-25 Declaratory rulings. a) Applicability. Any interested person may petition the commission for a declaratory order as to applicability of any statutory provision or of any rule or order of the commission.

(b) Filing of petition.

(1) Any person seeking a declaratory ruling shall file a petition with the department on a form provided by the department. The petition shall include or be accompanied by the following information and documentation:

- (A) The name, address, and telephone number of the petitioner.
- (B) A statement of the nature of petitioner's interest, including reasons for the submission of the petition.
- (C) A designation of the specific provision, rule or order in question.
- (D) A complete statement of facts.
- (E) A statement of the position or contention of the petitioner.

- (F) A memorandum of points and authorities, including any legal authorities, containing a full discussion of the reasons in support of such position or contention.
- (2) Upon receipt of all required information and documentation, the director shall review the petition for completeness and refer the petition to the commission.
- (c) Disposition of petition.
 - (1) The commission may for good cause refuse to issue a declaratory ruling where:
 - (A) The question is speculative or purely hypothetical and does not involve existing facts, or facts which can reasonably be expected to exist in the near future;
 - (B) The applicant's interest is not of the type which would give him standing to maintain an action if he were to seek judicial relief;
 - (C) The issuance of the declaratory ruling may adversely affect the interests of the County, the commission, the department or any of their officers or employees in any litigation which is pending or may reasonably be expected to arise; or
 - (D) The matter is not within the jurisdiction of the commission.

(d) Where any question of law is involved, the commission may refer the petition to the corporation counsel. The commission may also refer the petition to other agencies where it deems it necessary or desirable.

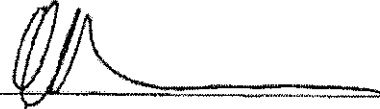
(e) The commission shall promptly notify the applicant of the disposition of the petition.

(f) Status of orders. Orders disposing of petitions shall have the same status as other agency orders. Orders shall be applicable only to the factual situation alleged in the petition or set forth in the order. They shall not be applicable to different factual situations or where additional facts not considered in the order exist. [Eff 3/12/2022] (Auth: HRS §91-2; MCC Ch. 2.31) (Imp: HRS §91-8)

§07-801-26 Validity. If any portion of the foregoing rules or the applicability thereof to any person, property or circumstance is held invalid for any reason, such invalidity shall not affect other provisions or applications which can be given effect without the invalid provision or application, and to this end these rules are declared to be severable. [Eff 3/12/2022] (Auth: HRS §91-2; MCC Ch. 2.31) (Imp: HRS §91-2)

§07-801-27 Effective date. These rules shall become effective upon their approval by the mayor of the County of Maui and ten days after filing with the county clerk. [Eff 3/12/2022] (Auth: HRS §91-2; MCC Ch. 2.31) (Imp: HRS §91-2)

ADOPTED on the 28th day of October, 2021.



Chairperson
COMMISSION ON HEALING SOLUTIONS
FOR HOMELESSNESS
Approved this 28th day of October,
2021.

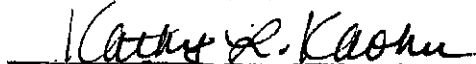


MICHAEL P. VICTORINO
Mayor

APPROVED AS TO FORM
AND LEGALITY:

/s/ Mimi Desjardins
MIMI DESJARDINS
Deputy Corporation Counsel
County of Maui

Received this 2nd day of
March, 2022.



KATHY KAOHU
County Clerk
County of Maui
LF 2021-0636

CERTIFICATION

I, LORI ANN TSUHAKO, Director of the Department of Housing and Human Concerns, County of Maui, do hereby certify:

1. That the foregoing is a full, true, and correct copy of the Rules of Practice and Procedure for the Commission on Healing Solutions for Homelessness, drafted pursuant to the requirements of Section 91-4.1, Hawaii Revised Statutes, which were adopted by the Commission on the 28th day October, 2021, by affirmative vote of the proper majority following a public hearing that closed on the 23rd day of September, 2021, and filed with the Office of the County Clerk.

2. That the notice of public hearing on the foregoing amendments to the rules was published in the Maui News on the 20th day of August, 2021.

COUNTY OF MAUI



LORI ANN TSUHAKO
Director
Department of Housing & Human
Concerns