

Amendments to Chapter 5
Rules of Practice and Procedure for
the Board of Code Appeals

1. Section 15-5-10, Rules of Practice and Procedure for the Board of Code Appeals, is amended by amending subsections (h) and (i) to read as follows:

"(h) Public hearings may be held after thirty days notice, published [in a newspaper of county circulation] pursuant to section 1-28.5, Hawaii Revised Statutes.

[I] (i) Executive meetings closed to the public may be held by the board upon affirmative vote, taken at an open meeting of two thirds of the members present; provided the affirmative vote constitutes the majority to which the board is entitled. The meeting closed to the public shall be limited to matters specifically allowed by law and the reason for holding such a meeting shall be publicly announced and the vote of each member on the question of holding the meeting closed to the public shall be recorded and entered into the minutes of the meeting." [Eff 9/6/97; am 12/2/99] (Auth.: HRS §91-2) (Imp: HRS §§1-28.5, 91-2, 92-4, 92-5)

2. Section 15-5-14, Rules of Practice and Procedure for the Board of Code Appeals, is amended by amending subsection (d) to read as follows:

"(d) [Final decisions and orders] After the final vote of the board, the final decision and order shall be issued in writing within [a reasonable time after the final vote of the board] thirty calendar days." [Eff 9/6/97; am 12/2/99] (Auth: HRS §91-2) (Imp: HRS §§91-2, 91-11, 91-13.5)

3. Section 15-5-60, Rules of Practice and Procedure for the Board of Code Appeals, is amended to read as follows:

"§15-5-60 Issuance of decisions and orders. A proceeding shall stand submitted for decision by the board after the taking of evidence, the submission of a report by the hearing officer, and the filing of such briefs or the presentation of such oral argument as may have been allowed. A party to the proceeding may submit a proposed decision and order which shall include proposed findings of fact. Said proposals shall be

mailed to each party to the proceeding and an opportunity given to each party to comment thereon.

The board's decision and order shall be in writing or stated in the record and shall be accompanied by separate findings of fact and conclusions of law. If any party to the proceeding has filed proposed findings of fact, the board shall incorporate in its decision a ruling that addresses such findings. The decision and order shall be rendered within [a reasonable time] thirty days from the presentation of oral argument by the parties." [Eff 9/6/97; am 12/2/99] (Auth: HRS §91-2) (Imp: HRS §§91-12, 91-13.5)

4. Section 15-5-64, Rules of Practice and Procedure for the Board of Code Appeals, is amended by amending subsection (e) to read as follows

"(e) Public hearing; notice. When the board proposes to adopt, amend, or repeal a rule, it shall schedule a public hearing by giving thirty days notice. Notice shall include a statement of the substance of the proposed rule, and the date, time, and place where interested persons may be heard. Notice shall be published [at least once in a newspaper of general circulation in Maui County,] pursuant to section 1-28.5, Hawaii Revised Statutes, and shall be mailed to all persons who have made a timely written request of the board for advanced notice of its rulemaking procedures." [Eff 9/6/97; am 12/2/99] (Auth: HRS §91-2) (Imp: HRS §§1-28.5, 91-3, 91-4, 91-6)

5. Section 15-5-64, Rules of Practice and Procedure for the Board of Code Appeals, is amended by amending subsection (k) to read as follows:

"(k) Emergency rules; effect; notice. Emergency rules shall be effective upon filing, but for not longer than one hundred twenty days without renewal. The board shall publish a copy of the emergency rule at least once [in a newspaper of general circulation in Maui County] within five days of filing herein." [Eff 9/6/97; am 12/2/99] (Auth: §91-2) (Imp: HRS §§1-28.5, 91-3, 91-4, 91-6)

6. Chapter 15-5, Rules of Practice and Procedure for the Board of Code Appeals, is amended by adding a new section to read as follows:

