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DEPARTMENT OF PLANNING

COUNTY OF MAUI

ADOPTION OF CHAPTER 12-101

RULES OF PRACTICE AND PROCEDURE FOR
THE MAUI COUNTY URBAN DESIGN REVIEW BOARD

Chapter 12-101, entitled "Rules of Practice and Procedure for the Maui County Urban Design Review Board", is adopted to read as follows:

"TITLE MC-12
DEPARTMENT OF PLANNING

SUBTITLE 01

MAUI COUNTY URBAN DESIGN REVIEW BOARD

CHAPTER 101

RULES OF PRACTICE AND PROCEDURE FOR
THE MAUI COUNTY URBAN DESIGN REVIEW BOARD

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SUBCHAPTER 1

GENERAL PROVISIONS

§12-101-1 Title. The rules in this chapter shall be known as the "Rules of Practice and Procedure for the Maui County Urban Design Review Board". [Eff 10/4/02] (Auth: MCC §2.26.040(D)) (Imp: MCC §2.26.040(D), HRS §91-2)

§12-101-2 Purpose. These rules govern practice and procedure before the Maui County Urban Design Review Board. [Eff 10/4/02] (Auth: MCC §2.26.040(D)) (Imp: HRS §91-2, MCC §2.26.040(D))

§12-101-3 Construction. These rules shall be construed to secure the just and efficient determination of every matter before the Maui County Urban Design Review Board. These rules should be read in conjunction with the Hawaii Revised Statutes ("HRS"), the Revised Charter of the County of Maui, and the Maui County Code. In any conflict between the general provisions herein and any other provision, the more restrictive provision shall govern. [Eff 10/4/02] (Auth: MCC §2.26.040(D)) (Imp: MCC §2.26.040(D), HRS §91-2)

§12-101-4 Definitions. For the purpose of these rules, unless it is plainly evident from the context that a different meaning is intended, certain words and phrases used herein are defined as follows:

"Board" means the Maui County urban design review board.

"County" means the County of Maui.

"Director" means the director of the department of planning of the County of Maui, or a duly authorized designee.

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

"Person" means an individual, partnership, firm, association, trust, estate, private corporation, or other

legal entity, whether or not incorporated, including
governmental agencies. [Eff 10/4/02] (Auth: MCC
§2.26.040(D)) (Imp: MCC §2.26.040(D), HRS §91-2)

SUBCHAPTER 2

ORGANIZATION AND PARLIAMENTARY RULES

§12-101-5 Communications. Unless otherwise specified, all communications to the board should be directed to the board, care of the department of planning, County of Maui, 200 South High Street, Wailuku, Maui, Hawaii 96793. [Eff 10/4/02] (Auth: MCC §2.26.040(D)) (Imp: MCC §2.26.040(D), HRS §91-2)

§12-101-6 Organization. (a) The board shall elect annually a chairperson and vice-chairperson from its members. Their terms shall be for one year and may continue until their successors are duly elected.

(b) The chairperson shall be the presiding officer of the board. The vice-chairperson shall serve as the presiding officer during the temporary absence, illness, or disqualification of the chairperson. The presiding officer shall:

- (1) Open all meetings of the board at the appointed time by taking the chairperson and calling the meeting to order.
- (2) Call for the approval of the minutes of any preceding meeting.
- (3) Maintain order and proper decorum.
- (4) Announce all matters properly brought before the board.
- (5) Review all matters properly brought before the board, and when appropriate, call for votes upon such matters and announce the results.
- (6) Authenticate by signature all acts of the board as may be required by law, unless delegated to another.
- (7) Do and perform such other duties as may be required by law.
- (8) Make known all rules of order when so requested, and to decide all questions of order.

(c) In the absence of the chairperson and vice-chairperson, the board shall elect a chairperson pro tempore, who shall preside at the meeting. [Eff 10/4/02] (Auth: MCC §2.26.040(D)) (Imp: MCC §2.26.040(D), HRS §91-2)

§12-101-7 Meetings. (a) The board shall meet at a centrally located, publicly owned place in the County.

(b) The board shall conduct its meetings in accordance with Robert's Rules of Order, Newly Revised. The rules of the board shall govern in the event of a conflict between the rules of the board and Robert's Rules of Order, Newly Revised.

