

MICHAEL P. VICTORINO
Mayor

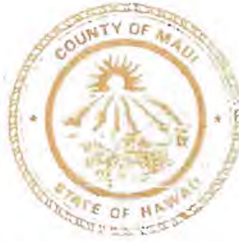
ERIC A. NAKAGAWA, P.E.
Director

SHAYNE R. AGAWA, P.E.
Deputy Director

MICHAEL P. RATTE
Solid Waste Division

SCOTT R. ROLLINS, P.E.
Wastewater Reclamation Division

TAMARA FARNSWORTH
Environmental Protection &
Sustainability Division



COUNTY OF MAUI
DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT
2050 MAIN STREET, SUITE 2B
WAILUKU, MAUI, HAWAII 96793

December 17, 2021

OFFICE OF THE
COUNTY COUNCIL

2021 DEC 22 PM 3:45

RECEIVED

Honorable Michael P. Victorino
Mayor, County of Maui
200 South High Street
Wailuku, Hawaii 96793

APPROVED FOR TRANSMITTAL

Michael P. Victorino 12/17/21
Mayor Date

For Transmittal to:

Honorable Keani Rawlins-Fernandez, Chair
Budget, Finance, and Economic Development Committee
Maui County Council
200 South High Street
Wailuku, Hawaii 96793

Dear Chair Rawlins-Fernandez,

**SUBJECT: ESTABLISHING CHAPTER 3.17, MAUI COUNTY CODE, RELATING TO
THE REDUCTION OF ADMINISTRATIVE FINES (BFED-19)**

The County is in receipt of the above Budget, Finance, and Economic Development (BFED) Committee requested information dated December 3, 2021. Your request and the corresponding answers are provided below by the Department of Environmental Management (DEM).

1. A copy of the Department's Administrative rules.

DEM's administrative rules are attached as follows. Many refer to the previously combined Department of Public Works and Environmental Management. The rules related to administrative fines are pending re-promulgation to apply only to the functions of DEM.

- 15-3 – Rules related to Maui County Landfills
- 15-5 – Rules for Reclaimed Water Service
- 15-102 Rules for Administrative Procedures and Civil Fines for Violations of Titles 12, 14, 16, 18, 19, and 20 of the Maui County Code
- 15-108 Rules related to Refuse Collection
- 15-601 – Rules related to Glass Recycling in Licensed Liquor Serving Establishments

17-105 – Rules related to Plastic Bag Reduction
17-402 – Rules related to Polystyrene Foam Food Service Containers (amendments adopted; eff. 1/1/2022)

2. *The number of fine reductions over \$7,500 since 2015.*

The DEM-Wastewater Reclamation Division (WWRD) has had one (1) fine reduced by over \$7,500 from 2015 to the present. For this reduction a memorandum of understanding was created through Corporation Counsel that required a reduced fine and other measures.

3. *The criteria established by the Department to determine if a fine reduction is appropriate.*

For DEM, the initial fine is always due and payable, however, the director may waive or reduce the daily fines after receiving a request for a waiver and considering the following:

- a. The type and degree of the violation, whether it is a recurrent violation, and the number of violations cited in the order;
- b. Previous violations by the same person;
- c. The degree of cooperation provided by the violator during the investigation;
- d. Whether a permit or other authorization is required to effect corrective action;
- e. The costs associated with the corrective action required;
- f. Applicable statutes and rules;
- g. Amount necessary to deter future violations; and
- h. Evidence, if any, of circumstances beyond the control of the violator that may justify such a waiver.

4. *Information on whether the Department allows payment plans for settlement agreements.*

DEM has not had any payment plans for fines. In the past we have allowed payment plans for sewer user fees (customers' bills) and for recycled water fair share fees that were imposed as conditions of approval.

DEM could agree to a payment plan in a settlement agreement for fines if necessary and appropriate.

5. *A report of all fine reductions for Fiscal Year 2022, Quarter 1 (July 1, 2021 through September 30, 2021).*

DEM has not had any fine reductions in fiscal year 2022.

Thank you for the opportunity to provide you with information on this matter. Should you have any questions or concerns, please feel free to transmit them to the Department of Environmental Management via transmittal through the Office of the Mayor.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric A. Nakagawa". The signature is fluid and cursive, with the first name "Eric" and last name "Nakagawa" clearly visible.A small, handwritten mark or symbol, possibly a stylized "E" or a similar character, located to the left of the printed name.

ERIC A. NAKAGAWA, P.E.
Director of Environmental Management

CC: SWD ADMIN

DEPARTMENT OF PUBLIC WORKS AND WASTE MANAGEMENT

COUNTY OF MAUI

Amendments to Chapter 15-3
Rules for the Maui County Landfills

SUMMARY

1. §15-3-3 is amended.
2. §15-3-5 is amended.
3. §15-3-6 is amended.

§15-3-3 Definitions. For the purposes of this chapter, unless it is plainly evident from the context that a different meaning is intended, certain words and phrases used herein are defined as follows:

"Agricultural waste" means waste generated from agricultural crops or farm animals and from the slaughtering of livestock.

"Asbestos" means a silicate of calcium and magnesium that occurs naturally in metamorphic rock formations.

"Bottom sludge" means semi-liquid solids from the bottom of oil, gasoline or diesel storage tanks.

"C&D landfill" means any landfill permitted by the State of Hawaii department of health to receive C&D waste as defined herein.

"C&D waste" means construction and demolition wastes resulting from the construction, renovation, and demolition of buildings; road repaving projects; bridge repair. Typical C&D wastes are made up of concrete, asphalt, bricks, blocks, rebar; cleared and grubbed material such as dirt, stumps, branches; forming and framing lumber, painted or treated lumber, plywood and particle board, shingles, gutters, siding, roofing, flooring, carpeting, screening, tar-based products, plaster glass, drywall, gypsum, wallpaper, floor and ceiling tile, porcelain and fiberglass fixtures, insulation materials, plumbing, heating and electrical parts, fencing, posts, cardboard, plastic buckets and pallets.

"Commercial" shall mean any business, federal or state agency, religious entity or nonprofit organization.

"Dangerous practice" means any action which is unreasonably dangerous under circumstances then existing.

"Department" means the department of public works and waste management, county of Maui.

"Dewatered sludge" means sewage solids that have undergone anaerobic or aerobic digestion, mechanical and chemical dewatering, and are ready to be disposed of in a sanitary landfill.

"Director" means the director of public works and waste management, county of Maui, or the director's authorized representative.

"Division" means the solid waste division, department of public works and waste management, county of Maui.

"Friable asbestos" means asbestos that is easily crushed, when dry, and may be crumbled, dislodged, pulverized, or reduced to powder by hand pressure.

"Grease trap pumpings" means the mixture of oil, grease, floatable solids and water from an enclosure designed to allow water to pass through but contain material lighter than water.

"Green waste" means solid waste including, but not limited to, leaves, grass clippings, garden wastes, tree trunks, holiday trees, tree trimming and prunings.

"Hazardous waste" means any waste or combination of waste which poses a substantial present or potential hazard to human health or living organisms because such wastes are nondegradable or persistent in nature, can be biologically magnified, can be lethal, or may otherwise cause or tend to cause detrimental cumulative effects and identified in 40 CFR 261.

"Landfill" means any solid waste disposal facility maintained and operated by the county of Maui.

"Landfill personnel" means employees of the department or authorized agents of the department.

"Liquid waste" means any waste material that is determined to contain free liquids as defined by a paint test.

"Load pull off" means the action of mechanically removing load from a truck or other vehicles for a fee.

"Nonfriable asbestos" means asbestos that can not be easily crushed, when dry, by hand pressure.

"Over-size tire" means a tire with a rim diameter of at least seventeen inches, but less than twenty-four inches.

"Paint Test" means a test that conforms to 40 CFR 257 and 258, specifically refers to section 258.28(c)(1) liquid waste, method 9095. This may be found in EPA publication no. SW-846 "Test Methods for Evacuating Solid Wastes, Physical/Chemical Methods".

"Permit" means written authorization issued by the department bearing the signature of the director, which by its conditions may authorize the permittee to dispose of solid waste.

"Person" means a living human being and also includes a firm, partnership, corporation, society or association.

"Refrigerant" means a substance that by undergoing changes of state (liquid to gas, gas to liquid) releases

or absorbs large amounts of heat in relation to its volume, and thus produces a cooling effect.

"Salvaging" means the removal of material from a landfill.

"Scavenging" means the removal of material from a landfill.

"Septic tank pumpings" means a partially digested mixture of grease, oils and organic matter from an enclosed septic tank.

"Solid waste" means garbage, refuse, and other discarded solid material, including material resulting from industrial and commercial operations, and from community activities, but does not include solid or dissolved material in domestic sewage or other irrigation return flows or other common water pollutants.

"Specialty tire" means a tire with a rim diameter of twenty-four inches or more, a cross-section of twelve inches or more, or a ply rating of eighteen or more.

"Storage" means the interim containment of solid waste after generation and prior to final disposition.

"Undigested sewage sludge" means sludge that has not been conditioned and stabilized by anaerobic, aerobic, or other treatment processes.

"Vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a highway, except for devices moved by human power.

"White goods" means residential or commercial, electrical and mechanical, appliances including, but not limited to, air conditioners, clothes dryers, clothes washers, dishwashers, freezers, refrigerators, ovens and stoves. [Eff 6/18/94, am 3/2/97, am 12/27/98] (Auth: MCC §8.04.079) (Imp: MCC §8.04.079)

§15-3-5 Disposal charges for refuse. (a) General. The disposal charge for refuse shall be imposed and collected in accordance with the rates set forth in the annual budget ordinance. All disposal charges shall be paid when due.

(b) Commercial accounts.

- (1) Persons using vehicles with commercial license plates, or commercial identification to dispose refuse at a landfill, shall be required to obtain a disposal permit and shall be charged the appropriate unit charge or interim fee,

whichever is applicable, as set forth in the annual budget ordinance.

