RULES OF THE 2011 REAPPORTIONMENT COMMISSION

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GENERAL PROVISIONS

RULE 1. Authority and Purpose. These rules are adopted pursuant to Article IV, Section 2, Constitution of the State of Hawaii, and Chapter 25, Hawaii Revised Statutes. The purpose of these rules is to provide rules of practice and procedure for the 2011 Reapportionment Commission and the apportionment advisory councils established under Article IV, Section 2, Constitution of the State of Hawaii.

RULE 2. Definitions.

(a) As used in these rules, unless a different meaning clearly appears in the context:

"Chairperson" means the individual certified as "chairperson" under Article IV, Section 2, State Constitution or, in the absence of the Chairperson, the Vice Chairperson or the Chairperson's designated representative.

"Commission" means the 2011 Reapportionment Commission established under Article IV, Section 2, State Constitution.

"Commission member" means an individual selected by an appointing authority under Article IV, Section 2, State Constitution, to serve on the Commission.

"Committee" means any or all committees of the Commission.

"Councils" mean the apportionment advisory councils for the four basic island units established by Article IV, Section 2, State Constitution.

"Council member" means an individual selected by an appointing authority under Article IV, Section 2, State Constitution, to serve on an apportionment advisory council for one of the four basic island units.

"HAR" means the Hawaii Administrative Rules.

"HRS" means the Hawaii Revised Statutes.

"Person" or "persons" means individuals, partnerships, corporations, associations, or public or private organizations of any kind or nature whatsoever.

"Quorum" means a majority of the membership of the Commission, i.e., five members of the Commission.

"Record" means information maintained by the Commission or Councils in written, auditory, visual, electronic, or other physical form.

"Secretary" means the secretary to the Commission, who is the Chief Elections Officer of the State of Hawaii.

"State Constitution" means the Constitution of the State of Hawaii.

(b) Words importing the singular number may extend and be applied to several persons or things, and words importing the plural may include the singular. Words importing the masculine gender may be applied to the feminine gender and vice versa.

RULE 3. General Information About Commission.

(a) The office of the Commission shall be located at 802 Lehua Avenue, Pearl City, Hawaii 96782. All communications to the Commission shall be addressed, unless otherwise specifically directed, to the:

2011 Reapportionment Commission
c/o Scott Nago, Secretary
802 Lehua Avenue
Pearl City, Hawaii 96782

(b) The office of the Commission shall be open from 7:45 a.m. to 4:30 p.m. weekdays except state holidays and unless otherwise provided by statute or executive order.

PUBLIC RECORDS

RULE 4. Records and Information.

(a) Records of the Commission shall be available for public inspection and copying to the extent required under HRS Chapter 92F.

(b) Records of the Commission shall be available for public inspection at the Commission's office during regular business hours.

(c) The public may obtain information that is not privileged or confidential on matters within the jurisdiction of the Commission by submitting a written request to the Commission at the address set forth in Rule 3(a).

Rule 5. Cost of Copies of Public Records. Copies of these rules and other Commission records available for public inspection shall be furnished to any person requesting the same upon payment based on the following schedule:

(1) Twenty-five cents per page for material photocopied using the office copier;

(2) Actual cost for material that has to be sent to an outside vender for reproduction or photocopying;

(3) The costs of searching for, reviewing and segregating records as set forth in HAR Sections 2-71-19(a) and 2-71-31(a); and

(4) The actual costs of mailing (U.S. mail only) if the person requesting copies of Commission records requests that they be mailed to an address.

COMMISSION MEETINGS

RULE 6. Meetings. Meetings of the Commission may be called by the Chairperson or a quorum of the Commission. The Commission may meet by videoconference provided that the system used allows both audio and visual interaction among all Commission members

participating in the meeting and all persons attending the meeting. Except as provided in Rule 9, all Commission meetings shall be open to the public.

RULE 7. Notice of Meetings. Notice of any regular, special or rescheduled meetings of the Commission shall be posted at least three days in advance of the meeting on the State of Hawaii's website, the website for the Office of Elections and in the Commission's office at 802 Lehua Avenue, Pearl City, Hawaii 96782. Notwithstanding the foregoing, no notice shall be required with respect to the reconvening of a Commission meeting that is recessed, provided that prior to recessing the meeting, the time, date and location of the reconvening of the meeting is announced. All notices shall state the time, date and location of the meeting, and shall include an agenda listing all the items to be considered at the meeting. In the case of a videoconference meeting, the notice shall identify all locations at which Commission members will be physically present and shall state that the public may attend the meetings at such locations. In the case of an executive meeting or session, the purpose of the executive meeting or session shall be stated in the agenda. A two-thirds vote of the Commission shall be required to change the agenda for any meeting after notice has been filed and posted, provided that no change shall be made to add a matter of reasonably major importance to the agenda.