(c) The board shall comply with HRS chapter 92, as amended, pertaining to public agency meetings and records, and commonly known and referred to as the "Sunshine Law".

(d) Special meetings may be called by the chairperson or a majority of board members.

(e) Social, informal gatherings of two or more members of the board where official business is not discussed shall be considered chance meetings and not subject to these rules.

(f) The board shall allow all interested persons an opportunity to submit data, views, arguments or oral testimony on any agenda item in an open meeting. The board may remove any person who wilfully disrupts a meeting so as to prevent and compromise the conduct of the meeting. The board may also provide for the recordation of oral testimony and may place a reasonable time limit on such testimony, which in any event shall be not less than three minutes per person. [Eff 10/4/02] (Auth: MCC §2.26.040(D)) (Imp: MCC §2.26.040(D), HRS §91-2)

§12-101-8 Executive meetings. (a) The board may hold an executive meeting in which the public may be excluded, for those purposes permitted by HRS section 92-5, but only if there is an affirmative vote of two-thirds of the members of the board present at the meeting; provided the affirmative vote constitutes a majority of the members to which the board is entitled. The reason for holding the executive session shall be publicly announced and the vote of the members shall be recorded and entered into the minutes of the meeting.

(b) The board shall not make any decision in an executive meeting, except as provided in HRS section 92-5. [Eff 10/4/02] (Auth: MCC §2.26.040(D)) (Imp: MCC §2.26.040(D))

§12-101-9 Emergency meetings. The board may hold an emergency meeting that does not comply with the notice requirement of HRS section 92-7, under conditions specified in HRS section 92-8. [Eff 10/4/02] (Auth: MCC §2.26.040(D)) (Imp: MCC §2.26.040(D))

§12-101-10 Quorum. A majority of all of the members to which the board is entitled shall constitute a quorum to transact business, and the concurrence of a majority of all the members to which the board is entitled shall be necessary to take any action. [Eff 10/4/02] (Auth: MCC §2.26.040(D)) (Imp: HRS §92-15, MCC §2.26.040(D))

§12-101-11 Removal of persons from meetings. The presiding officer may remove any person who wilfully disrupts a meeting. [Eff 10/4/02] (Auth: MCC §2.26.040(D)) (Imp: MCC §2.26.040(D))

§12-101-12 Minutes. (a) The board shall keep written minutes and may provide for the audio recording of meetings. The written minutes shall give a true reflection of the matters discussed at the meeting and the views of the members. The minutes shall include, but need not be limited to:

- (1) The date, time, and place of the meeting;
- (2) The members of the board recorded as either present or absent;
- (3) The substance of all matters proposed, discussed, or decided; and a record, by individual member, of any votes taken;
- (4) Any other information that any member of the board requests be included or reflected in the minutes.

(b) The written minutes shall be public records and shall be available within thirty days after the meeting except where such disclosure would be inconsistent with HRS section 92-5, pertaining to executive meetings. It shall not be necessary for the board to transcribe audio recordings unless requested for purposes of rehearing or court review. Any person requesting a transcript of the audio recording shall pay the costs incurred in the preparation of the transcript.

(c) All or any part of a meeting of the board may be recorded by any person in attendance by means of a tape recorder or any other means of sonic reproduction, except when a meeting is closed pursuant to HRS section 92-4; provided the recording does not actively interfere with the conduct of the meeting. [Eff 10/4/02] (Auth: MCC §2.26.040(D)) (Imp: HRS §92-9, MCC §2.26.040(D))

§12-101-13 Agendas. (a) The board shall give written public notice of any regular, special, or rescheduled meeting, or any executive meeting when anticipated in advance. The notice shall include an agenda that lists all of the items to be considered at the forthcoming meeting, the date, time, and place of the meeting and, in the case of an executive meeting, the purpose of the executive meeting.

(b) The board shall file the notice in the office of the county clerk at least six calendar days before the meeting. The notice shall also be posted at the site of the meeting whenever feasible. The board shall not change the agenda, once filed, by adding items thereto without a two-thirds recorded vote of all members to which the board is entitled; provided that no item shall be added to the agenda if it is of reasonably major importance and action thereon by the board will affect a significant number of persons. Items of reasonably major importance not decided at a scheduled meeting shall be considered only at a meeting continued to a reasonable day and time.

