

TITLE MC-12  
DEPARTMENT OF PLANNING  
SUBTITLE 05  
MAUI COUNTY CULTURAL RESOURCES COMMISSION  
CHAPTER 531

STANDARDS AND CRITERIA RELATING TO  
THE DUTIES AND AUTHORITY OF THE  
MAUI COUNTY CULTURAL RESOURCES COMMISSION

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SUBCHAPTER 1

POWERS AND DUTIES

§12-531-1 Title. These rules and regulations shall be known as the "Standards and Criteria Relating to the Duties and Authority of the Maui County Cultural Resources Commission." [Eff 2/14/92] (Auth: HRS §46-5) (Imp: HRS §91-2)

§12-531-2 Authority. The rules herein are established pursuant to the provisions of subsection 2.88.060 (J) of the Maui County Code and chapter 91-1, et. seq. of the Hawaii Revised Statues. [Eff 2/14/92] (Auth: HRS §46-5) (Imp: HRS §§6E-14, 6E-15, 91-2)

§12-531-3 Purpose. These rules and regulations govern practice before and procedures of the Maui County Cultural Resources Commission and set forth general rules applicable to standards and criteria relating to the commission's duties and authorities. [Eff 2/14/92] (Auth: HRS §46-5) (Imp: HRS §91-2)

§12-531-4 Construction. These rules and regulations shall be construed to secure the just and efficient determination of proceedings before the commission. These rules and regulations should be read in conjunction with the provisions of the Hawaii Revised Statues, the Revised Charter of the County of Maui and the Maui County Code. If there is a conflict between state law, the County Charter, or the Maui County Code and the provisions herein, state law, the County Charter, or the Maui County Code shall govern.

If there are conflicts between the general provisions herein and specific rules of any other chapters, the specific rules shall govern. [Eff 2/14/92] (Auth: HRS §46-5) (Imp: HRS §91-2)

§12-531-5 Definitions. The following definitions shall apply for all matters before this commission:

"Agency" means any agency, commission, department or officer of the county or state government, including the commission.

"Agency hearing" refers only to a hearing held by an agency immediately prior to a judicial review of a contested case as provided in section 91-14, Hawaii Revised Statutes.

"Applicant" means a person who seeks permission or authorization which the commission may grant under statute, ordinance, or other commission; and a person seeking relief not otherwise designated in these rules and regulations.

"Commission" means the Maui County cultural resources commission.

"Contested case" means a proceeding in which legal rights, duties, or privileges of specific parties are required by law to be determined after an opportunity for agency hearing.

"County" means the County of Maui.

"Department" means the planning department of the County of Maui.

"Director" means the planning director of the County of Maui.

"Government record" means information maintained by an agency in written, auditory, visual, electronic or other physical form, or as otherwise defined in Hawaii Revised Statutes, chapter 92F, as amended.

"Historic properties" means any prehistoric or historic district, site, building, structure, area or object significant in the history, architecture, archaeology, or culture of the county, state or nation.

"Historic preservation" means the research, protection, restoration, rehabilitation and interpretation of districts, sites, buildings, structures, areas or objects, significant to the history, architecture, archaeology, or culture of the county, state or nation.

"Intervenor" means a person who petitions to intervene in a proceeding and is admitted as a party.

"Meetings" means the convening of the commission for which a quorum is required in order to make a decision or to deliberate toward a decision upon a matter over which the commission has supervision, control, jurisdiction, or advisory power.

"Party" means any person named or admitted as a party.

"Person" means any agency, individual, partnership, firm, association, community group, trust, estate, private corporation, or other legal entity, whether or not incorporated, including governmental departments or agencies.

"Proceeding" means any matter brought before the commission over which the commission has jurisdiction as defined by §12-531-1. [Eff 2/14/92] (Auth: HRS §46-5) (Imp: HRS §91-2)

§12-531-6 Powers and duties. The following powers and duties are within the jurisdiction of the commission as stated in section 2.88.060 of the Maui County Code:

- (1) Advising and assisting federal, state and county government agencies in carrying out their historic preservation responsibilities;
- (2) Providing public information, education, training and technical assistance relating to the national, state and county historic preservation programs;
- (3) Initiating, accepting, reviewing and recommending to the state historic preservation officer, historic properties for inclusion on the Hawaii and national registers;
- (4) Maintaining a system for the survey, inventory and nomination of historic properties and archaeological sites within the county, and a system for site monitoring compatible with that of the state historic preservation office;
- (5) Administering the certified local government program of federal assistance for historic preservation within the county;
- (6) Providing design review for projects affecting any building or structure, site or district eligible for listing on the national or Hawaii register of historic places;
- (7) Developing and implementing a comprehensive county-wide historic preservation planning process;