- (2) Commercial accounts delinquent beyond thirty days may be sent to a collection agency. The party responsible for the account shall pay any costs and fees charged by such collection agency. Disposal permits for commercial accounts delinquent beyond thirty days shall be invalid. Such commercial accounts shall not use any landfill until the account is brought current, and may be required to obtain a new disposal permit. [Eff 06/18/94, am 12/27/98] (Auth: MCC \$8.04.078) (Imp: MCC \$8.04.078)

§15-3-6 Rules of operation. (a) General rules. No person shall enter or use a landfill except as provided herein:

- (1) Check in at weigh or attendant station. The operators of all vehicles shall check in at a landfill weigh or attendant station before disposal of refuse. If a landfill has no weigh station, then the operator shall check in with landfill personnel.
- (2) Admission only during hours of operation. Vehicles will be admitted to a landfill only during hours of operation as set forth in section 15-3-4.
- (3) Consumption of alcohol and illicit drugs prohibited. No person shall consume alcoholic beverages or illicit drugs within a landfill.
- (4) Loitering prohibited. No person shall loiter within a landfill. All persons must leave a landfill immediately after disposing of refuse or weighing out, whichever is later.
- (5) Minors within a landfill. All minors and persons not engaged in the unloading of refuse must remain within the vehicle at all times. The operator of a vehicle and helpers must remain within the immediate vicinity of the vehicle.
- (6) Use of tools within a landfill. All tools must be kept on, in, or under the vehicle at

- all times. No person shall leave a tool within a landfill.
- (7) Reporting injuries sustained at a landfill. All persons must report injury to person or damage to vehicles immediately to the landfill supervisory personnel. No person shall move a damaged vehicle prior to reporting the incident to the landfill supervisory personnel.
 - (8) Mandatory disposal in designated areas. No person shall dispose of solid waste except in areas designated by posted signs or as directed by landfill personnel.
 - (9) Salvaging and scavenging prohibited. No person shall salvage or scavenge material disposed within a landfill.
- (b) Vehicles.
- (1) Obedience to traffic signs. The operators of all vehicles within a landfill must observe posted speed limits and traffic warning signs. Unless otherwise posted, the speed limit on all roadways within a landfill is fifteen miles per hour.
 - (2) Reasonable and prudent operation of vehicles in a landfill. No person shall operate a vehicle within a landfill at a speed greater than is reasonable and prudent and having regard to the actual and potential hazards and conditions then existing. Consistent with the foregoing, every person shall drive at a safe and appropriate speed when special hazards exist with respect to weather, traffic, load condition, driver ability and mechanical condition of the vehicle.
 - (3) Disposal of refuse from vehicles. No person shall dispose of refuse from any vehicle until the vehicle is at a complete stop.
 - (4) Operation of vehicles near bulldozers. No person shall drive a vehicle within twenty feet from bulldozer operations at all times.
 - (5) Operation of vehicles on designated routes. No person shall operate a vehicle within a landfill except on designated routes or as directed by landfill personnel. Any vehicle unable to negotiate these routes because of

faulty or malfunctioning equipment shall be prohibited from entering a landfill.

- (c) Prohibited activities.
 - (1) Disposal of vehicles. No person shall dispose of a vehicle within the central Maui landfill.
 - (2) Disposal of tires. If there is a state of Hawaii department of health permitted facility that accepts tires for recycling within the area serviced by the applicable landfill, no one shall dispose of whole tires or any portion of a tire, except specialty tires, in the central Maui sanitary landfill, Lanai landfill and the Molokai integrated solid waste facility at Naiwa.

If there is no such facility, tires may be disposed of at the applicable landfill, but the tires' widths must be split in half and over-size and specialty tires must be quartered.
 - (3) Dangerous practices prohibited. No person shall engage in a dangerous practice.
 - (4) Load pull-off prohibited. No person shall engage in load pull-off service.
 - (5) Littering prohibited. No person shall litter on local streets, roads and other areas leading to or within a landfill. All loads of refuse to be disposed of within a landfill must be secured and covered to prevent spillage. Any person who fails to secure or cover a load will not be authorized to dispose such load at a landfill.
 - (6) Disposal of cardboard boxes within landfill. No person shall dispose of cardboard boxes unless boxes have been flattened prior to disposal.
 - (7) Disposal of tree stumps, roots, telephone poles, pilings, cables, wire fences and similar material within landfill. No person representing a commercial account shall dispose of tree stumps, roots, telephone poles, pilings, cables, wire fences and similar materials.
 - (8) Animals within a landfill. No person shall bring, allow or carry live animals within a landfill.

- (9) Disposal of animals. No person shall dispose of a dead animal that weighs over seventy pounds unless approval of landfill personnel has been obtained.
- (10) Disposal of drums. No person shall dispose of a drum unless said drum is open at one end. No person shall dispose of a drum containing liquid.
- (11) Disposal of infectious and pathological wastes. No person shall dispose of infectious and pathological wastes generated at medical, veterinary and other similar facilities at a landfill.
- (12) Liquids. No person shall dispose of bulk, noncontaminated liquids or liquid wastes in a landfill.
- (13) Disposal of agricultural wastes. No person shall dispose of agricultural wastes unless the approval of landfill personnel has been obtained.
- (14) Disposal of green waste. No person shall dispose of green waste except in areas designated by landfill personnel.
- (15) Disposal of white goods. No person shall dispose of white goods within the Central Maui landfill.
- (16) No person representing a commercial account shall dispose of C&D waste except in a C&D landfill, provided that C&D waste consisting of dirt suitable for cover material is acceptable at all landfills. If there is no C&D landfill in an area serviced by a County landfill, the restriction herein on commercial account disposal of C&D waste shall not apply. [Eff 6/18/94, am 3/2/97, am 12/27/98] (Auth: MCC §8.04.079) (Imp: MCC §8.04.079)

ADOPTED this 3 day of December, 1998,
at Wailuku, Maui, Hawaii.

DEPARTMENT:



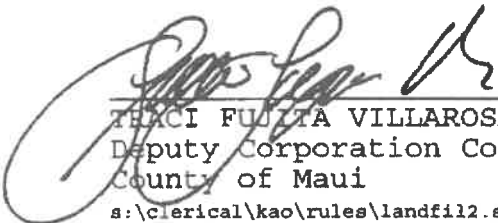
CHARLES JENCKS
Director of Public Works
and Waste Management



LINDA LINGLE
Mayor, County of Maui

Approved this 15th day of
December, 1998.

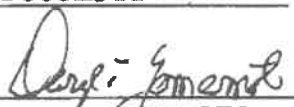
APPROVED AS TO FORM
AND LEGALITY:



TERRI FUJITA VILLAROSA
Deputy Corporation Counsel
County of Maui

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Received this 17th day of
December, 1998.



DARYL T. YAMAMOTO
County 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 for the Maui County Landfills, which were adopted on the 3 day of December, 1998, following a public hearing on November 20, 1998; and

2. That the notice of public hearing on the foregoing rules was published in the Maui News on the 19 & 20 day of October, 1998.

COUNTY OF MAUI



CHARLES JENCKS
Director

DEPARTMENT OF PUBLIC WORKS AND WASTE MANAGEMENT

Adoption of Chapter 5
Rules for Reclaimed Water Service

1. Chapter 5, entitled "Rules for Reclaimed Water Service" is adopted to read as follows:

"TITLE MC-15

DEPARTMENT OF PUBLIC WORKS AND WASTE MANAGEMENT

SUBTITLE 01

CHAPTER 5

RULES FOR RECLAIMED WATER SERVICE

Subchapter 1 General Provisions

- §15-5-1 Title
- §15-5-2 Purpose
- §15-5-3 Relation to other documents
- §15-5-4 Definitions
- §15-5-5 Severability

Subchapter 2 Use of Reclaimed Water

- §15-5-6 Establishment of service
- §15-5-7 Application procedure
- §15-5-8 Permits
- §15-5-9 Start-up of service
- §15-5-10 Approved uses of reclaimed water
- §15-5-11 Conditions of service
- §15-5-12 General prohibitions and restrictions
- §15-5-13 Conversion to or from reclaimed water service
- §15-5-14 Temporary/emergency connection to the potable water system
- §15-5-15 Temporary/emergency connection to the reclaimed water system
- §15-5-16 Responsibilities of wastewater reclamation division and of user

Subchapter 3 Facilities Design and Construction

- §15-5-17 Design guidelines for offsite/onsite facilities
- §15-5-18 Offsite reclaimed water facilities
- §15-5-19 Onsite reclaimed water facilities
- §15-5-20 Cross-connection prevention
- §15-5-21 Submittals
- §15-5-22 Changes during construction
- §15-5-23 Record (as-built) drawings

Subchapter 4 Facilities Operation

- §15-5-24 Offsite reclaimed water facilities
- §15-5-25 Onsite reclaimed water facilities
- §15-5-26 Signage and public education

Subchapter 5 Monitoring, Inspection, Enforcement, and Penalties

- §15-5-27 Monitoring and inspection
- §15-5-28 General enforcement provisions
- §15-5-29 Temporary discontinuation of reclaimed water service
- §15-5-30 Permanent termination of reclaimed water service
- §15-5-31 Reestablishment of reclaimed water service

Subchapter 6 Fees and Charges

- §15-5-32 Installation charges
- §15-5-33 Connection fees
- §15-5-34 Reclaimed water rates

SUBCHAPTER 1

GENERAL PROVISIONS

§15-5-1 Title. The rules in this chapter shall be known as the "Rules for Reclaimed Water Service." [Eff 3/28/98] (Auth: MCC §20.30.110) (Imp: MCC §20.30.110)

§15-5-2 Purpose. The purpose of these rules is to document requirements for the use of reclaimed water for irrigation or other purposes within the county. The rules are intended to promote reclamation and reuse while protecting public health and safety. [Eff 3/28/98] (Auth: MCC §20.30.110) (Imp: MCC §20.30.110)

§15-5-3 Relation to other documents. (a) The State guidelines for the treatment and use of reclaimed water, prepared by the department of health, wastewater branch, dated November 22, 1993, or as amended, are made a part of this chapter.

