

Drafting Guide for County of Maui Legislation

Office of Council Services
Second Edition
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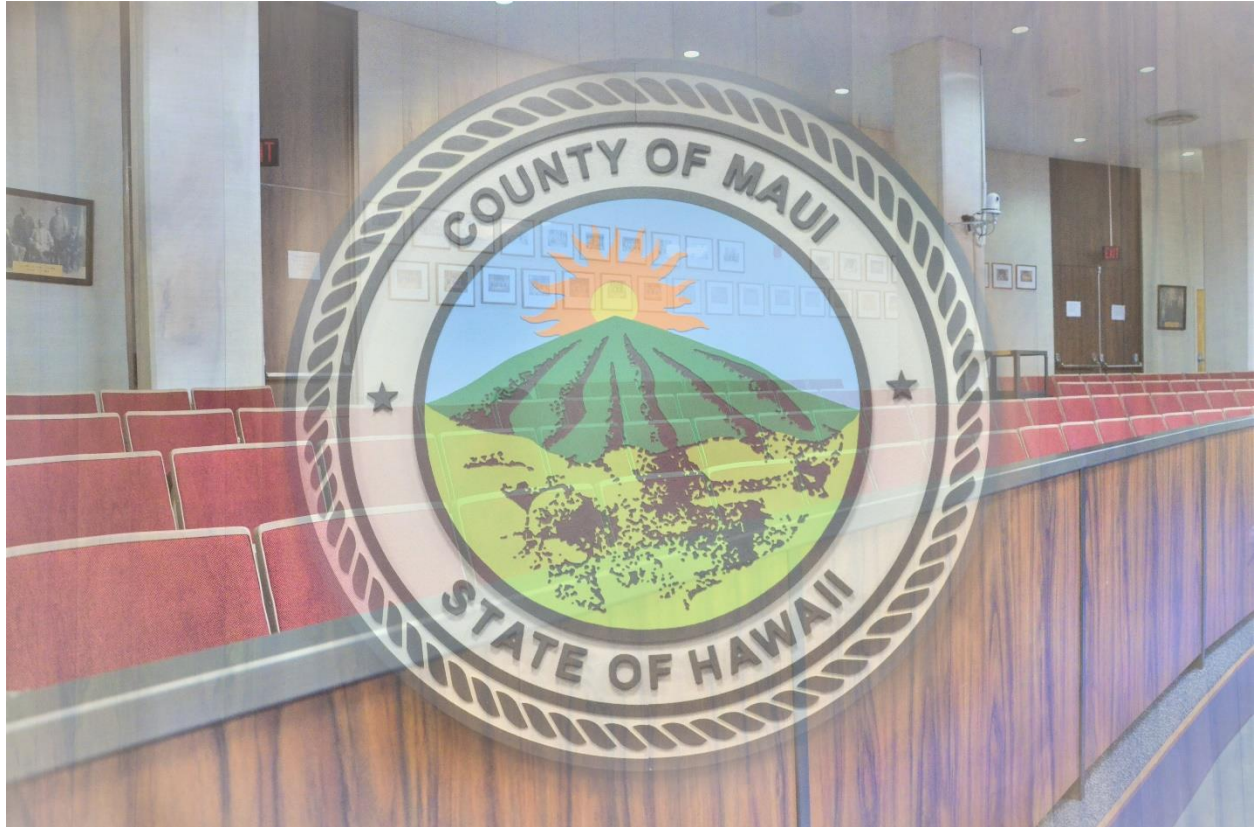


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I. Applicability; other manuals

This guide provides the Maui County Council’s style preferences for bills for ordinances and resolutions. The Council’s primary legislative-drafting guidance is found in the current edition of the *Hawaii Legislative Drafting Manual*.

This guide is intended to help the Council fulfill the State Constitution’s plain-language provisions and describes instances where the Council’s style preferences differ from or are not addressed by the *Hawaii Legislative Drafting Manual*.

Drafters should follow this guide’s style preferences unless a legal advisor provides different guidance.

References to statutes in the *Hawaii Legislative Drafting Manual* may be read as references to ordinances in this guide. The County does not have “Session Laws.”

While the Legislature proposes constitutional amendments by statute, the Council proposes charter amendments by resolution.

Drafters should familiarize themselves with the current editions of the following style manuals:

- *The Gregg Reference Manual* by William A. Sabin (available in the Office of Council Services); and
- *Essentials for Drafting Clear Legal Rules* by Bryan A. Garner and Joseph Kimble (available on the U.S. Courts website).

These manuals are referenced elsewhere in this guide and should be consulted for drafting challenges not addressed in this guide.

Section IV, “Terms to avoid,” includes both guidance and deviations from the *Hawaii Legislative Drafting Manual*, *The Gregg Reference Manual*, and *Essentials for Drafting Legal Rules*. Section IV’s guidance prevails over any conflicting guidance.