- (8) Making recommendations to the county council for the expenditure of gifts and grants for projects connected with the identification, rehabilitation, restoration and reconstruction of historic properties, and the historic preservation planning process;
- (9) Administering the provisions of the historic districts established in title 19 of the Maui County Code, and advising on the establishment of historic districts and regulations thereof;
- (10) Reviewing and commenting on archaeological reports submitted as part of development proposals to various county agencies;
- (11) Undertaking such other action necessary and appropriate towards the implementation of its powers or duties as provided in chapter 2.88, Maui County Code;
- (12) Conducting proceedings for the adoption, amendment, or repeal of rules pursuant to section 91-3, Hawaii Revised Statutes; and
- (13) Hearing petitions for declaratory rulings. [Eff 2/14/92] (Auth: HRS §§6E-14, 46-5, 205A-22, 205A-41, 205-6) (Imp: HRS §§91-1, 91-2)

§12-531-7 General guidelines. The following documents, as referenced in section 2.88.080 of the Maui County Code, and on file in the planning department may be considered as guide in matters pertaining to the functions of the commission:

- (1) "Cultural resources management plan for Maui County" prepared by the planning department, dated May 1984.
- (2) Maui County general plan and the adopted community plans as provided for in chapter 2.80 of the Maui County Code.
- (3) "Proposal for the historical restoration and preservation of Lahaina" prepared by Community Planning Inc., dated May 1961.
- (4) "The architectural style book for Lahaina," prepared by John T. Jacobson, A.I.A., dated October 1969.

- (5) "State historic preservation plan" prepared by the State of Hawaii department of land and natural resources.
- (6) "Historic preservation program guidelines" prepared by the national park service.
- (7) "Office of Hawaiian affairs guidelines for the consideration of traditional native Hawaiian values in historic preservation review", dated 1988.
- (8) "Lahaina Environmental Design Manual" prepared by Chapman, Phillips, Brandt, Reddick and Associates, Inc., dated October 1975.
- (9) "Design Guidelines for Front Street Improvements", prepared by Belt Collins & Associates, Fox Hawaii, Inc., and Merrie-Ellen Gushi, dated December 1992.
- (10) Memorandum dated February 19, 1998, on the use of racks or structures to distribute literature within the Lahaina historic districts.
- (11) "Lahaina Historic Districts Design Guidelines, Sign Guidelines, dated March 2015."
- (12) Other reports, plans, studies, issue papers and memos as may be adopted by the commission, and shall be available for public review at the planning department. [Eff 2/14/92, am 4/12/93, am 5/2/98, am 3/31/01, am and comp 4/20/15] (Auth: HRS §§6E-3, 6E-5.5) (Imp: HRS §§1-28.5, 91-2)

§12-531-8 Administration. The planning director shall provide technical, clerical, administrative functions and any other duties delegated by the commission. [Eff 2/14/92] (Auth: HRS §§6E-14, 46-5, 205A-22, 205A-41, 205-6) (Imp: HRS §§91-1, 91-2)

## SUBCHAPTER 2

### NOMINATIONS TO REGISTERS

§12-531-9 Application. Any person or organization including the commission may submit nominations to the Hawaii or national register by submitting a completed nomination form to the state historic preservation officer. [Eff 2/14/92] (Auth: HRS §§6E-3, 6E-5.5) (Imp: HRS §91-2)

§12-531-10 Review process. The commission shall hold a public hearing after receiving notification from the state historic preservation officer of nominated historic properties within the County. At least ten days prior to the hearing, notice of the date, time, place and purpose of such hearing shall be published in a newspaper of general circulation in Maui County and pursuant to section 1-28.5, Hawaii Revised Statutes. Oral and written testimony concerning the significance of the proposed nomination shall be taken at the public hearing from any person.

The commission shall forward its report to the mayor within forty-five days after receiving notice from the state historic preservation officer. The report shall include findings on whether the property meets the criteria for nomination and a recommendation that the state historic preservation officer either nominate or reject the proposed nomination.

The mayor shall have fifteen days after receiving the report of the commission to send this report and a recommendation to the state historic preservation officer. The mayor's recommendation may, but need not, concur with the recommendation contained in the commission's report. [Eff 2/14/92, am 5/25/00] (Auth: HRS §§6E-3, 6E-5.5) (Imp: §§1-28.5, 91-2)

§12-531-11 Appeals. A determination by the commission and mayor that the application for nomination does not meet nomination criteria is not a final administrative decision. Appeals must be filed with the state historic preservation officer in writing, within

thirty days after the nomination has been denied. [Eff  
2/14/92] (Auth: HRS §§6E-3, 6E-5.5) (Imp: HRS §91-2)

### SUBCHAPTER 3

#### ADVISORY AND REVIEW FUNCTION

§12-531-12 Areas of review. Areas of commission review as provided for in chapter 2.88 of the Maui County Code and in §12-531-6 of these rules which are not provided for in other subchapters of these rules, are as follows:

- (1) Historic preservation responsibilities of federal, state and county government agencies;
- (2) Design review for projects affecting any building or structure, site or district eligible for listing on the national or Hawaii register of historic places;
- (3) Recommendations to the county council or the administration for the expenditure of gifts and grants for projects connected with the identification, rehabilitation, restoration and reconstruction of historic properties, and the historic preservation planning process;
- (4) Archaeological reports, mitigation and preservation plans submitted as part of development proposals to various county agencies. [Eff 2/14/92] (Auth: HRS §§6E-14, 6E-15) (Imp: HRS §91-2)

§12-531-13 Adoption of standards and criteria. The commission hereby adopts the "Secretary of the Interior's "Standards and Guidelines for Archaeology and Historic Preservation", and other guidelines as stated in §12-531-7 of these rules.