(c) The board shall maintain a list of names and addresses of persons who request notification of meetings and shall mail a copy of the notice to such persons at their last recorded address no later than the time the agenda is filed under subsection (b) of this section. [Eff 10/4/02] (Auth: MCC §2.26.040(D)) (Imp: HRS §92-7, MCC §2.26.040(D))

§12-101-14 Board records. Board records that are "government records", as defined in HRS chapter 92F ("Uniform Information Practices Act"), as amended, shall be disclosed according to the provisions of that chapter. All costs required by any law, rule, or ordinance shall be paid by the requesting party. [Eff 10/4/02] (Auth:

MCC §2.26.040(D)) (Imp: HRS §§92F-2, 92F-12, 92F-18; Charter §13-9)

§12-101-15 Computation of time. In computing any period of time under these rules, the time begins with the day following the act, event, or default, and includes the last day of the period unless it is a Saturday, Sunday, or legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or legal holiday. [Eff 10/4/02] (Auth: MCC §2.26.040(D)) (Imp: HRS §91-2, MCC §2.26.040(D))

§12-101-16 Officers and their duties. (a) Presiding officer. The chairperson shall be the presiding officer of the board and the vice-chairperson shall act as the presiding officer in the absence of the chairperson. The presiding officer shall:

- (1) Open all meetings of the board at the appointed hour by taking the chair and calling the meeting to order;
- (2) Call for the approval of the minutes of any preceding meeting when a quorum is present;
- (3) Maintain order and proper decorum;
- (4) Announce the business before the board;
- (5) Review all matters properly brought before the board, call for the votes and announce the results;
- (6) Authenticate by his or her signature all acts of the board as may be required by law, unless delegated to the director;
- (7) Do and perform other duties as may be required by law, or as may properly appertain to the office;
- (8) Make known all rules of order when so requested, and to decide all questions of order, subject to an appeal to the board. [Eff 10/4/02] (Auth: MCC §2.26.040(D)) (Imp: MCC §2.26.040(D))

§12-101-17 Disclosure of conflict. (a) Whenever a conflict of interest or other ethical question is raised by anyone regarding any member of the board, the affected member shall promptly make full disclosure of the circumstances to the board. When a member is deemed by the board or the board of ethics to have a conflict of interest, that member shall be disqualified from voting in all actions relating to that matter.

(b) Whenever a member or alternate member of the board or the member or alternate member's firm or employer represents a client who requires board review of an application, the member or alternate member shall not participate in the client's presentation to the board. The member or alternate member may answer technical questions posed by other members of the board, but the member or alternate member shall not advocate on behalf of the member or alternate member's client. [Eff 10/4/02] (Auth: MCC §2.26.040(D)) (Imp: Charter §10-4.1, MCC §1.04.010(D)(2))

§12-101-18 Attendance. No member shall be absent from the service of the board, unless the member is sick or otherwise unable to attend and has so advised the planning department staff assigned to the board at least twenty-four hours prior to the meeting. If a member has two unexcused absences, the chairperson shall, promptly after the second unexcused absence, issue a letter to the member requesting an explanation for the absences. If a member has three unexcused absences, the chairperson shall, promptly after the third unexcused absence, issue a letter to the mayor notifying the mayor of the absences and requesting review of the matter by the mayor. [Eff 10/4/02] (Auth: MCC §2.26.040(D)) (Imp: HRS §91-2, MCC §2.26.040(D))

§12-101-19 Petitions for adoption, amendment, or repeal of rules. Any interested person may petition the board for the adoption, amendment, or repeal of a board rule. The petition shall be in writing, describe and state the reasons for the proposed change with particularity, and be submitted to the board. Within thirty days after reviewing the petition, the board shall either deny the petition in writing, stating its reasons for the denial, or initiate proceedings in accordance

with HRS section 91-3. [Eff 10/4/02] (Auth: MCC §2.26.040(D)) (Imp: HRS §91-6, MCC §2.26.040(D))

§12-101-20 Declaratory rulings. (a) Any interested person may petition the board for a declaratory order as to the applicability of any statutory provision or any rule or order of the board.