(b) The water system standards, State of Hawaii, 1985, or as amended, volume 1, and the approved material list and standard details for water system construction, State of Hawaii, volume 2, as adopted by the department of water supply, are made a part of this chapter.

(c) Chapter 11-62 of the Hawaii Administrative Rules, dated August 30, 1991, are made part of this chapter. [Eff 3/28/98] (Auth: MCC §20.30.110) (Imp: MCC §20.30.110)

§15-5-4 Definitions. For the purposes of this chapter, unless it is plainly evident from the context that a different meaning is intended, certain words and phrases used herein are defined as follows:

"Agricultural consumers" means all agricultural consumers, including golf courses, that use less than three million gallons of reclaimed water per day based upon average daily flow.

"Air-gap separation" means a physical break between a supply pipe and a receiving vessel. The air gap shall be at least double the diameter of the supply pipe, measured vertically above the top rim of the vessel, and in no case less than one inch. The design shall be to the satisfaction of the wastewater reclamation division or the department of water supply.

"Alternate water supply" means any water supply other than the county's potable water supply and reclaimed water supply.

"Applicant" means any person, firm, corporation, association, agency, or authorized representative who applies for reclaimed water service under the terms of this chapter.

"Application rate" means the rate at which reclaimed water is applied to an irrigation area, construction site, or other use area expressed in inches per hour (or centimeters per hour).

"Approved backflow prevention device" means a device installed to protect the potable water supply or alternate water supply from contamination by reclaimed water, including air-gap separations and reduced-pressure-principle devices as approved in the water system standards.

"Approved use" means the use of reclaimed water in a manner, and for such purpose, designated in a user permit issued by the wastewater reclamation division and in compliance with this chapter, chapter 20.30 of the Maui county code, and the reuse guidelines.

"Approved use area" means a site, with well defined boundaries, designated in a user permit issued by the wastewater reclamation division, to receive reclaimed water for an approved use.

"As-built drawings" (see "record drawings").

"County" means the county of Maui, State of Hawaii.

"Cross-connection" means any connection between any part of a water system used or intended to supply water for drinking purposes and any source or system containing reclaimed water or any other alternate water supply that is not or cannot be approved as safe for human consumption.

"Consumer" means any user of reclaimed water who is required to connect to an available reclaimed water service pursuant to this chapter.

"Designated use area" means the area covered by the reclaimed water user permit.

"Department of health" means the State of Hawaii department of health.

"Department of public works and waste management" means the county of Maui department of public works and waste management.

"Department of Water Supply" means the county of Maui department of water supply.

"Director" means the director of the department of public works and waste management or an authorized representative.

"Discharge" means any release or distribution of reclaimed water to land, surface waters, a sewerage system, or storm drainage system.

"Infiltration rate" means the rate at which water will penetrate the soil surface and enters the soil profile, expressed in inches per hour (or centimeters per hour).

"Irrigation system" means any permanent irrigation system, commonly composed of including but not limited to underground pipes and necessary appurtenances thereto, used for the watering of turf grass, lawns, landscaping, and green space.

"Major agricultural consumers" means those agricultural consumers, including golf courses, that use more than three million gallons of reclaimed water per day based on average daily flow, or that have more than

four hundred acres served by the reclaimed water distribution system, or that have any pasture land served by the reclaimed water distribution system.

"Offsite facilities" means those facilities under the control of the county including, but not limited to, reclaimed water transmission mains, pipelines, reservoirs, pumping stations, treatment plants, and other reclaimed water system appurtenances. For reclaimed water service, offsite facilities shall be those upstream of the point of connection with the consumer's or user's onsite facilities.

"Onsite facilities" means those facilities under the control of the applicant, owner, user, or consumer, including, but not limited to, landscape irrigation and agricultural irrigation systems. For reclaimed water service, the onsite facilities shall be those downstream of the reclaimed water service connection.

"Permit" (See "user permit").

"Point of connection" means the point of connection between the onsite facilities and the offsite facilities of the reclaimed water system.

"Ponding" means the retention of reclaimed water on the surface of the ground or other man-made surfaces, other than the designated use area, for a period of time following the cessation of an approved reclaimed water use activity such that a hazard or potential hazard to public health exists.

"Potable water" means water that is pure, wholesome, and suitable for human consumption.

"Reclaimed water" means treated wastewater that is rated R-1 or R-2 reclaimed water as defined by the department of health and is reused after flowing out of a wastewater treatment facility.

"Reclaimed water facilities" means all facilities required for the production, storage, transmission, and distribution of reclaimed water.

"Reclaimed water service" means delivery of reclaimed water by the county to a consumer or user in

accordance with the provisions of this chapter, chapter 20.30 of the Maui county code, and the State reuse guidelines.

"Reclaimed water service area" means an area within the county, near a wastewater reclamation facility, identified for use or potential use of reclaimed water.

"Record drawings" means approved drawings that correctly show the completed onsite facilities and/or offsite facilities as constructed and/or modified. These drawings shall show all potable water, reclaimed water, and sewer lines and other utility lines.

"Reduced-pressure-principle backflow prevention device" means a backflow prevention device incorporating not less than two check valves, an automatically operated differential relief valve located between the two check valves, a tightly closing shut-off valve on each side of the check valve assembly, and equipped with necessary test cocks for testing.

"Run-off" means the movement of reclaimed water beyond the boundaries of the designated use area along the surface of the ground or other natural or man-made surfaces including, but not limited to, pedestrian walkways, streets, playground surfaces, grassy slopes, and drainage courses.

"Separation" means the horizontal and/or vertical distance between a reclaimed water pipeline and a parallel potable water pipeline, alternate water pipeline, or sewer pipeline. The separation shall be the clear out-to-out distance between the pipelines in question.

"Service connection" means the connection between the offsite and onsite facilities.

"State reuse guidelines" means the "Guidelines for the treatment and use of reclaimed water" published by the department of health, wastewater branch, November 22, 1993, or as amended.

"Termination of reclaimed water service" means the cessation, by the county, of reclaimed water service to

a consumer or user following the consumer's or user's violations of this chapter, chapter 20.30 of the Maui county code, or the State reuse guidelines.

"User" means any person, consumer, group, firm, partnership, corporation, association, or agency approved to use reclaimed water by having been issued a user permit by the county.

"User permit" means a permit issued by the county to a reclaimed water service applicant after the satisfactory completion of the service application procedures set forth in this chapter. This permit constitutes a service agreement which legally binds the consumer or user to all conditions of this chapter, chapter 20.30 of the Maui county code, and the State reuse guidelines.

"User's reclaimed water supervisor" means a person designated and authorized by the user, owner, or consumer and who shall operate the onsite facilities and irrigation systems and be responsible for the application of this chapter, chapter 20.30 of the Maui county code, and the State reuse guidelines.

"Wastewater" means a combination of water and water-carried wastes, whether treated or untreated, discharged into or permitted to enter a public sewer.

"Wastewater reclamation division" means the wastewater reclamation division within the department of public works and waste management.

"Wastewater reclamation facility" means wastewater treatment facilities owned by the county which are designed, constructed, operated, and maintained to convert wastewater into reclaimed water in accordance with the provisions of the State reuse guidelines.

"Water system standards" means the water system standards, State of Hawaii, volumes 1 and 2, 1985, or as amended, as adopted by the department of water supply.

"Water reclamation project" means a project involving production, conveyance, and distribution of

reclaimed water by the county to one or more users in a reclaimed water service area.

"Windblown spray" means dispersed, airborne particles of reclaimed water resulting from the discharge of reclaimed water and capable of being transmitted through the air to locations other than those for which the direct application of reclaimed water was intended. [Eff 3/28/98] (Auth: MCC §20.30.110) (Imp: MCC §20.30.110).

§15-5-5 Severability. If any subchapter, sentence, clause, phrase, or portion of the provisions of this chapter should for any reason be held invalid or unconstitutional by any court, the same shall not affect the validity of the rules as a whole or any part thereof other than the part so declared invalid. [Eff 3/28/98] (Auth: MCC §20.30.110) (Imp: MCC §20.30.110).

SUBCHAPTER 2

USE OF RECLAIMED WATER

§15-5-6 Establishment of service. (a) The county shall provide reclaimed water service in accordance with this chapter to reclaimed water service areas designated within the county. The county shall not be required to provide reclaimed water service to any applicant, consumer, or user but may require use of water by individual consumers or users within the provisions of this chapter and of chapter 20.30 of the Maui county code.

(b) The applicant shall be required to obtain separate approval from the department of health for the construction and operation of onsite facilities under the provisions of the State reuse guidelines.

(c) The wastewater reclamation division shall control and schedule reclaimed water distribution to consumers or users. The provision of reclaimed water service and the use of reclaimed water by any consumer or user shall be subject to all terms and conditions of this chapter.

(d) Forms used in establishment of reclaimed water service are included at the end of this chapter. These forms include:

- (1) "Form RW-1, County of Maui, Application for Reclaimed Water Service";
- (2) "Form RW-2, County of Maui, Checklist for Obtaining Reclaimed Water Service";
- (3) "Form RW-3, County of Maui, Permit for Reclaimed Water Service." [Eff 3/28/98]
(Auth: MCC §20.30.110) (Imp: MCC §20.30.110)

§15-5-7 Application procedure. (a) An applicant meeting the requirements for reclaimed water service shall file an application for reclaimed water service with the wastewater reclamation division.