"§15-5-67.2 Application completeness. The director shall determine whether the application is complete within ten calendar days after the filing of the application, otherwise the application is deemed complete on the eleventh day." [Eff 12/2/99] (Auth: HRS §91-2) (Imp: HRS §91-13.5)

7. Chapter 15-5, Rules of Practice and Procedure for the Board of Code Appeals, is amended by adding a new section to read as follows:

"§15-5-67.4 Scheduling of hearing on application. After the director determines that the application is complete, the director shall schedule a meeting within sixty calendar days for the board to conduct a public hearing to consider said application." [Eff 12/2/99] (Auth: HRS §91-2) (Imp: HRS 91-13.5)

8. Chapter 15-5, Rules of Practice and Procedure for the Board of Code Appeals, is amended by adding a new section to read as follows:

"§15-5-67.6 Board action on application. The board shall make a decision on the application within sixty-five calendar days after the public hearing on said application, otherwise the application shall be deemed approved. If the public hearing is not conducted within sixty calendar days as specified in section 15-5-67.4, then the board shall make a decision within one hundred twenty-five calendar days from the date the application was determined to be complete pursuant to section 15-5-67.2, otherwise the application shall be deemed approved. The foregoing shall not include the time specified in subsection 15-5-14(d) to put the decision in writing, nor shall it apply when review of the application is conducted pursuant to the contested case procedures and post hearing procedures set forth in subchapters 4 and 5 of these rules." [Eff 12/2/99] (Auth: HRS §91-2) (Imp: HRS §91-13.5)

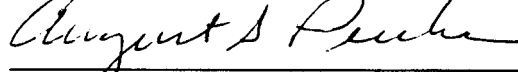
9. Material, except source notes, to be repealed is bracketed. New material is underscored.

10. Additions to update source notes to reflect these amendments are not underscored.

11. These amendments to chapter 5, Rules of Practice and Procedure for the Board of Code Appeals, shall take effect ten days after filing with the Office of the County Clerk.

ADOPTED this 22nd day of September, 1999
at Wailuku, Maui, Hawaii.

DEPARTMENT OF PUBLIC WORKS AND
WASTE MANAGEMENT
BOARD OF CODE APPEALS



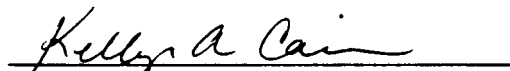
August S. Percha
Chairperson



JAMES H. APANA, SR
Mayor, County of Maui


Approved this 16th day of
Nov., 1999.

APPROVED AS TO FORM
AND LEGALITY:


KELLY A. CAIRNS
Deputy Corporation Counsel
County of Maui

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Received this 22nd day of
November, 1999.


Clerk, County of Maui

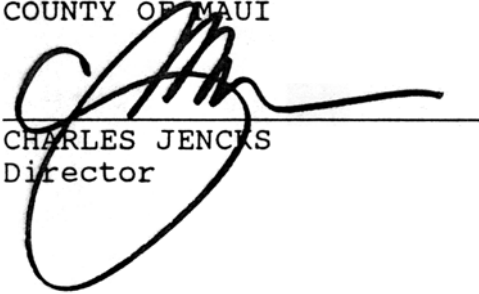
CERTIFICATION

I, CHARLES JENCKS, Director, Department of Public Works and Waste Management, County of Maui, do hereby certify:

1. That the foregoing is a full, true and correct copy of the Amendments to the Rules of Practice and Procedure for the Board of Code Appeals drafted in Ramseyer format, pursuant to the requirements of Section 91-4.1, Hawaii Revised Statutes, which were adopted on the 22nd day of September, 1999, by affirmative vote of the proper majority following a public hearing following a public hearing on September 22, 1999; and filed with the Office of the County Clerk.

2. That the notice of public hearing on the foregoing rules was published in the Hawaii State & County Public Notices on the 16th day of August, 1999.

COUNTY OF MAUI



CHARLES JENCKS
Director