RULE 8. Emergency Meetings. Without giving notice in the time frame specified in Rule 7, the Commission may hold emergency meetings to deliberate and decide whether and how to act in response to an unanticipated event. For purposes of this rule, an "unanticipated event" is: (a) an event which Commission members did not have sufficient advance knowledge of or reasonably could not have known about from information published in the media or generally available in the community; (b) a deadline established by a legislative body, federal or state court, or other governmental agency beyond the control of the Commission; or (c) a consequence

of an event for which reasonably informed and knowledgeable Commission members could not have taken all necessary action. In order to hold an emergency meeting, two-thirds of the Commission members must agree that an unanticipated event exists, the Commission must issue a written finding that an unanticipated event exists with supporting reasons, the Commission's legal counsel must concur with the Commission's findings, and the Commission's findings plus a notice and agenda for the emergency meeting must be posted on the State of Hawaii's website and in the Commission's office as soon as reasonably practicable. At the emergency meeting, the Commission shall limit its deliberations and decision-making to matters pertaining to its response to the unanticipated event.

RULE 9. Executive Meetings and Sessions. The Commission may hold an executive meeting or session closed to the public upon an affirmative vote, taken at an open meeting, of two-thirds of the Commission members present; provided the affirmative vote constitutes a majority of the members to which the Commission is entitled. The reason for holding such a meeting or session shall be publicly announced and the vote of each Commission member on the question of holding a meeting or session closed to the public shall be recorded and entered into the minutes of the meeting.

RULE 10. Exceptions. "Meetings" as that term is used in Rules 6, 7, 11 and 12 shall not include any of the following:

(a) Any communications or interaction between Commission members that does not concern official Commission business or matters;

(b) Any communications or interaction between any two Commission members concerning official Commission business or matters, provided that no commitment to vote is made or sought;

(c) Any communications or interaction between or among four or less of the Commission's members concerning official Commission business or matters, provided that such occurs in connection with an investigation assigned to such members during a Commission meeting;

(d) Any communications or interaction between or among four or less of the Commission's members concerning official Commission business or matters, provided that such occurs in connection with a presentation, discussion or negotiation with third parties that has been assigned to such members during a Commission meeting; and

(e) Any communications or interaction between or among four or less of the Commission's members concerning the selection of the Commission's officers or between or among all Commission members the selection of administrative staff and contractor's services.

With respect to any investigation under (c), the scope of the investigation and each member's authority shall be defined at a meeting of the Commission, all findings and recommendations resulting from the investigation shall be presented at a meeting of the Commission, and all deliberations and decision-making on the matter investigated shall occur only at a duly noticed meeting of the Commission. With respect to any assignment under (d), the assignment shall be made and the scope of each member's authority shall be defined at a meeting of the Commission prior to the presentation, discussion or negotiation.

RULE 11. Public Comment.

(a) Any person is permitted to express his or her views to the Commission by submitting a written statement, which may include or take the form of a proposed plan, to the Commission

at the address set forth in Rule 3(a). The Commission may adopt standards and criteria for form and content that any proposed plans must meet in order to be considered by the Commission.

(b) At any meeting of the Commission, the Commission shall afford an opportunity for interested persons to present public testimony on any agenda item. Any person who wishes to appear before the Commission or a committee of the Commission shall: (1) make a request to the Commission's secretary at least 48 hours prior to the meeting in question; and (2) provide a written copy of the person's testimony to the Commission's secretary prior to the meeting in question. The Commission may refuse to hear the testimony of any person failing to fulfill these requirements. Requests to testify and written testimony shall be submitted to the Commission's secretary at the Commission's office specified in Rule 3(a).

(c) The Commission may rearrange the items on the agenda for the purpose of providing for the more efficient and convenient presentation of testimony.

(d) Persons presenting testimony shall, at the beginning of the testimony, identify themselves and the organization, if any, that they represent.

(e) The Commission may limit testimony to a specified time period but in no case shall the period be less than three minutes.