(b) The application form shall contain detailed information concerning the applicant and the proposed approved use area as follows:

- (1) Site name and address;
- (2) Site tax map key (TMK);
- (3) Name and address of property owner;
- (4) Name and address of leaseholder of site and a copy of the lease (if applicable);
- (5) A map, showing (1) the exact boundaries (azimuth-distance) of the proposed approved use area, (2) the irrigated or wetted areas and buffer zones, providing dimensions for both, and (3) the names or labels (e.g., clubhouse, single residential unit) of roads and structures. The structures and fenced

areas shall be labeled (e.g., residential, public access restrictive access);

- (6) The proposed use(s) of reclaimed water and the designated use area(s) on the property, including a description of the public access characteristics of each designated use area;
- (7) The estimated volume requirements, including seasonal, weekly, daily, and hourly variations in demand, and the estimated pressure requirements;
- (8) The designation of a proposed user's reclaimed water supervisor;
- (9) Any special conditions, constraints, or requests associated with the proposed reclaimed water service;
- (10) The date by which the basis-of-design report, the engineering design report, and plans and specifications for onsite facilities will be submitted (or a simplified format approved by the department of health wastewater branch).

(c) The application form must be signed by the owner or leaseholder or the owner's or leaseholder's designated representative.

(d) The applicant for reclaimed water service shall agree to comply with the requirements of this chapter, chapter 20.30 of the Maui county code, and the State reuse guidelines.

(e) Upon receipt of an application for reclaimed water service, the wastewater reclamation division shall review the application and conduct any necessary investigation(s) to determine whether the wastewater reclamation division shall provide reclaimed water service. The wastewater reclamation division may prescribe requirements in writing to the applicant as to the facilities necessary to be constructed, including design, manner of construction, method of operation, and conditions of service. [Eff 3/28/98] (Auth: MCC §20.30.110) (Imp: MCC §20.30.110)

§15-5-8 Permits. (a) A user permit for reclaimed water service shall be issued upon approval of the wastewater reclamation division. A user permit shall incorporate all the provisions of this chapter by express reference plus any additional requirements prescribed by the county to protect public health and welfare.

(b) The user permit shall constitute an agreement between the county and the user governing the conditions of reclaimed water service.

(c) The user permit shall be effective only after all construction of reclaimed water facilities has been completed, tested, inspected, and final acceptance granted by the wastewater reclamation division.

(d) A copy of the current user permit must be available for review at all times, clearly posted at the designated use area and/or on file at the user's office.

(e) The permit shall specify all allowable uses of reclaimed water and all restrictions on reclaimed water use. The permit shall state the pressure and quantity of reclaimed water to be provided to the customer, including projected demand variations, and shall contain the express condition that delivery of the full quantity or designated pressure of reclaimed water is subject to the wastewater reclamation division's supply capabilities. The permit shall also contain nonbinding estimates of the chemical quality of the reclaimed water (e.g., total dissolved solids, chloride, etc.).

(f) The permit shall be effective indefinitely and shall not require renewal, except that the wastewater reclamation division reserves the right to suspend or terminate the permit or to modify its terms and conditions if any of the following occurs:

- (1) A change of the owner or user of the property covered by the permit;
- (2) A change in the use of the property covered by the permit;
- (3) A proposed change in the approved use area.

- (4) A change in reclaimed water use on the property;
- (5) A change in the qualitative characteristics of the reclaimed water;
- (6) A violation of this chapter, chapter 20.30 of the Maui county code, or the State reuse guidelines;
- (7) A change in regulatory requirements. [Eff 3/28/98] (Auth: MCC §20.30.110) (Imp: MCC §20.30.110)

§15-5-9 Start-up of service. (a) Following the completion of construction and/or installation of the reclaimed water facilities, the applicant, consumer, or user shall request the wastewater reclamation division to install the service connection. The request for service connection shall be accompanied by all required fees and charges for installation and connection.

(b) Following final inspection of the onsite facilities by the wastewater reclamation division, the applicant, consumer, or user shall request service start-up. The request for start-up shall be accompanied by any outstanding installation charges or connection fees. [Eff 3/28/98] (Auth: MCC §20.30.110) (Imp: MCC §20.30.110)

§15-5-10 Approved uses of reclaimed water. (a) The uses of reclaimed water may include, but are not limited to, landscape irrigation, agricultural irrigation, construction water, and industrial process water. Each such use must be considered for approval by the wastewater reclamation division on a case-by-case basis. Determinations as to specific uses to be allowed shall be in accordance with the uses identified in the State reuse guidelines. The wastewater reclamation division may, at its discretion, set forth specific

requirements as conditions to providing such services and/or require specific approval from the appropriate regulatory agencies.

(b) The following uses are specifically prohibited:

- (1) Swimming pools;
- (2) Beach showers;
- (3) Consumption by dairy animals unless otherwise approved by the department of health. [Eff 3/28/98] (Auth: MCC §20.30.110) (Imp: MCC §20.30.110)

§15-5-11 Conditions of service. (a) The user must at all times meet the conditions set forth in the user permit, this chapter, chapter 20.30 of the Maui county code, the water system standards, and the State reuse guidelines, including those regarding inspection, monitoring, and testing. Failure to meet all applicable requirements at all times will be grounds for revocation of the user permit and cessation of reclaimed water service by the wastewater reclamation division.

(b) The wastewater reclamation division shall make a good faith effort to supply the full permitted quantity of reclaimed water at the designated pressure, but the wastewater reclamation division shall not be responsible and shall be held harmless in the event that such quantity or pressure is not available for any reason, including but not limited to, reduced water reclamation plant production, increased demand, repairs to facilities, or inability to meet regulatory requirements. The user shall defend, indemnify, and hold the county harmless from and against any claims or damage, loss, or injury alleged to have been caused by a reduction in the quantity or pressure of reclaimed water. It shall be the user's responsibility to provide booster pumping stations and onsite storage facilities if necessary. [Eff 3/28/98] (Auth: MCC §20.30.110) (Imp: MCC §20.30.110)

§15-5-12 General prohibitions and restrictions.

(a) No person, other than authorized county personnel, shall make any repairs, modifications, or improvements to offsite facilities.

(b) The user shall not make any changes in, or additions to, onsite facilities, except as provided for in the user permit, without express permission of department of health and the wastewater reclamation division. As provided in section 15-5-8, the wastewater reclamation division may modify the terms and conditions of the user permit if changes in or additions to onsite facilities are requested by the user and approved by the department of health. [Eff 3/28/98] (Auth: MCC §20.30.110) (Imp: MCC §20.30.110)

§15-5-13 Conversion to or from reclaimed water service.

(a) When a user proposes the conversion of any existing potable water or alternate water supply irrigation system to a reclaimed water irrigation system, a comprehensive investigation of the proposed reclaimed water system shall be performed for the wastewater reclamation division at the expense of the user. On a case-by-case basis the wastewater reclamation division shall review the as-built drawings and investigation reports and determine the measures necessary to bring the existing system into full compliance with this chapter and the State reuse guidelines. The wastewater reclamation division may deny issuance of a reclaimed water user permit if it determines that the proposed conversion cannot be safely made.

(b) If, due to onsite failure of the reclaimed water system, use violations, or other reasons, the wastewater reclamation division or the user determines it is necessary to convert the onsite facilities from reclaimed water supply to a potable water supply or alternate water supply, it shall be the responsibility of the user to pay all costs for such conversion.

Conversion costs shall include the following:

- (1) Isolation of reclaimed water supply: the service connection shall be removed and plugged by the wastewater reclamation division at the reclaimed water main, or abandoned in a manner approved by the wastewater reclamation division;
- (2) Installation of backflow prevention device: the user shall install approved backflow prevention devices on all potable water connections;
- (3) Removal of existing facilities: the user shall be responsible for removal and replacement of all fittings with approved fittings for potable water;
- (4) Hydraulic testing and disinfection: the user shall be responsible for hydraulic testing and disinfection of the converted pipeline;
- (5) Notification: the user shall notify all personnel involved with the operation of the abandoned reclaimed water service;
- (6) Warning labels/signs: the user shall be responsible for the removal of all warning signs and labels;
- (7) Installation of potable water system: provision and installation of all potable water lines and facilities and payment of any fees and charges due shall be the responsibility of the user. [Eff 3/28/98]
(Auth: MCC §20.30.110) (Imp: MCC §20.30.110)

§15-5-14 Temporary/emergency connection to the potable water system. (a) If, in the opinion of the wastewater reclamation division, an emergency exists or is threatened to occur, whereby all or a portion of the water in the reclaimed water system is not available, the

wastewater reclamation division may approve a temporary connection to the potable water system. The decision to allow temporary service to the potable water system shall be at the sole discretion of the wastewater reclamation division, and the wastewater reclamation division shall maintain and operate all connections.

(b) Before such temporary connection is made, the portion where potable water is to be supplied shall be isolated by an air gap separation from the remainder of the reclaimed water system. This isolation shall occur at either individual services or on the offsite system, as determined by the wastewater reclamation division. An approved backflow prevention device shall be installed on the potable water lines in accordance with section 15-5-20 and all applicable regulations of the governing agencies. The emergency connection shall be removed before connection is reestablished to the reclaimed water system. Reestablishment of reclaimed water service must be inspected and approved by the wastewater reclamation division prior to resuming delivery of reclaimed water. [Eff 3/28/98] (Auth: MCC §20.30.110) (Imp: MCC §20.30.110)

§15-5-15 Temporary/emergency connection to the reclaimed water system. Reclaimed water service shall not be provided on a temporary or emergency basis. All reclaimed water service must be established in accordance with the provisions of this chapter, chapter 20.30 of the Maui county code, and the State reuse guidelines. [Eff 3/28/98] (Auth: MCC §20.30.110) (Imp: MCC §20.30.110)

§15-5-16 Responsibilities of wastewater reclamation division and of user. (a) As provided for in this chapter, the wastewater reclamation division shall have the following rights and responsibilities with respect to the planning, design, construction, operation,

maintenance, and monitoring of water reclamation projects.