The Council uses the current editions of the Merriam-Webster dictionary and Black’s Law Dictionary.

II. **Deviations from** *Hawaii Legislative Drafting Manual*

A. Bill and resolution titles.

The Legislature is not subject to the Sunshine Law. For the Council, bill and resolution titles are an important part of the public notice provided on meeting agendas. So, bill and resolution titles should be specific enough to provide reasonable notice of an item's subject matter for potential testifiers. They also should be concise enough to promote comprehension. But they should also be broad enough so that foreseeable amendments to bills and resolutions would not be seen as exceeding the titles' scope.

Words are preferred over numbers. Ordinance titles from the Code should be used, such as "County Water Code" and "Comprehensive Zoning Ordinance."

B. Establishing requirements.

The Council uses "must" instead of "shall" to establish requirements and adopts the style guidance of Section 4.2, "Words of Authority," in *Essentials for Drafting Clear Legal Rules*.

C. Numbers.

Spell out numbers one through nine in text. Numbers 10 and above are designated by numerals unless a number begins a sentence, in which case it is spelled out.

Do not use "No." or "Number" before a number.

D. Percentages.

Use "percent" instead of "per cent" or "%."

E. Proposed new Code elements' numbering.

While the Legislature's bills leave blanks for proposed new Hawai'i Revised Statutes elements, the Council's bills set numbers for proposed new Maui County Code elements.

F. Punctuation with quotation marks.

For the Council's bills and resolutions, punctuation marks always appear inside the quotation marks.

G. Purpose sections.

The Legislature does not have a purpose section in bills as a standard practice. The Council prefers that bills have a purpose section because of Councilmembers' inability under the Sunshine Law to include explanatory transmittal documents with their legislative proposals.

H. Ramseyer format.

Ramseyer format shows the difference between existing codified content and the proposed codified content. The Council shows the deletion of existing content by bold brackets, without strikethrough text. Always bracket out punctuation before inserting new material. Changing any part of a word requires replacing the word. Bracket out the entire word and insert the new word after the bracketed word. Like the Legislature, the Council shows new content by underscoring, subject to exceptions, such as for new sections or chapters, as described in the *Hawaii Legislative Drafting Manual*.

I. References to subsections.

When referring to a subsection that does not include lower divisions, do not use parentheses. Right way: Subsection A. Wrong way: Subsection (A). When referring to a subsection that includes lower divisions, use parentheses, not periods. Right way: Subsection (A)(2)(c). Wrong way: Subsection A.2.c. Either "subsection" or "section" can be used to refer to a subsection if the choice is used with consistency and promotes readability.

J. Resolutions.

A resolution may have legal effect if it is adopted under a provision of law—such as a constitutional provision, statute, charter provision, or ordinance that says a certain type of resolution has legal effect—and the resolution's BE IT RESOLVED section cites the provision of law. A resolution's title should have the same substance as its FIRST BE IT RESOLVED clause. WHEREAS clauses provide findings, opinions, and context.

K. Uncodified content.

For uncodified content in bills and resolutions, the Council follows the capitalization guidance in *The Gregg Reference Manual's* Chapter 3.

III. Topics not covered in *Hawaii Legislative Drafting Manual*

A. Adverbs.

Minimize adverb usage.

B. Charter references.

Use “revised charter of the County of Maui (1983), as amended” on first reference. Then use “charter.”

C. Font.

Use 12-point Bookman Old Style.

D. Capitalization when using “County.”

Capitalize “County” when referring to the County of Maui. When referring to county, state, and federal in a sentence, do not capitalize. Do not capitalize “County” when referring to a county entity. Examples: “county council,” “county clerk.”

E. Hyphens.

Hyphenate phrasal adjectives, as advised by *Essentials for Drafting Legal Rules'* Section 5.8.

F. Lists.

Prefer vertical lists over horizontal lists, consistent with *Essentials for Drafting Legal Rules.*

G. Margins and spacing.

The guidelines for uncodified content are: one-inch margin on both sides, tab, double spaced. For codified content, the guidelines for each section and subsection are: indent both sides 1½ inches, tab first line, bold section number and title, single spaced. For later paragraphs, the left margins increase by ½ inch, and the right remains 1 ½ inches. All content is justified. One character space is used after a sentence.

H. Hawaiian diacritical marks.

Unless and until a policy on Hawaiian diacritical marks is established by ordinance, the drafter should defer the usage of kahakō and ‘okina for place names to the introducing Councilmember’s preferences.

I. “Of.”

Minimize “of” usage as recommended in the *Michigan Bar Journal’s* “Plain Language” columns of September and October 2023.

J. “Of this.”

Avoid using the prepositional phrase “of this” when referring to the code, article, title, or chapter being amended. Example: Section 19.35.101 of this title.

K. Parentheses.

Do not use parentheses in text. Do not use parenthetical plurals, such as “team(s)”; parenthetical numerals, such as “two hundred fifteen (215)”; and parenthetical definitions.