(f) The Commission may refuse to hear any testimony which is irrelevant, immaterial, or unduly repetitious.

(g) Nothing in this rule shall prevent the Commission from soliciting oral remarks from persons present at the meeting or from inviting persons to make presentations to the Commission on any particular matter that relates to items on the Commission's agenda.

RULE 12. Record of Meetings.

(a) The Commission shall keep a written record of all Commission meetings. The written record shall be in the form of written minutes which shall include: (1) the date, time and place of the meeting; (2) the members of the Commission recorded as present or absent at the meeting; (3) the substance of all matters proposed, discussed or decided at the meeting; and (4) the record of the votes taken at the meeting, showing the votes of the individual Commission members. Notwithstanding the foregoing, nothing in these rules is meant to nor shall it be construed to require a written record of executive meetings or sessions or the public disclosure of any written record of executive meetings or sessions.

(b) Testimony given at any Commission meeting may be electronically recorded verbatim by the Commission at its discretion. It shall not be necessary to transcribe the electronic recording.

(c) All written statements provided to the Commission and all testimony at Commission meetings shall be part of the public records of the Commission.

PUBLIC HEARINGS

RULE 13. Notice of Public Hearings. Public notice shall be given of all hearings conducted by the Commission or by the respective Councils. Notice of hearings on the initial plans for legislative and congressional reapportionment shall be given in accordance with HRS Section 25-2. Notice of other hearings, if any, shall be published in a newspaper of general circulation in the basic island unit in which the hearing will be held and posted on the State of Hawaii's website, the Office of Elections' website at least 20 calendar days prior to the date of hearing.

RULE 14. Hearing Procedures.

(a) Hearings on the initial plans for legislative and congressional reapportionment shall be held in accordance with HRS Section 25-2. Other hearings may be held as deemed necessary by the Commission.

(b) Each public hearing conducted by the Commission shall be presided over by the Chairperson, the Vice Chairperson, or a Commission member designated by the Chairperson. Each public hearing conducted by the respective Councils shall be presided over by a Council member designated by the Chairperson. The presiding officer shall have authority to take all actions necessary to ensure orderly conduct of the hearing.

(c) Each such hearing shall be held at the time and place set in the notice of hearing, but may be continued by the presiding officer from day to day or adjourned to a later date or to a different place without notice other than the announcement at the hearing.

(d) At the commencement of the hearing, the presiding officer shall read the notice of hearing and shall then outline briefly the procedure to be followed. Testimony shall then be received with respect to the matters specified in the notice of hearing in such order as the presiding officer shall prescribe.

(e) At each public hearing conducted by the Commission, the Commission shall afford an opportunity for interested persons to present public testimony with respect to the matters specified in the notice of hearing. Any person who wishes to appear before the Commission at the hearing shall: (1) make a request to the Commission's secretary at least 48 hours prior to the hearing in question; and (2) provide a written copy of the person's testimony to the Commission's secretary prior to the hearing in question. The Commission may refuse to hear the testimony of any person failing to fulfill these requirements. Requests to testify and written

testimony shall be submitted to the Commission's secretary at the Commission's office specified in Rule 3(a). Every person shall, before proceeding to testify, state his or her name, address, and what group or organization, if any, the person represents at the hearing. The presiding officer shall confine the testimony to the subject matter of the hearing and is empowered to confine the testimony so as to keep order. The presiding officer may limit testimony to a specified time period but in no case shall the period be less than three minutes. Persons testifying may be subject to questioning by any member of the Commission or the respective Councils. Questioning by private persons of persons testifying shall not be permitted unless the presiding officer expressly permits it.

(f) Notwithstanding anything to the contrary in these rules, all interested persons may submit data, views or arguments which are relevant to the subject matter of any hearing in writing. Any such written data, views, argument or other testimony shall be submitted to the Commission or the respective Councils at the Commission's office or at the public hearing.

CONDUCT OF COMMISSION BUSINESS

RULE 15. Chairperson's Duties. The Chairperson shall preside at all meetings of the Commission. The Chairperson shall appoint all committees of the Commission and their chairs. The Chairperson shall designate a Commission member to preside over meetings in the Chairperson's absence.

RULE 16. Vice Chairperson's Duties. The Commission may elect two of its members to serve as Vice Chairpersons. The Vice Chairperson shall preside over meetings and have the authority of the Chairperson when the Chairperson is absent.

