

DEPARTMENT OF FINANCE

COUNTY OF MAUI

Adoption of Chapter 5-601  
Rules of Procedures Governing the  
Designation of Business Establishments  
as Bars for Purposes of Maui County Code  
Chapter 8.20, Smoking.

1. Chapter 5-601, entitled "Rules of Procedures Governing the Designation of Business Establishments as Bars for Purposes of Maui County Code Chapter 8.20, Smoking," is adopted to read as follows:

TITLE MC-05

DEPARTMENT OF FINANCE

SUBTITLE 6

DEPARTMENT OF FINANCE

CHAPTER 1

RULES OF PROCEDURES GOVERNING THE  
DESIGNATION OF BUSINESS ESTABLISHMENTS  
AS BARS FOR PURPOSES OF MAUI COUNTY CODE  
CHAPTER 8.20, SMOKING

Subchapter 1 General Provisions

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## SUBCHAPTER 1

### GENERAL PROVISIONS

§5-601-1 Title. The rules in this chapter shall be known as the "Rules of Procedures Governing the Designation of Business Establishments as Bars for Purposes of Maui County Code Chapter 8.20, Smoking." [Eff] (Auth: MCC §8.20.020) (Imp: MCC §8.20.020)

§5-601-2 Purpose. These rules shall govern the procedures to be used by the director of finance of the County of Maui in implementing section 8.20.020, Maui County Code. [Eff] (Auth: MCC §8.20.020) (Imp: MCC §8.20.020)

§5-601-3 Definitions. Whenever used herein, unless otherwise apparent from the context, the following definitions shall apply:

"Bar", for a July 1 to June 30 period, means a business establishment that was devoted to the serving of alcoholic beverages for on-site consumption by patrons and where the service of food was only incidental to the consumption of such beverages during the previous July 1 to June 30 period, whether or not the place was open for business during that entire period. When the preceding sentence does not apply to a business establishment because it was not open for business in the previous July 1 to June 30 period, the business establishment may apply to be a bar from the date it first opens for business until the next June 30 if, during that time, the business establishment is devoted to the serving of alcoholic beverages for on-site consumption by patrons and the service of food in the business establishment is incidental to the consumption of such beverages. The service of food is "incidental" if gross sales of food are less than one third of gross sales of alcoholic beverages. Notwithstanding the foregoing, a business establishment is a bar only if it is designated as a bar by the director of finance in accordance with the provisions of this chapter.

"Business establishment" means a place that has a valid food establishment permit from the department of health, State of Hawaii.

"County" means the County of Maui.

"Day" means a County business day.

"Department" means the department of finance, County of Maui.

"Director" means director of finance, County of Maui.

"MCC" means the Maui County Code, as amended. [Eff ] (Auth: §8.20.020) (Imp: §8.20.020)

## SUBCHAPTER 2

### PROCEDURES

§5-601-4 Application. (a) A business establishment may apply to be designated as a bar by submitting to the director a completed application on a form provided by the department.

(b) The application form shall be executed, under penalty of perjury, by an authorized representative of the business establishment and properly notarized.

(c) The business establishment shall include the following with each completed application form:

- (1) Copies of the business establishment's general excise tax returns for the preceding July 1 to June 30 period filed with the State of Hawaii.
- (2) A current copy of the business establishment's food establishment permit issued by the department of health, State of Hawaii.
- (3) A current copy of the business establishment's liquor license issued by the liquor control commission of the County.
- (4) A current copy of the business establishment's general excise tax license issued by the department of taxation, State of Hawaii.

(d) A business establishment shall submit a completed application to the director no later than June 1 of each year to be considered for designation as a bar for the period beginning July 1 of the same year and ending June 30 of the next year. If the director receives a completed application after June 1, the business establishment may be considered for designation as a bar for the period beginning on the date of the director's decision and ending on June 30.

(e) The director shall deem an application complete once the director receives a complete application form that has been properly executed and notarized and includes items 1 through 4 in subsection (c).

(f) Incomplete applications, applications not executed by an authorized representative, and applications not notarized shall be denied. [Eff ]  
(Auth: §8.20.020) (Imp: §8.20.020)

§5-601-5 Director's decision. (a) The director shall make a determination within thirty days after deeming the application complete. If the director fails to make a determination within the time permitted, the business establishment shall be deemed a bar.

(b) If the business establishment's gross sales of food are less than one third of gross sales of alcoholic beverages for the preceding July 1 to June 30 period, the director shall determine that the business establishment is a bar, shall issue the business establishment a certificate designating the business establishment as a bar for purposes of chapter 8.20, Maui County Code, and these rules, and shall serve the certificate upon the applicant by certified mail. Upon receipt, the business establishment shall immediately post the certificate in a conspicuous location on the premises.

(c) The bar designation certificate shall expire on the date specified on the certificate. The certificate may be renewed by the business establishment by submitting a new application form pursuant to § 5-601-4.

(d) The bar designation certificate shall automatically be deemed invalid if the business establishment's gross sales of food are equal to or more than one third of gross sales of alcoholic beverages at any time.

(e) If the business establishment's gross sales of food are equal to or more than one third of gross sales of alcoholic beverages for the preceding July 1 to June 30 period, the director shall not designate the business establishment as a bar and shall notify the applicant of such final determination by certified mail.

[Eff ] (Auth: §8.20.020) (Imp: §8.20.020)

§5-601-6 List of bars. The director shall maintain a current, publicly available list of all business establishments designated as bars in the County. [Eff ] (Auth: §8.20.020) (Imp: §8.20.020)

2. Chapter 5-601, Rules of Procedures Governing the Designation of Business Establishments as Bars for Purposes of Maui County Code Chapter 8.20, Smoking, shall take effect ten days after filing with the Office of the County Clerk.

601-6

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_,  
20\_\_\_\_, at Wailuku, Maui, Hawaii.

DIRECTOR OF FINANCE

\_\_\_\_\_  
KEITH A. REGAN

APPROVED:

\_\_\_\_\_  
ALAN M. ARAKAWA  
Mayor, County of Maui

APPROVED AS TO FORM  
AND LEGALITY:

Approved this \_\_\_\_\_ day  
of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
TRACI FUJITA VILLAROSA  
First Deputy Corporation Counsel

Received this \_\_\_\_\_ day of  
\_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
ROY T. HIRAGA  
County Clerk  
County of Maui

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