(b) A person seeking a declaratory ruling shall file the petition with the board. The petition shall include:

- (1) The name, address, and telephone number of the petitioner;
- (2) A statement of the nature of petitioner's interest, including reasons for the submission of the petition;
- (3) A designation of the specific provision, rule or order in question;
- (4) A complete statement of facts;
- (5) A statement of the position or contention of the applicant;
- (6) A memorandum fully discussing the reasons for such position or contention;

(c) The board may refuse to issue a declaratory ruling where:

- (1) The question is speculative or purely hypothetical and does not involve existing facts or facts that can reasonably be expected to exist in the near future.
- (2) The petitioner's interest is not of the type that would give petitioner standing to maintain an action if petitioner were to seek judicial relief.
- (3) The declaratory ruling concerns matters in litigation or matters which are reasonably expected to arise in litigation.
- (4) The matter is not within the jurisdiction of the board.

(d) Where any question of law is involved, the board may refer the petition to the corporation counsel. The board may also refer the petition to other agencies when necessary or desirable.

(e) The board shall promptly notify the applicant of the disposition of the petition. [Eff 10/4/02] (Auth: MCC §2.26.040(D)) (Imp: HRS §91-8)

§12-101-21 Committees. The board may appoint the necessary standing and select committees to discharge its responsibilities and functions. [Eff 10/4/02] (Auth: MCC §2.26.040(D)) (Imp: MCC §2.26.040(D))

§12-101-22 Checklist of standard concerns. Appended hereto as Attachment "A" and incorporated herein by reference is the board's checklist of standard concerns, which lists the board's standard areas of concern regarding special management area permit application reviews, minimum information requested for board review of special management area permit applications, sign permit application reviews, and minimum information requested for board review of sign permit applications. The director shall ensure that an application conforms with the checklist of standard concerns prior to placing the application on the board's agenda. [Eff 10/4/02] (Auth: MCC §2.26.040(D)) (Imp: MCC §2.26.040(D))

SUBCHAPTER 3

DELEGATION TO DIRECTOR

§12-101-23 Delegation to director. (a) Pursuant to section 16.12A.150, Maui County Code, the board hereby delegates to the director the authority to approve category B sign applications that comply with all Maui County Code sign requirements, as set forth by chapter 16.12A, as may be amended.

(b) Any dispute arising out of the director's determination under this section shall be referred to the board for final determination. [Eff 10/4/02] (Auth: MCC §§2.26.040(D), 16.12A.150(D) (Imp: MCC §§2.26.040(D), 16.12A.150(D))


§12-101-24 Severability. If any portion of the foregoing rules or the applicability thereof to any person, property or circumstance is held invalid for any reason, that invalidity shall not affect other provisions or applications which can be given effect without the invalid provision or application, and to this end these are declared to be severable." [Eff 10/4/02] (Auth: MCC §2.26.040(D)) (Imp: HRS §91-2, MCC §2.26.040(D))

ADOPTED this 19th day of February 2002,
at Wailuku, Maui, Hawaii.

Chapter 12-101, Rules of Practice and Procedure for
the Maui County Urban Design Review Board, shall take
effect ten days after filing with the Office of the
County Clerk.

DEPARTMENT OF PLANNING

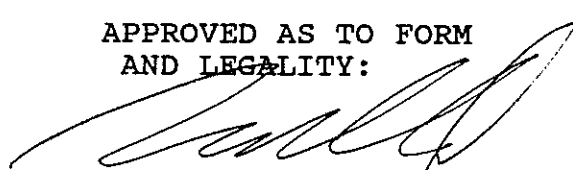
By 
JOHN E. MIN
Director

By 
JAMES R. BERG
Chairperson
MAUI COUNTY URBAN DESIGN
REVIEW BOARD


JAMES H. APANA, JR.
Mayor, County of Maui

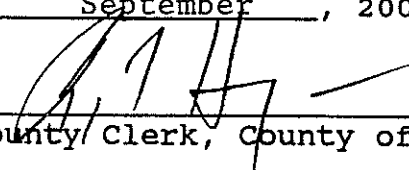
Approved this 24th day of
September, 2002.

APPROVED AS TO FORM
AND LEGALITY:


EDWARD S. KUSHI, JR.
Deputy Corporation Counsel
County of Maui

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Received this 24th day of
September, 2002.