- (1) Designate reclaimed water service areas in the vicinity of each of the wastewater reclamation division's wastewater reclamation facilities;
 - (2) Determine which potential consumers or users shall receive reclaimed water service;
 - (3) Determine the conditions of reclaimed water delivery, including but not limited to the quantity of water to be delivered (including seasonal, weekly, daily, and hourly variations), scheduling of delivery, and delivery pressure;
 - (4) Plan, design, construct, operate, and maintain wastewater reclamation facilities and offsite water reclamation facilities;
 - (5) Determine appropriate fees and charges for reclaimed water service;
 - (6) Approve planning, design, and construction of users' onsite water reclamation facilities;
 - (7) Monitor and inspect users' onsite water reclamation facilities and their operation, identify and document violations to these rules and other applicable regulatory requirements, and issue notices of such violations to users;
 - (8) Cease (temporarily or permanently) reclaimed water service to users in accordance with this chapter based on violations.
- (b) As provided for in this chapter, reclaimed water users shall have the following rights and responsibilities with regard to the planning, design, construction, operation, maintenance, and monitoring of water reclamation projects.
- (1) Meet the requirements of the user permit, this chapter, chapter 20.30 of the Maui county code, the water system standards, and the State reuse guidelines;

- (2) Plan, design, construct, operate, and maintain onsite water reclamation facilities in accordance with this chapter, chapter 20.30 of the Maui county code, the water system standards, and the State reuse guidelines and with the primary objective of protecting public health;
- (3) Accept delivery of reclaimed water in accordance with the delivery schedule developed by the wastewater reclamation division;
- (4) Notify the wastewater reclamation division immediately if violations of the user permit or applicable regulatory requirements occur or if there is damage to onsite or offsite water reclamation facilities causing uncontrolled discharge of reclaimed water causing which results in excessive ponding or uncontrolled runoff from the approved use area or which otherwise may potentially endanger public health;
- (5) Pay all applicable fees and charges in accordance with the provisions of subchapter 6. [Eff 3/28/98] (Auth: MCC §20.30.110) (Imp: MCC §20.30.110)

SUBCHAPTER 3

FACILITIES DESIGN AND CONSTRUCTION

§15-5-17 Design guidelines for offsite/onsite facilities. The design of the offsite and onsite facilities, including the preparation of (1) basis-of-design report, (2) engineering design report, and (3) plans and specification, shall be under the responsibility of an engineer registered with the State and experienced in the field of irrigation systems. All

offsite and onsite reclaimed water facilities shall comply with the provisions of the State reuse guidelines, the applicable requirements, conditions, and standards set forth in the water system standards; and the provisions of this chapter. [Eff 3/28/98] (Auth: MCC §20.30.110) (Imp: MCC §20.30.110)

§15-5-18 Offsite reclaimed water facilities.

(a) Offsite reclaimed water facilities not the subject of a specific agreement between the wastewater reclamation division and the user shall be provided by the wastewater reclamation division. However, the costs for such equipment, pipelines, or other necessary improvements may be recovered from the user or consumer through reclaimed water fees, rates, and charges.

(b) Service pressure requirements shall be determined by the wastewater reclamation division. The user shall design for available pressure. When a reasonable service pressure would not be available to onsite facilities not previously served from potable water systems, the user shall be responsible for correcting the situation. If available service pressure is too high, the user shall install pressure regulators downstream of the meter to obtain the correct pressure. If available pressure is too low, the user shall provide booster pumping to increase the pressure. Where possible, the wastewater reclamation division will operate the reclaimed water system at a pressure which is ten-pounds-per-square-inch lower than the potable water system. This will cause potable water to flow to the reclaimed water system in the event of a cross-connection.

(c) The top of the pipe of transmission mains shall be a minimum of three feet below the finished grade unless otherwise approved. The depth of cover on service lines shall be considered on a case-by-case basis.

- (d) Magnetic location tape shall be installed on the top of all pipe unless the pipe material is capable of being located magnetically.
- (e) Minimum horizontal and vertical separations shall be as follows:
- (1) A three-foot horizontal separation of the reclaimed water pipeline shall be maintained at all times between a potable water pipeline, auxiliary water supply pipeline, and/or a parallel sanitary sewer. If a three-foot separation is not possible, the approval for special construction requirements shall be obtained from the wastewater reclamation division prior to commencement of construction. Common trench construction shall not be permitted.
 - (2) On new systems, potable water, alternate water, reclaimed water, and sewer lines should be located from the ground surface in order of descending quality. Potable water lines shall be above alternate water lines which shall be above reclaimed water lines which shall be above sewers. The minimum vertical separation should be six inches between the top and bottom surfaces of pipes. Concrete jacketing of reclaimed water lines will be required in areas where they pass less than six inches vertically from potable water lines.
- (f) All reclaimed water transmission pipelines shall be color coded (purple, pantone 512) and labeled or identified according to the provisions of the State reuse guidelines.
- (g) Valve boxes and valves shall be designed in accordance with the provision of the State reuse guidelines and color coded (purple, pantone 512).
- (h) All above-ground, exposed facilities (except reclaimed water storage tanks) shall be consistently color-coded (purple, pantone 512) and labeled in

accordance with the provisions of the State reuse guidelines.

(i) In-line or end-of-line drain (blow-off) assemblies shall be designed in accordance with the provisions of the State reuse guidelines.

(j) Meter boxes shall be color coded (purple, pantone 512), shall be labeled "Caution: Reclaimed Water--Do Not Drink," and shall be located inside the user's property line or located as directed by the wastewater reclamation division. [Eff 3/28/98] (Auth: MCC §20.30.110) (Imp: MCC §20.30.110)

§15-5-19 Onsite reclaimed water facilities. (a) All onsite reclaimed water facilities that specifically benefit the approved use area shall be provided by the user at the user's expense. The user shall make, at the user's expense, any modification to the potable water system on the premises which is required by the wastewater reclamation division in order to permit reclaimed water service, including but not limited to the installation by the user of approved backflow prevention devices.

(b) Onsite reclaimed water facilities shall be designed to accommodate the use of reclaimed water in those areas where the wastewater reclamation division has determined that reclaimed water will be supplied in the future, even though reclaimed water service is not immediately available when the design area is ready for construction. Provisions shall be made for connection to the reclaimed water system when it becomes available. In the interim, potable water will be supplied to the onsite facilities through an approved temporary potable water connection, or the user may connect to an alternate water supply. A temporary connection to the potable water system shall be provided with an approved reduced-pressure-principle backflow prevention device installed by the user to the satisfaction of the wastewater

reclamation division.

(c) Design of onsite facilities should follow the design parameters presented in section V of the State reuse guidelines.

(d) Basis-of-design reports, engineering design reports, and plans and specifications for users' reclaimed water facilities shall be submitted to the county as specified in section 15-5-21.

(e) New onsite pipelines shall be color coded (purple, pantone 512) and labeled or identified in accordance with the provisions of the State reuse guidelines.

(f) When converting an existing potable water or alternate water pipeline to reclaimed water usage, the existing pipeline shall be accurately located and tested in coordination with the wastewater reclamation division and the department of health. If the existing pipeline meets approval of the wastewater reclamation division and the department of health except for pipeline identification, the pipeline shall be approved for use. If verification of the existing line is not possible, the line shall be uncovered, inspected, and identified prior to use. However, all replacements of or extensions to an onsite distribution system shall be color-coded in accordance with the provisions of this chapter.

(g) All exposed reclaimed water facilities shall be color coded (purple, pantone 512) and labeled in accordance with the State reuse guidelines.

(h) Minimum horizontal and vertical separations shall be as follows:

- (1) A three-foot separation of the reclaimed water pipeline shall be maintained at all times between a potable water pipeline, alternate water supply pipeline, and/or a parallel sanitary sewer. If a three-foot separation is not possible, the approval for special construction requirements shall be obtained from the wastewater reclamation division prior

to commencement of construction. Common trench construction shall not be permitted.

- (2) On new systems, potable water, alternate water, reclaimed water, and sewer lines should be located from the ground surface in order of descending quality. Potable water lines shall be above alternate water lines which shall be above reclaimed water lines which shall be above sewers. The minimum vertical separation should be six inches between the top and bottom surfaces of pipes. Exceptions to this general rule are as follows:

(A) On irrigation systems where intermittently pressurized reclaimed water lines (laterals) serve sprinkler heads, the potable water line(s) may be placed under the reclaimed water laterals. No special construction requirements are necessary provided that a six-inch vertical separation is maintained;

(B) On sites using pressurized irrigation laterals with valve-in-head sprinklers, the potable water line(s) may be placed under the reclaimed water laterals if additional protection is provided for the potable line. Common practices include sleeving or automatic flow control/shut-off devices installed and functioning properly on each lateral that crosses a potable line.

(i) Users with pumping facilities to distribute reclaimed water onsite shall make special provisions to identify that reclaimed water is being pumped, provide for proper drainage of packing seal water, and contain uncontrolled releases of reclaimed water.

- (1) Any potable or alternate water used as seal water for reclaimed water pump seals shall be adequately protected against backflow to the potable water or alternate water system;
 - (2) All pumping systems shall have proper surge protection facilities to prevent the loss of reclaimed water through broken piping resulting from water hammer and pressure surges.
- (j) All reclaimed water storage facilities owned and/or operated by reclaimed water users shall be protected against erosion, overland runoff, and other impacts resulting from one hundred-year frequency, twenty-four-hour duration storms.
- (k) Hose bibbs shall not be allowed on reclaimed water systems. Quick couplers using Acme threads and color-coded (purple, pantone 512) covers may be used if hose connections are necessary. When potable quick couplers or hose bibbs are within sixty feet of the reclaimed system, appropriate signs shall be posted which clearly differentiate potable and reclaimed water. [Eff 3/28/98] (Auth: MCC §20.30.110) (Imp: MCC §20.30.110)

§15-5-20 Cross-connection prevention. (a) The primary purpose of this section is to protect the potable water supply from possible contamination by prohibiting and preventing cross-connections between the potable water distribution system and the reclaimed water distribution system. Two secondary purposes are to protect alternate water supplies and the reclaimed water supply from contamination.