RULE 17. Secretary's Duties. The Secretary shall keep minutes of all meetings of the Commission, including committee meetings, prepare the agenda for these meetings, keep and

maintain official records of the Commission and shall undertake any duties and responsibilities properly assigned to the Secretary by the Commission through the Chairperson.

RULE 18. Commission Committees. Committees may be established as deemed necessary to carry out functions of the Commission. Tasks may be delegated to committees as deemed appropriate by the Commission. A majority of the members of a committee shall constitute a quorum of the committee, and the presence of a quorum of the committee shall be necessary to conduct committee business. Except for meetings, communications and interactions covered by Rules 9 and 10, committee meetings shall be open to the public and subject to the requirements of Rules 7, 11 and 12.

RULE 19. Commission Powers. The Commission may require persons to appear personally and testify before it and/or to produce to it all books, records, files, papers, maps and documents as shall appear necessary for the purpose of fulfilling the Commission's duties under Article IV of the State Constitution and HRS Chapter 25 including, but not limited to, formulating a reapportionment plan. The Chairperson of the Commission or any person acting on behalf of the Chairperson may administer oaths to persons summoned to appear before the Commission. Persons summoned to testify before the Commission shall be subject to the penalties set forth in HRS Section 25-4. Nothing in these rules is intended nor shall they be construed to waive or to limit any and all powers granted to the Commission under Article IV of the State Constitution, HRS Chapter 25 and/or any other applicable laws.

RULE 20. Rules of Order. Unless otherwise provided in these rules, the most recent edition of Robert's Rules of Order shall serve as a guide to the conduct of the Commission's meetings.

RULE 21. Commission Decisions. The Commission shall make decisions and take action only at meetings called and noticed according to these rules. A quorum of the Commission shall be required to conduct any business at a Commission meeting. Except as otherwise provided by Article IV, Section 2 of the State Constitution, HRS Chapter 25 or these rules, the concurrence of a majority of the Commission's membership shall be required to make any action of the Commission valid.

APPORTIONMENT ADVISORY COUNCILS

RULE 22. Advisory Capacity. Each Council shall serve in an advisory capacity to the Commission as to matters affecting that Council's basic island unit. The Commission from time to time may designate additional duties or functions to be performed by the Councils.

RULE 23. Council Officers. Each Council shall select its own chairperson and may elect such other officers as may be necessary to carry out its functions.

RULE 24. Council Meetings. Meetings of a Council may be called by the Council's chairperson, a quorum of its members, and/or by the Commission. A majority of the membership of each Council shall constitute a quorum of the Council. A majority vote of the members of each Council shall be necessary to approve any action of that Council. Meetings of each Council shall be open to the public, provided that any Council may hold executive meetings or sessions closed to the public by an affirmative vote of two-thirds of its members.

RULE 25. Notice of Council Meetings. Notice of Council meetings shall be filed at least six days in advance in the appropriate county clerk's office and at the Commission's office and posted on the State of Hawaii's website.

RULE 26. Council Records. Each Council shall keep written minutes of its meetings. The minutes shall contain the information provided for in Rule 12(a). Each Council shall provide the

Commission's office with a copy of all minutes as soon as they are approved together with any and all other documents and information provided to it. The minutes, documents and information shall be available for public inspection at the Commission's office to the extent required under HRS Chapter 92F.

RULE 27. Additional Council Rules. Subject to these rules and the Commission's approval, each Council may promulgate additional rules of practice and procedure to govern its functions.

MISCELLANEOUS

RULE 28. Conflicts and Savings Clause. To the extent that any of these rules or any part thereof conflict with any of the provisions of Article IV of the State Constitution or HRS Chapter 25, the provisions of Article IV of the State Constitution and HRS Chapter 25 shall prevail. If any of these rules or any part thereof are held to be invalid, illegal or unenforceable, then to the maximum extent permitted by law, such invalidity, illegality or unenforceability shall not affect the remaining rules or parts thereof, and the remaining rules or parts thereof shall remain in full force and effect.

RULE 29. Adoption, Amendment or Repeal of Rules. Rules of the Commission shall be adopted by a vote of two-thirds of the members to which the Commission is entitled. Amendments to, or repeal of, the rules shall be made by a vote of two-thirds of the members to which the Commission is entitled.

RULE 30. Effective Date of Rules. These rules are effective upon the date of their adoption by the Commission.