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## RESOLUTION

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### AMENDING THE COUNCIL RULES RELATING TO ORDER AND DECORUM.

WHEREAS, Section 3-107.4, Revised Charter of the City and County of Honolulu 1973, as amended ("RCH"), permits the Council to suspend, without pay for not more than one month, any Councilmember who engages in disorderly or contemptuous behavior in the presence of the Council upon the affirmative vote of at least two-thirds of its entire membership; and

WHEREAS, Rule 20 ("Order and Decorum") of the Rules of the Council of the City and County of Honolulu ("Council Rules") sets forth a number of actions that constitute breaches of order and decorum if engaged in by Councilmembers; and

WHEREAS, the Council wishes to establish a procedure, in accordance with the principles of due process, for the censure of Councilmembers who stand accused of engaging in disorderly or contemptuous behavior within the presence of the Council or of breaching the Council's rules on order and decorum; and

WHEREAS, the Rules of the House of Representatives and the Senate of the Hawaii State Legislature both include processes for consideration of charges of disorderly behavior on the part of Hawaii State Legislators and the Council believes that Part IX of the Rules of the Hawaii State Senate provides a fair and reasonable model upon which the Council should pattern its procedures for consideration of charges of disorderly or indecorous conduct by Honolulu Councilmembers; now, therefore,

BE IT RESOLVED by the Council of the City and County of Honolulu that Rule 20 of the Council Rules be, and hereby is, amended to read as follows:

#### **"RULE NO. 20**

#### **ORDER AND DECORUM**

- A. While the presiding officer is putting any question or addressing the council or when a councilmember is speaking, no one shall engage in a private discourse. And while a councilmember is speaking, no one shall pass between such speaker and the chair.
- B. When a councilmember or other person properly before the council wishes to speak, the speaker shall address the chair, be recognized before proceeding,



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and shall confine remarks to the question under discussion, avoiding personalities or abusive language.

- C. If a councilmember or other person, in speaking or otherwise, transgresses these rules, the presiding officer or any councilmember may raise a question of order. The presiding officer shall then decide the question of order without debate, subject to an appeal to the council. In addition, the presiding officer may call for the sense of the council on any question of order.
- D. Whenever any person is called to order while speaking, such person shall be in possession of the floor after the question of order is decided, and may proceed with the matter under discussion within the ruling made on the question of order.
- E. No unauthorized person shall enter the floor of the council at any time except by permission of the presiding officer.
- F. No person shall sit at the desk of a councilmember or clerk except the official to whom the desk is assigned.
- G. No person or group shall use the chamber for meetings or any other purpose without first obtaining permission of the council chair.
- H. All persons attending council meetings, including city employees, witnesses, members of the media and the general public, are expected to respect the dignity of the council in the use of wearing apparel, decorum, and general appearance.
- I. The staff of the clerk's office may be called upon by the presiding officer of the council or a majority of the councilmembers to assist in the removal of any person or persons who have been deemed to have violated the order and/or decorum of the council.
- J. Processing of charges of breaches of order or decorum.
  - (1) No members shall be subject to censure or sanction for a breach of order or decorum, including a charge of disorderly or contemptuous conduct, unless a charge is filed by a Councilmember with the Chair and Presiding Officer and notice of the charge has been given to the member being charged. At any stage of the process set forth in this subsection, the Councilmember charged may be represented by a person of his or her choosing.



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- (2) Upon receipt of the charge, the Chair shall attempt to resolve the matter administratively between the Councilmember making the charge and the member being charged.
- (3) If the matter cannot be resolved administratively, the Chair may refer the matter to the Committee on Executive Matters and Legal Affairs, or, if the Councilmember charged is the Chair of the Committee on Executive Matters and Legal Affairs, to the Committee of the Whole, to investigate, hear and report upon the conduct. Any member charged with a breach of order or decorum shall be informed in writing of the specific charge or charges made against the member and have an opportunity to present evidence and be heard in the member's own defense before the investigating committee. Unless the Councilmember charged requests otherwise, the meetings of the investigating committee shall be held in executive session pursuant to HRS Section 92-5(a)(2). Following its investigation and hearing (if any), the committee shall file its report with the Chair setting forth its findings as to whether the Councilmember charged engaged in the conduct charged.
- (4) If the investigative committee finds in the affirmative, the report shall also set forth its recommended sanctions, which may include censure, suspension without pay for not more than one month, other sanctions, or a combination of sanctions. If recommending suspension without pay for any period, the committee shall specifically find that the conduct in question was disorderly or contemptuous and that it was within the presence of the Council. If it finds in the negative, the committee shall recommend dismissal of the charge or charges, and the Chair shall dismiss the charges without further hearing.
- (5) If the investigative committee finds that the Councilmember engaged in the conduct charged, the Chair shall present the committee's report to the Council for its consideration and decision. Upon the Council's receipt of the report, the member charged shall be informed in writing of the findings and recommendations of the report and be given an opportunity to be heard in the member's own defense. The Council, by a majority vote, may dismiss the charge or charges without a hearing. After giving the Councilmember charged notice and an opportunity to be heard, the Council may, by majority vote impose the sanctions recommended by the investigative committee or may impose some, but not all of the sanctions recommended; provided that a two-thirds affirmative vote of all of the



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members of the Council shall be necessary to suspend a Councilmember without pay."

and

BE IT FURTHER RESOLVED that in the foregoing clause, new rule language is underscored; and

BE IT FINALLY RESOLVED that copies of this Resolution be transmitted to the Mayor, the Managing Director, the Corporation Counsel, and all members of the Council.

INTRODUCED BY:

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DATE OF INTRODUCTION:

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Honolulu, Hawaii

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Councilmembers