(b) These provisions are in addition to, and not in lieu of, controls and requirements of other regulatory agencies such as the department of water supply and the department of health.

(c) Regulations governing backflow prevention devices are intended to protect the county's potable

water supplies and are not intended to protect users from the potential hazards of cross-connections at the user's onsite facilities.

- (1) County-approved backflow prevention for the potable water supply shall be provided by the user in accordance with the specifications and as required by the department of water supply;
 - (2) The backflow prevention devices required shall be in accordance with the requirements specified by the county in the water system standards;
 - (3) Provision, installation, maintenance, and inspection of backflow prevention devices shall be the sole responsibility and duty of the user, and at the user's expense. Inspection of backflow prevention devices shall be done at least once a year, or more often in those instances where successive inspections indicate repeated failures. These devices shall be inspected, repaired, overhauled, or replaced at the expense of the user whenever they are found to be defective. Records of such tests, repairs, and overhauls shall be kept by the wastewater reclamation division, and such records shall be made available to any concerned regulatory agency on request.
- (d) Installation and inspection of backflow prevention devices shall be done by a certified inspector at the expense of the user. The user shall submit to the wastewater reclamation division original inspection certificates as proof of compliance. All inspection and testing shall be done to the satisfaction of the wastewater reclamation division and the regulatory agencies concerned.

(e) On premises where a potable water system is used to supplement the reclaimed water supply, an air gap separation shall be provided to protect the potable water system.

(f) On premises where an alternate water supply is used to supplement the reclaimed water supply, a reduced-pressure-principle device may be used to protect the alternate water supply.

(g) On premises where reclaimed water and potable water are used in different systems, a reduced-pressure-principle device may be used to protect the potable water system instead of an air gap if approved by the wastewater reclamation division and the department of water supply or the department of health. [Eff 3/28/98] (Auth: MCC §20.30.110) (Imp: MCC §20.30.110)

§15-5-21 Submittals. (a) The basis-of-design report, the engineering design report, and the user's plans and specifications shall be submitted to and approved by the department of health prior to commencing any construction of onsite facilities. Copies of all approved reports shall be submitted to the wastewater reclamation division.

(b) For all reclamation projects, the basis-of-design report shall present descriptions of existing or new reuse areas and existing and/or new distribution systems. The basis-of-design report shall conform to the requirements presented in section VIII.A of the State reuse guidelines, as interpreted by the department of health or a simplified format approved by the department of health wastewater branch. The design should conform with the provisions of the State reuse guidelines. The necessity of any proposed deviation of the design from the State reuse guidelines shall be discussed in the report.

(c) For all reclamation projects, the engineering design report shall present an irrigation plan, a reuse

management plan, a public education plan, and employee training plan, a vector control plan, and a monitoring system control plan. The engineering design report shall conform to the requirements presented in section VIII.B of the State reuse guidelines, as interpreted by the department of health or a simplified format approved by the department of health wastewater branch.

(d) Plans and specifications for the construction of onsite reclaimed water facilities shall be prepared by an engineer registered with the State and submitted to the county for review and approval per sections 15-5-7 and 15-5-18. The format and content of construction plans for water reclamation and reuse projects shall conform to the requirements presented in section VIII.C of the State reuse guidelines, as interpreted by the department of health.

(e) A copy of the reuse project permit issued by the department of health shall be submitted to the wastewater reclamation division prior to reclaimed water service startup. [Eff 3/28/98] (Auth: MCC §20.30.110) (Imp: MCC §20.30.110)

§15-5-22 Changes during construction. All changes in the work constituting departures from the original design drawings shall be accurately recorded on one set of drawings and submitted to the department of health for approval. The revised plans shall be approved by the department of health before any changes, modifications, or additions are made. [Eff 3/28/98] (Auth: MCC §20.30.110) (Imp: MCC §20.30.110)

§15-5-23 Record (as-built) drawings. The applicant, consumer, or user shall submit as-built record drawings to the wastewater reclamation division before a request for service start-up is made. The user shall also note any changes to the reclaimed water system

after the initial start-up and shall submit revisions of the record drawings to the wastewater reclamation division within three days of any such changes. [Eff 3/28/98] (Auth: MCC §20.30.110) (Imp: MCC §20.30.110)

SUBCHAPTER 4

FACILITIES OPERATION

§15-5-24 Offsite reclaimed water facilities. Operation, maintenance, and monitoring of all of the county's offsite reclaimed water systems, including but not limited to, pumping stations, reclaimed water transmission and distribution mains, service lines, valves, connections, storage facilities, and other appurtenances and properties up to and including the county's meter, shall be under the management and control of the wastewater reclamation division. No other persons except authorized representatives of the county shall have any right to enter any portion of the foregoing. No other persons except authorized representatives of the county shall have any right to operate, maintain, adjust, repair, change, alter, move, or relocate any portion of the offsite reclaimed water system. [Eff 3/28/98] (Auth: MCC §20.30.110) (Imp: MCC §20.30.110)

§15-5-25 Onsite reclaimed water facilities.
(a) The county's rights and responsibilities include the following:

- (1) The county and/or the department of health, and/or their authorized representatives shall have the right to monitor and inspect the operation of the user's onsite facilities and shall have the right to enter upon the user's premises during reasonable hours, including hours of irrigation;
- (2) The wastewater reclamation division shall provide the user with the names and telephone numbers of county personnel to contact (including at night and on weekends) in the event of onsite violations, reclaimed water system failures, or emergencies that might result in the runoff, ponding, or over spray of reclaimed water or which might otherwise endanger public health.
 - (b) The user shall be responsible for the safe and efficient operation, maintenance, and upkeep of onsite reclaimed water facilities.
 - (c) The user shall notify the wastewater reclamation division of any and all updates or proposed changes, modifications, or additions to the onsite facilities. Changes shall be approved by the department of health and shall be designed and constructed according to the requirements, conditions, and standards set forth in this chapter and the State reuse guidelines.
 - (d) Each reclaimed water user shall designate a reclaimed water supervisor. The reclaimed water supervisor shall be a person approved by the department of health to operate and maintain the onsite facilities and irrigation systems, and to assume the responsibilities outlined below. The wastewater reclamation division shall require that the designated reclaimed water supervisor be familiarized with the use of reclaimed water, such familiarization being provided by the wastewater reclamation division. The reclaimed water supervisor shall be the contact person for the user in all matters between the user and the wastewater

reclamation division concerning the operation of the onsite system and the use of reclaimed water. It shall be the responsibility of the user to notify the wastewater reclamation division and to obtain the wastewater reclamation division's approval whenever a change of the reclaimed water supervisor occurs. The reclaimed water supervisor shall have the following responsibilities:

- (1) To oversee reclaimed water service and maintain onsite facilities;
- (2) To receive information from the wastewater reclamation division on the use of reclaimed water and the operation of reclaimed water facilities;
- (3) To ensure that all operations personnel are trained and familiarized with the use of reclaimed water, including all pertinent information contained in this chapter, chapter 20.30 of the Maui county code, and the State reuse guidelines;
- (4) To furnish operations personnel with operating instructions, maintenance instruction, record drawings, and other necessary information to ensure proper operation in accordance with facilities design, this chapter, and the State reuse guidelines;
- (5) To operate and control the user's reclaimed water system to prevent direct human consumption of reclaimed water and to control and prevent runoff and over spray;
- (6) To provide a preventive maintenance program and carry out ongoing regular maintenance and upkeep to ensure the continued operation of all system elements within the requirements of this chapter and the State reuse guidelines;
- (7) To prevent cross-connections to potable water systems and auxiliary water systems and to protect the reclaimed water system from

contamination from cross-connections to other sources;

- (8) To ensure that maintenance and inspection of backflow prevention assemblies is done regularly on an annual basis in accordance with the requirements of this chapter and the State reuse guidelines, or more often in those instances where successive inspections indicate repeated failure;
- (9) To report immediately to the wastewater reclamation division any and all onsite violations, reclaimed water system failures, and/or emergencies that might result in runoff, ponding, or over spray of reclaimed water or which might otherwise endanger public health.

(e) To the extent possible, the operation of the irrigation system shall be during periods of minimal public use of the approved use area. Such periods of operation shall remain within any general period of reclaimed water irrigation operation specified by the wastewater reclamation division.

(f) Operation and control measures of onsite reclaimed water systems shall include, but not be limited to, the following:

- (1) Onsite reclaimed water facilities shall be operated in such a manner to prevent or control surface flows or windblown sprays of reclaimed water across boundary lines, or into areas not approved for reclaimed water use. The system operation shall avoid spray patterns that tend to accumulate reclaimed water to produce ponding and/or runoff on public rights-of-way or adjoining areas not approved for reclaimed water use;
- (2) The reclaimed water application rate shall not exceed the infiltration rate of the soil. Where varying soil types are present, the

design and operation of the reclaimed water facilities shall be compatible with the lowest infiltration rate anticipated, or designed appropriately for the soil type to prevent runoff;

- (3) No sprinkler system shall be allowed to operate for a time longer than the landscape's water requirements. The intent is to control and limit runoff and ponding;
- (4) The user shall enforce the following prohibitions pursuant to this chapter:
 - (A) Cross-connections;
 - (B) Disposal of reclaimed water in unapproved areas;
 - (C) Use of reclaimed water hose bibbs;
 - (D) Ponding and runoff;
 - (E) Windblown sprays; and
 - (F) Unapproved or prohibited uses of reclaimed water.