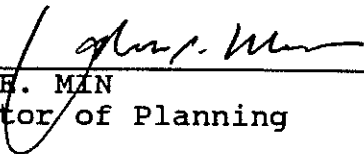

County Clerk, County of Maui

CERTIFICATION

I, JOHN E. MIN, Director, Department of Planning, County of Maui, do hereby certify:

1. That the foregoing is a full, true and correct copy of the rules drafted in Ramseyer format, pursuant to the requirements of Section 91-4.1, Hawaii Revised Statutes, which were adopted by the Maui County Urban Design Review Board on the 19th day of February, 2002, following a public hearing that closed on February 19, 2002, and which were filed with the Office of the County Clerk.

2. That the notice of public hearing on the foregoing Rules, which notice included the substance of such Rules, was published in The Maui News on January 18, 2002.



JOHN E. MIN
Director of Planning

Maui County Urban Design Review Board
Checklist of Standard Concerns

11/2/99

SMA permit review (for recommendations to Planning Commission)

What are the visual impacts of the proposed site related improvements noted below:

- Traffic (pedestrian and vehicular) relative to adjacent streets
- Parking layout
- Miscellaneous site structures
 - Trash collection areas
 - Site walls & fencing
 - Parking trellises, carports
- Site lighting
- Drainage concept

Do the proposed landscaping improvements address the items of concerns noted below:

- Planting for parking areas relative to the parking ordinance requirements
- Plant material types, sizes, scale, screening and shading
- Irrigation system, water source
- Significant historical or exceptional trees on site or on adjacent property

Are the following architectural and building design items addressed aesthetically and with minimal impact on the neighboring properties and the public:

- Building scale and setbacks
- Building color, texture, materials
- Roof design, fenestration, ornamentation
- Exterior lighting on buildings
- Within historic area or in close proximity to historic area
- Signage program

- Are measures proposed to preserve the makai views relative to this development?
- Are mitigative measures proposed to reduce noise and privacy impacts on neighboring properties?
- Has subdivision CC&R's design criteria been reviewed and approved?
- Has there been input from the community for or against this development?

(The Rules and Regulations of the Planning Commissions should also be referenced relative to the intent of the board's purpose in reviewing SMA permit applications)

MINIMUM SUBMITTAL FOR U.D.R.B. REVIEW

The following items are recommended, as a minimum, to be submitted by the applicant to facilitate the review of the projects with the abovementioned concerns addressed:

- Written narrative description of the proposed improvements including the project parcel as well as the neighboring properties land use designation and existing uses.
- Photographs or a video of the project site and surrounding buildings and properties.
- Colored architectural site plan to include landscaping, identification of plant type, general plant size, existing foliage, and irrigation and drainage concepts.
- Colored architectural renderings indicating building elevations identifying building materials.
- Samples of exterior materials and color concept.
- Proposed lighting and signage concept.
- Letter from subdivision's design review committee indicating approval of design relative to CC&R.
- Other items to address the concerns noted above.

Maui County Urban Design Review Board
Checklist of Standard Concerns

11/2/99

Sign permit review (UDRB has authority of final approval or denial of sign permits)

- How does the proposed sign compare to standard sign regulations?
- What is the visual impact of its size, shape, colors?
- What percentage of building frontage is covered by sign?
- What other signs are existing or proposed on the building?
- Where is the sign located relative to the street? What is the distance from and height above the street?
- Is the sign illuminated and, if so, how? If so, is there a method to control the intensity of the brightness?
- What buildings, signage, improvements exist on the neighboring properties?
- What is proposed relative to landscaping around ground signs?
- What is the method of mounting onto the building and is it aesthetically integrated into the sign design?

(The sign ordinance should also be referenced relative to the intent of the board's purpose in reviewing signs)

MINIMUM SUBMITTAL FOR U.D.R.B. REVIEW

The following items are recommended, as a minimum, to be submitted by the applicant to facilitate the review of the sign with the abovementioned concerns addressed:

- Colored photographs or a video of the project site and surrounding buildings and properties.
- Detailed colored sign design to proper scale showing elevation and section indicating dimensions, lettering, graphics, supporting structure, method of illumination (if any), and building on which it is mounted or it is adjacent to. Other signage, existing or proposed should also be shown on this drawing.
- Plot plan to proper scale indicating proposed location of sign and other buildings and site structures. Other signage, existing or proposed should also be shown on this plan. Distance between proposed sign and property lines and/or right-of-way should be shown.
- General location map identifying property and surrounding properties.
- Samples of sign materials and/or color chips.
- Letter of approval from property owner, management agency, and, if applicable, the property design review committee.
- Other items which may address the concerns noted above.