

DEPARTMENT OF FINANCE

Repeal of Chapter 10, Rules of Procedure of the Director of Finance Relating to the Classification of Land Under Section 3.48.305, Maui County Code, and Adoption of Chapter 210, Rules of Procedure of the Director of Finance Relating to the Classification of Land Under Section 3.48.305, Maui County Code

1. Chapter 10, entitled "Rules of Procedure of the Director of Finance Relating to the Classification of Land Under Section 3.48.305, Maui County Code", is repealed.

2. Chapter 210, entitled "Rules of Procedure of the Director of Finance Relating to the Classification of Land Under Section 3.48.305, Maui County Code", is adopted to read as follows:

"TITLE MC-05

DEPARTMENT OF FINANCE

SUBTITLE 02

REAL PROPERTY TAX DIVISION

CHAPTER 210

RULES OF PROCEDURE OF THE DIRECTOR OF FINANCE
RELATING TO THE CLASSIFICATION OF LAND UNDER
SECTION 3.48.305, MAUI COUNTY CODE

Subchapter 1 General Provisions

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SUBCHAPTER 1

GENERAL PROVISIONS

§05-210-1 Purpose and scope. These rules govern the practice and procedures of the department of finance of the County of Maui with regard to the classification of land as authorized by Maui County Code section 3.48.305. [Eff] (Auth: HRS §§514B-4, 514B-6, 91-2; Charter §8-4.3(15); MCC §3.48.010(K)) (Imp: MCC §3.48.305)

§05-210-2 Definitions. As used in these rules, unless the context clearly requires otherwise:

"Actual use" means any existing or continuing activity, occupation, business, or operation carried on in a condominium unit. Actual use is the privilege or benefit of using something in existence contrasted with a potential or possible use. Actual uses of condominium units include homeowner, apartment, commercial, hotel resort, and time share.

"Assessment year" means the one-year period beginning January 1st and ending December 31st.

"Condominium" means real property, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real property is not a condominium unless the undivided interests in the common elements are vested in the unit owners.

"Director" means the director of finance of the County of Maui, or the director's designated representative.

"Dwelling unit" means a room or rooms connected together, constituting an independent housekeeping unit for a family and containing a single kitchen.

"Owner" means the person owning, or the persons owning jointly or in common, a unit and its appurtenant common interest.

"Person" means individuals, corporations, firms, associations, societies, communities, assemblies, or any other entity able to hold title to real property in the State of Hawaii.

"Unit" means a physical or spatial portion of a condominium designated for separate ownership or

occupancy, the boundaries of which are described in the declaration creating the condominium or pursuant to section 514B-35, Hawaii Revised Statutes, with an exit to a public road or to a common element leading to a public road. [Eff] (Auth: HRS §§514B-4, 514B-6; Charter §8-4.3(15); MCC §3.48.010(K)) (Imp: MCC §3.48.305; HRS §514B-3)

SUBCHAPTER 2

CLASSIFICATION, FILING REQUIREMENTS,
AND ACTUAL USE

§05-210-3 Classification. (a) When property is subdivided into condominium units, each unit shall be classified upon consideration of its actual use for the entire duration of an assessment year, according to the best information available as of December 31st of the preceding year, into one of the general classes as defined:

- (1) Homeowner. A dwelling unit owned and occupied by the owner as a principal home and for which a home exemption claim was filed and granted.
- (2) Apartment. A dwelling unit occupied by the owner for personal use, or by a lessee for a term of six consecutive months or more.
- (3) Commercial. A unit occupied by the owner or lessee for business or mercantile activities.
- (4) Hotel and resort. A unit occupied by transient tenants for periods of less than six consecutive months.
- (5) Time share. A unit occupied by transient tenants for periods of less than six consecutive months and subject to a time share plan as defined in chapter 514E-1, Hawaii Revised Statutes.

(b) If during the course of any assessment year, the actual use of a unit entails more than one classification, the unit shall be reclassified and adjusted to taxes at the use with the highest applicable tax rate for that applicable tax year.

(c) A unit that does not contain a dwelling unit shall be classified as homeowner, apartment, commercial, hotel and resort, or time share in accordance with Maui County Code section 3.48.305(B). [Eff] (Auth: HRS §§91-2, 514B-4, 514B-6; Charter §8-4.3(15); MCC §3.48.010(K)) (Imp: MCC §3.48.305)

§05-210-4 Filing required. (a) The director may require an owner to file a return providing information

on the actual use of a unit. The return shall be in a form prescribed by the director.

(b) An owner who does not file the return or fails to respond to an inquiry of the director shall be classified at the highest tax classification allowed for the unit and shall be assessed penalties in accordance with section 3.48.105, Maui County Code. [Eff] (Auth: HRS §§91-2, 514B-4, 514B-6; Charter §8-4.3(15); MCC §3.48.010(K)) (Imp: MCC §§3.48.090, 3.48.095, 3.48.100, 3.48.105, 3.48.110, 3.48.115, 3.48.120, 3.48.125)

§05-210-5 Actual use. (a) When determining the actual use of a unit, the director shall rely on the best information available, including but not limited to the information provided in any returns.

(b) An owner shall report to the director any change in the attested actual use of the owner's condominium unit within thirty calendar days of such change. [Eff] (Auth: HRS §§91-2, 514B-4, 514B-6; Charter §8-4.3(15); MCC §3.48.010(K)) (Imp: MCC §3.48.305)

SUBCHAPTER 3

APPEALS

§05-210-6 Appeal of classification. Any owner of a condominium unit who disagrees with the director's classification of the unit may appeal such classification in the manner provided for real property tax appeals in chapter 3.48, Maui County Code. [Eff] (Auth: HRS §§91-2, 514B-4, 514B-6; Charter §8-4.3(15); MCC §3.48.010(K)) (Imp: MCC §§3.48.595, 3.48.600)