(g) It shall be the responsibility of the user to immediately notify the wastewater reclamation division of any violations of this chapter; any failure in the onsite reclaimed water facilities which may result in runoff, ponding, or over spray of reclaimed water; or any emergency situation which might endanger public health. Situations which shall require such notification include but are not limited to the following:

- (1) Rupture or malfunction of any of the reclaimed water facilities;
- (2) Changes or malfunctions in controllers resulting in reclaimed water applications at inappropriate times or in excessive ponding, runoff, or over spray;
- (3) Destruction of caution signs;
- (4) A claim by a person that individual or collective harm has been experienced from reclaimed water as a result of visiting or using the site;

(5) An unexplained reduction in reclaimed water volume or pressure at the point of connection, which may indicate failure in offsite facilities. While maintenance and repair of these facilities are not the responsibility of the user, it shall be the responsibility of the user to notify the wastewater reclamation division if failure is suspected.

(h) It shall be the responsibility of the user to take corrective measures to immediately eliminate or reduce to the extent possible public health problems from failures, violations, and emergency situations.

(i) The wastewater reclamation division may require permanent repairs, modifications, and/or improvements to the user's reclaimed water system to ensure that future violations do not occur. Such improvements shall be done in accordance with subchapters 2 and 3. [Eff 3/28/98] (Imp: MCC §20.30.110) (Auth: MCC §20.30.110)

§15-5-26 Signage and public education. (a) The user shall post the approved use areas with signs to inform the public that reclaimed water is being used. Posting shall be required at any customer field office, maintenance building, or yard within the approved use area. Warning notices and labels shall be posted on designated facilities such as controller panels, reclaimed water quick couplers, trucks carrying reclaimed water, and temporary construction facilities. The signs shall indicate both in writing and pictorially (in accordance with the State reuse guidelines) that the system uses reclaimed water and is unsafe to drink. Signs shall use white lettering on purple (pantone 512) background.

(b) For landscaped areas, a public education plan shall be prepared during the preparation of the engineering design report as provided in section 15-5-21(c).

(c) Notice of reclaimed water use shall be printed on scorecards and golf carts at golf courses. [Eff 3/28/98] (Auth: MCC §20.30.110) (Imp: MCC §20.30.110)

SUBCHAPTER 5

MONITORING, INSPECTION, ENFORCEMENT, AND PENALTIES

§15-5-27 Monitoring and inspection. (a) The county and/or the department of health and/or authorized representatives of either or both of these agencies shall have authority to monitor and inspect the entire reclaimed water system including both onsite and offsite facilities. The wastewater reclamation division shall conduct monitoring programs, as it deems necessary, to ensure that the user's reclaimed water facilities are being operated in accordance with this chapter and the State reuse guidelines, including the provision that cross-connections between potable water facilities and reclaimed water facilities do not exist or have the potential to exist. The applicant, owner, consumer, or user shall provide full cooperation to facilitate these monitoring programs.

(b) In carrying out these functions, the county and/or the department of health and/or authorized representatives of either or both of these agencies shall have the right to enter any user's premises during reasonable hours upon presentation of proper credentials. Reasonable hours shall include hours when irrigation is being practiced to ascertain whether the user is complying with this chapter, chapter 20.30 of the Maui county code, and the State reuse guidelines. The user shall defend, indemnify, and hold the county harmless from and against any claims of damage, loss, or injury alleged to have been caused by county personnel while inspecting onsite facilities, except where the county's sole negligence is duly established.

(c) In situations where potable water lines are on the same property and located in the same area as reclaimed water lines, an annual cross-connection control site inspection will be required. The annual cross-connection inspection shall be performed by the wastewater reclamation division, the department of water supply, or an authorized and certified cross-connection specialist. At the direction of the wastewater reclamation division or the department of water supply, cross-connection inspections may occur more frequently, especially on potable irrigation systems which have been converted to a reclaimed water irrigation system in conformance with sections 15-5-19 through 15-5-23. [Eff 3/28/98] (Auth: MCC §20.30.110) (Imp: MCC §20.30.110)

§15-5-28 General enforcement provisions. (a) Any person, consumer, user, firm, corporation, association, or agency found to be violating any provision of this chapter, county ordinance 2525, the State reuse guidelines, or the terms of the user's permit shall be served by the director with written notice, stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations. This provision is in addition to, and not by way of derogation of, any other remedies or procedures available to the county by law, regulation, or pursuant to any of the provisions of this chapter.

(b) Failure to permanently cease all violations within the time stated shall result in temporary discontinuation or permanent termination of reclaimed water service by the wastewater reclamation division pursuant to sections 15-5-29 and 15-5-30.

(c) Any person, consumer, user, firm, corporation, association, or agency who violates any provision of this chapter and who fails to comply with the requirements of

the written notice sent by the director shall, for each day of violation beyond the reasonable time limit set by the wastewater reclamation division, be subject to a fine as set forth in chapter 2 of subtitle 01 of title 15 of the Maui county code, rules for administrative procedures and civil fines for violations of titles 14, 16, 18, 19, and chapter 20.30 of the Maui county code, and shall pay for all costs resulting from any temporary discontinuation or permanent termination of service. [Eff 3/28/98] (Auth: MCC §20.30.110) (Imp: MCC §20.30.110)

§15-5-29 Temporary discontinuation of reclaimed water service. (a) In cases where the serious nature of the violation(s) described above reasonably warrant taking immediate action, the director and/or the department of health may exercise the discretion to immediately order discontinuation of reclaimed water service on an emergency basis, subject to timely decision on permanent revocation of a permit pursuant to a public hearing as provided in section 15-5-30. Conditions or uses that create a basis for discontinuation due to emergency include, but are not limited to:

- (1) Refusal to install a required backflow prevention device;
- (2) Refusal to test a backflow prevention device;
- (3) Refusal to repair or replace a faulty backflow prevention device;
- (4) Direct or indirect connection between the county's or a private potable water system and the reclaimed water system;
- (5) Direct or indirect connection between the county's reclaimed water system and a system or equipment containing contaminants;
- (6) A situation which presents an immediate health hazard to a potable and/or reclaimed water system, as determined by the county or by the department of health;

(7) Operations contrary to this chapter or the State reuse guidelines resulting in over spray into unapproved areas, excessive application rates or times, or improper ponding or runoff onto public rights-of-way or adjoining areas not approved for reclaimed water use.

(b) The wastewater reclamation division may disconnect any consumer when, in the opinion of the director, the consumer's reuse irrigation system puts in jeopardy the public health, safety, or welfare.

(c) The director may impose daily fines on the consumer, if the director finds that the consumer is using alternate water sources while under temporary revocation of reclaimed water service pursuant to subsection (a). The fines imposed shall be in accordance with chapter 2 of subtitle 01 of title 15, rules for administrative procedures and civil fines for violations of titles 14, 16, 18, 19, and 20 of the Maui county code.

(d) The remedies provided for in this chapter shall be cumulative and not exclusive. Nothing herein shall impair the right of the director or any agency to seek enforcement by criminal prosecution, administrative proceeding, if any, or civil action, including but not limited to, filing suit for damages or injunction as provided by law. [Eff 3/28/98] (Auth: MCC §20.30.110) (Imp: MCC §20.30.110)

§15-5-30 Permanent termination of reclaimed water service. (a) The wastewater reclamation division may permanently revoke any permit or contract. Unless an emergency exists, as determined by the wastewater reclamation division pursuant to section 15-5-29, no permit or contract may be revoked until after the user has been given an opportunity for a public hearing.

(b) Where the wastewater reclamation division determines that a permit should be revoked, the director shall prepare a written notice of revocation which

includes a statement of the proposed action, a concise explanation of the reasons for the proposed action, and an explanation of the user's right to a public hearing. Such notice shall be mailed by certified mail to the user's last billing address or be personally served on the user at least ten days before the effective date of the proposed permanent revocation. If, within five days after the mailing or service of such notice, the user or authorized representative requests in writing a public hearing, the director shall immediately set a hearing and give the user written notice of the item, date, and place of such hearing, either by personal service or first class mail. The hearing shall be held not more than thirty days from the date of the county's receipt of said request for hearing. The hearing shall be conducted by a hearing officer designated by the director. The person designated as hearing officer shall not have been connected in any way with the decision to revoke the subject permit or contract. No hearing shall be conducted except upon showing of good cause.

(c) Copy of such notice shall be sent to the department of health by the wastewater reclamation division. [Eff 3/28/98] (Auth: MCC §20.30.110) (Imp: MCC §20.30.110)

§15-5-31 Reestablishment of reclaimed water service. Any request to reestablish service subsequent to revocation of the permit and the termination of reclaimed water service shall be done in the manner described in section 15-5-6 for initially obtaining reclaimed water service from the wastewater reclamation division. The wastewater reclamation division may, at its discretion, deny reestablishment of service or require that an agreement of financial security conditioned upon compliance with this chapter and the State reuse guidelines be provided. [Eff 3/28/98] (Auth: MCC §20.30.110) (Imp: MCC §20.30.110)

SUBCHAPTER 6

FEES AND CHARGES

§15-5-32 Installation charges. Any person making an application for reclaimed water service shall pay an initial installation charge, based on meter size, as set forth in the annual budget. [Eff 3/28/98] (Auth: MCC §20.30.110) (Imp: MCC §20.30.110)

§15-5-33 Connection fees. (a) The wastewater reclamation division shall charge a connection fee for the construction of and perpetual maintenance of reclaimed water facilities, including but not limited to, treatment facilities, pumping stations, pipelines, and reservoirs, all of which are the property of the wastewater reclamation division.