The commission may amend said standards or adopt additional standards that are needed for historic preservation in circumstances unique or adapted to the County of Maui.

The commission shall chronologically record, number and file all adopted standards and guidelines relating to its advisory and review function. [Eff 2/14/92] (Auth: HRS §§6E-14, 6E-15) (Imp: HRS §91-2)

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## SUBCHAPTER 4

### SURVEY AND INVENTORY

§12-531-14 Adoption of state survey and inventory.  
The commission hereby adopts the historic site survey and inventory of the State of Hawaii historic preservation division as the County's system of survey, inventory and nomination of historic properties within the County.  
[Eff 2/14/92] (Auth: HRS §§6E-3, 6E-15) (Imp: HRS §91-2)

SUBCHAPTER 5

CERTIFIED LOCAL GOVERNMENT PROGRAM

§12-531-15 Administration. The commission shall administer the certified local government program of federal assistance within the County of Maui in accordance with federal and state guidelines. [Eff 2/14/92] (Auth: HRS §6E-15) (Imp: HRS §91-2)

SUBCHAPTER 6

COUNTY HISTORIC DISTRICTS

§12-531-16 Assumption of authority. Upon dissolution of the Maui historic commission, the commission shall administer the provisions of the historic districts established in title 19 of the Maui County Code. The commission shall advise the mayor, the council and the County planning commissions on the establishment of historic districts and regulations thereof. [Eff 2/14/92] (Auth: HRS §91-2) (Imp: HRS §§6E-14, 6E-15)

§12-531-17 Adoption of standards and guidelines. The commission hereby adopts all guidelines adopted by the historic commission for the administration of historic district nos. 1, 2, and 3. [Eff 2/14/92] (Auth: HRS §§6E-15, 91-2) (Imp: HRS §6E-14)

§12-531-18 Application. Applications shall be available at the department of planning, 250 South High Street, Wailuku, Maui. Applicants shall provide:

- (1) Evidence that the applicant is the owner or lessee of record of the real property, or a notarized letter of authorization from the legal owner.
- (2) Four sets of architectural plans, drawn to scale, to include but not be limited to site plans, floor plans, sections and elevations showing building articulation. Said plans shall identify the building materials, color scheme, exterior lighting, signage, graphics, and exposed mechanical equipment.
- (3) Photographs of the project site. [Eff 2/14/92] (Auth: HRS §91-2) (Imp: HRS §6E-15)

§12-531-19 Delegation of authority. (a) The planning director shall assume the authority of the commission in approving interior or exterior alterations

the value of which cost less than twenty-five percent of the current assessed value of any building or structure, provided that:

- (1) A report of all such administrative approvals shall be made to the commission each month;
- (2) All requests involving properties listed on the Hawaii or national register shall be heard by the commission;
- (3) The planning director may refer any application to the commission which could otherwise be entertained administratively if the director determines the alteration to be a significant change to the building or structure, and
- (4) Any administrative decisions may be appealed to the commission, which shall hear the matter as if it were submitted directly to the commission.

(b) The director shall evaluate and approve alterations based upon the standards and guidelines adopted by the commission. [Eff 2/14/92] (Auth: HRS §91-2) (Imp: HRS §6E-15)

§12-531-20 Review process; contested case proceedings. (a) All applications certified as complete and that have not been administratively acted upon shall be scheduled for hearing before the commission within forty-five days of the date of receipt unless more time is deemed necessary the by department for agency or public review.

(b) Each applicant shall be informed, prior to the hearing, of the right of certain interested parties to intervene in the hearing pursuant to the rules of practice and procedure of the commission. Each applicant shall also be informed of its right to request a formal contested case hearing pursuant to the rules of practice and procedure of the commission.

(c) Contested cases and post-hearing procedures, including exceptions to recommended decisions, shall be governed by the rules of practice and procedure of the commission. [Eff 2/14/92] (Auth: HRS §§91-9, 91-9.5) (Imp: HRS §6E-15)

§12-531-21 Appeals. Parties to proceedings before the commission may obtain judicial review of decisions and orders issued by the commission in the manner set forth in chapter 91-14, Hawaii Revised Statutes. [Eff 2/14/92] (Auth: HRS §91-2) (Imp: HRS §91-14)

SUBCHAPTER 7

CULTURAL RESOURCES POLICY AND PLANNING

§12-531-22 Cultural resources management plan. The commission shall develop and adopt a Maui County cultural resource management plan which shall articulate a county-wide historic preservation planning process, and establish a historic preservation policy for the County. The plan shall establish priority guidelines for County action. The plan shall be adopted by the planning commissions and the council. [Eff 2/14/92] (Auth: HRS §91-2) (Imp: HRS §6E-14)

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