If a parenthetical clause would be helpful, set it off by em-dashes rather than parentheses.

L. Sentence length.

“Strive for an average sentence length of fewer than 25 words — 30 words at most,” as advised by *Essentials for Drafting Clear Legal Rules*.

M. “They.”

The Council recognizes “they” as a singular pronoun.

N. “This.”

“This” should be followed by a noun.

IV. Drafter’s checklist

Before sending a bill or resolution to another reviewer, a Councilmember, or the Council, a drafter should answer these questions:

- Does the bill or resolution avoid the terms listed in Section V?
- Does the bill or resolution make correct usage of “that,” “which,” and “who” as advised starting at page 44 of the Hawaii Legislative Drafting Manual?
- Do the definitions follow the guidance at pages 11-12 of Hawaii Legislative Drafting Manual?
- Does the bill or resolution have a title that is descriptive and not generic; concise enough to be readable; and broad enough to have reasonable amendments fall within its scope?
- Does the bill have a purpose clause to provide context for the reader?
- Is “of” usage minimized?
- Is “this” followed by a noun?
- Are parentheses in text avoided?
- Is adverb usage minimized?

V. Terms to avoid

Drafters should avoid using the terms in the “Do not use” column, unless special circumstances require their usage, because the terms are often imprecise, archaic, verbose, or superfluous. Drafters should try to use the suggested alternatives in the “Use” column. If no suggested alternatives are listed, drafters should try to either omit the “Do not use” terms, including through restructuring sentences, or find better terms. None of this guidance is novel; each suggestion is found one or more of *Hawaii Legislative Drafting Manual*, *The Gregg Reference Manual*, *Essentials for Drafting Clear Legal Rules*, and the page called “Use simple words and phrases” on the federal government’s website plainlanguage.gov.

Do not use	Use
<i>aforesaid</i>	
<i>all of</i>	<i>all</i>
<i>and/or</i>	<i>A or B; A and B; or A or B or both</i>
<i>any or every</i>	<i>a, an, or other</i>
<i>clarify</i>	<i>use a more precise term</i>
<i>constitutes, deems, or represents</i>	<i>is or its variants</i>
<i>County of Maui</i>	<i>County</i>
<i>due to</i>	<i>because of</i>
<i>due to the fact that</i>	<i>because</i>
<i>following section or preceding section</i>	<i>use a specific reference by number</i>
<i>for the reason that</i>	<i>because</i>
<i>forthwith</i>	
<i>from July 1</i>	<i>after June 30</i>
<i>henceforth, hereafter, hereby, herein, hereinafter, hereunder</i>	
<i>e.g., etc., i.e.</i>	
<i>impact</i>	<i>use a more precise word</i>
<i>in order to</i>	<i>to</i>
<i>in the event</i>	<i>if</i>
<i>including but not limited to</i>	<i>including</i>
<i>is applicable</i>	<i>applies</i>
<i>it is, there is, there are</i>	
<i>limitation</i>	<i>limit</i>

Do not use	Use
<i>moneys or monies</i>	<i>money or funds</i>
<i>not later than</i>	<i>no later than, by, or within</i>
<i>not less than</i>	<i>no less than or at least</i>
<i>not more than</i>	<i>no more than or up to</i>
<i>notwithstanding</i>	<i>despite</i>
<i>notwithstanding the fact that</i>	<i>even if or even though</i>
<i>portion</i>	<i>part</i>
<i>prior to</i>	<i>before</i>
<i>promulgate rules</i>	<i>adopt rules</i>
<i>provided or provided that</i>	<i>if, except, but</i>
<i>provisions of</i>	
<i>proviso</i>	<i>earmark, condition, or other terms</i>
<i>pursuant to</i>	<i>under</i>
<i>rules and regulations</i>	<i>rules</i>
<i>regarding, related to, relative to, relating to</i>	<i>about, of, on</i>
<i>said as an adjective</i>	
<i>same as a pronoun</i>	
<i>set forth</i>	
<i>shall</i>	<i>use must, may, or other terms</i>
<i>should</i>	<i>may</i>
<i>since other than in a temporal sense</i>	<i>because</i>
<i>State of Hawaii</i>	<i>State</i>
<i>subsequent</i>	<i>later</i>
<i>subsequent to</i>	<i>after</i>
<i>thereby, therefor, therein, thereunder</i>	
<i>time period</i>	<i>time or period</i>
<i>towards</i>	<i>toward</i>
<i>transmit</i>	<i>send or forward</i>
<i>under the provisions of</i>	<i>under</i>
<i>utilize or utilization</i>	<i>use</i>
<i>whatsoever</i>	
<i>whenever</i>	<i>if or when</i>
<i>whether or not</i>	<i>whether</i>
<i>/(slash)</i>	<i>and or or</i>