(b) The connection fee shall be set forth in the annual budget. [Eff 3/28/98] (Auth: MCC §20.30.110) (Imp: MCC §20.30.110)

§15-5-34 Reclaimed water rates. (a) The county shall charge reclaimed water rates as set forth in the annual budget:

(b) There shall be three classes of users or consumers set forth in the annual budget:

- (1) Major agricultural consumers;
- (2) Agricultural consumers; and
- (3) All other consumers." [Eff 3/28/98] (Auth: MCC §20.30.110) (Imp: MCC §20.30.110C).

FORM RW-1
COUNTY OF MAUI
APPLICATION FOR RECLAIMED WATER SERVICE

The user completes the following: (Please print or type)

SiteName: _____

Project/site address: _____

Tax map key: _____

Property owner(s): _____

Mailing address: _____

Telephone number: _____ Work _____ Residence

Leaseholder's name (if applicable): _____

Address: _____

Telephone number: _____ Work _____ Residence

Reclaimed Water Supervisor:

Name: _____

Address: _____

24-hour contact telephone number: _____

Legal description of property: _____

(Check each use)

1. Type of use:

Landscape irrigation
 Commercial use

Industrial use
 Agricultural use

Construction use
 Other

2. Brief description of use(s): _____

3. Total irrigated area: _____ acres Types of plant material: _____

4. Estimated demand: Total quantity: _____ gallons/year
Max. at POC: _____ Total gpm
Min. pressure: _____ psi
Hours/Day: _____
Days/Week: _____

5. Number of service connection: _____ Number of meters requested: _____
Size of meters: _____

6. This is a: _____ new _____ converted system.

7. Are there special construction requirements? _____ Yes _____ No

If yes, explain: _____

8. Date desired to initiate service: _____

9. Duration of service (temporary, interim, construction use, permanent): _____

10. Additional information: (Include special conditions affecting service):

Please include the following items:

- a) Items to Be Submitted with the Initial Application:
 - i) A map, showing (1) the exact boundaries (azimuth-distance) of the proposed approved use area, (2) the irrigated or wetted areas and buffer zones, providing dimensions for both, and (3) the name or labels (e.g., clubhouse, single residential unit) of roads and structures. The structures and fenced area shall be labeled, e.g., residential, public access restrictive access.
 - ii) Check or money order for required fees made out to:

"County Director of Finance"

- b) Items to Be Submitted Subsequent to The Approval of The Application and Submittal Dates:
 - i) Basis-of-design report: _____
 - ii) Engineering design report: _____
 - iii) Plans and specifications: _____

I, the user, have read and understand the County's Rules and Regulations for Reclaimed Water Service and the State of Hawaii Guidelines for the Treatment and Use of Reclaimed Water and agree to restrict reclaimed water use for the purposes described in this application. I agree to use reclaimed water in accordance with these Rules and Regulations and all other applicable documents. I understand that reclaimed water may not be compatible with certain types of vegetation because of its chemical composition. I agree that the County has provided estimates of chemical quality and that the County will not be liable for damages that may occur to vegetation or for damages which may occur due to uses of reclaimed water for purposes not included in this application.

User's signature: _____ Date: _____

FORM RW-2

COUNTY OF MAUI

CHECKLIST FOR OBTAINING RECLAIMED WATER SERVICE

<u>Date Completed</u>	<u>Initialed</u>	
1. _____	_____	The user and the County determine if the site can now or will in the future be provided reclaimed water service.
2. _____	_____	The user submits a completed application to the County.
3. _____	_____	The County reviews the application and responds to applicant.
4. _____	_____	Applicant submits Basis-of-Design Report. ^a
5. _____	_____	County approves Basis-of-Design Report.
6. _____	_____	Applicant submits Engineering Design Report. ^a
7. _____	_____	County approves Engineering Design Report.
8. _____	_____	Applicant submits plans and specifications. ^a
9. _____	_____	County approves plans and specifications.
10. _____	_____	State Department of Health approves plans and specifications.
11. _____	_____	County determines appropriate fees.
12. _____	_____	Applicant constructs facilities.
13. _____	_____	Applicant submits as-built drawings to the County.
14. _____	_____	Upon applicant's request, County performs final inspection and operational testing, including cross-connection control inspection.
15. _____	_____	Final inspection approval by the County.
16. _____	_____	Final inspection approval by the State Department of Health.
17. _____	_____	The County issues a user's permit.

18. _____ The County and the user initiate reclaimed water service.

This form is to be used by the County, the user, and the State Department of Health to track the process for obtaining reclaimed water service. County Wastewater Reclamation Division personnel should date and initial each step in the process.

^a Documents must be submitted separately to the State Department of Health.

FORM RW-3
COUNTY OF MAUI
PERMIT FOR RECLAIMED WATER SERVICE

User

Account #: _____

Name: _____ Contact: _____

Relationship to property: _____

Mailing address: _____

Property Owner(s)

Name: _____

Mailing address: _____

Telephone number: _____ Work _____ Residence

Project/Site

Name: _____

Address: _____

Reclaimed Water Supervisor: _____

24-hour contact telephone number: _____

Approved use area(s):
 1. _____
 2. _____
 3. _____

1. Total irrigated area: _____ acres
 2. Reclaimed water demand:

<u>Meter Account</u>	<u>Meter Size</u>	<u>Min. Pres. (psi)</u>	<u>Max Flow (gpm)</u>	<u>Area Served (acres)</u>	<u>Yearly Consump. (gallons/yr)</u>
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
Totals					_____

3. This is a: _____ NEW _____ CONVERTED system.

4. Method of reclaimed water pipe identification:

_____ Color-coded _____ Stenciled _____ None (converted)
 _____ Color tape wrap _____ Other

5. This is a: _____ Permanent _____ Temporary _____ Interim _____ Construction
 reclaimed water service to stop on: _____.

6. Rate charged for service: _____ \$/1,000 gallons plus additional base charges as shown in Appendix _____.

7. Special requirements/conditions: _____

Final Inspection by the County:

I have inspected the reclaimed water system governed by this permit and attest that the construction and operation of this system are in accordance with the County's Rules and Regulations for Reclaimed Water Service.

Inspector: _____ Date: _____

Title: _____

User Agreement:

I have reviewed the County's Rules and Regulations for Reclaimed Water Service and the State of Hawaii Guidelines for Treatment and Use of Reclaimed Water, and agree to operate this reclaimed water service in accordance with all provisions of this permit and all applicable documents. I agree to be responsible for training and supervising all personnel under my control who will be involved in operating the reclaimed water system.

I agree that no changes to the reclaimed water system will be made without issuance of an amended permit. I am aware of any/all fines and penalties to be assessed for any/all violations of these Rules and Regulations for Reclaimed Water Service.

User's signature: _____ Date: _____

Qualifications of User's Reclaimed Water Supervisor:

The User shall attach the qualifications of the designated Reclaimed Water Supervisor.

ADOPTED THIS 10th DAY OF June, ~~1998~~ ¹⁹⁹⁷ at
Wailuku, Maui, Hawaii.

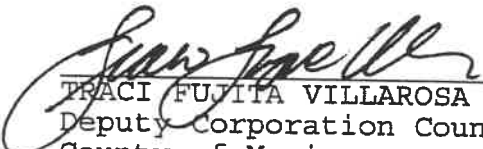
DEPARTMENT:

By 
CHARLES JENCKS

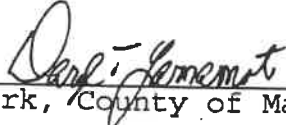

LINDA LINGLE
Mayor, County of Maui

Approved this 9th day of
March, 1998.

APPROVED AS TO FORM AND LEGALITY:


TRACI FUJITA VILLAROSA
Deputy Corporation Counsel
County of Maui
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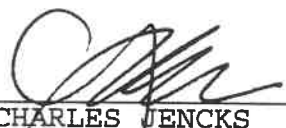
Received this 18th day of
March, 1998.


Clerk, County of Maui

CERTIFICATION

I, CHARLES JENCKS, in my capacity as Director 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 rules drafted in Ramseyer format, pursuant to the requirements of Section 91-4.1, Hawaii Revised Statutes, which were adopted on June 10, 1997, and 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 May 11, 1997.



CHARLES JENCKS
Director
Department of Public Works
and Waste Management
County of Maui

DEPARTMENT OF PUBLIC WORKS AND WASTE MANAGEMENT

SUBTITLE 01

DIRECTOR OF PUBLIC WORKS AND WASTE MANAGEMENT

CHAPTER 102

RULES FOR ADMINISTRATIVE PROCEDURES AND CIVIL FINES FOR
VIOLATIONS OF TITLES 12, 14, 16, 18, 19, AND 20
OF THE MAUI COUNTY CODE

Subchapter 1 General Provisions

§15-102-1	Title
§15-102-2	Authority
§15-102-3	Purpose
§15-102-4	Construction
§15-102-5	Definitions

Subchapter 2 Enforcement: Administrative
Procedures and Civil Fines for
Violations of Titles 12, 14, 16, 18,
19, and 20 of the Maui County Code

§15-102-6	Issuance of order
§15-102-7	Stop work order
§15-102-8	Time period of compliance
§15-102-9	Administrative fines
§15-102-10	Joint and severability
§15-102-11	Other legal remedies

SUBCHAPTER 1

GENERAL PROVISIONS

§15-102-1 Title. The rules of this article shall be known as the "Rules for Administrative Procedures and Civil Fines for Violations of Titles 12, 14, 16, 18, 19, and 20 of the Maui County Code". [Eff 9/3/93, am 12/28/97] (Auth: HRS §46-1.5(24), §46-4) (Imp: HRS §46-1.5(24), §46-4, MCC §19.530.030)

§15-102-2 Authority. The rules herein are established pursuant to sections 46-1.5(24) and 46.4 and chapter 91 Hawaii Revised Statutes, and section 19.530.030 of the Maui County Code. [Eff 9/3/93, am 12/28/97] (Auth: HRS §46-1.5(24), §46-4) (Imp: HRS §46-1.5(24), §46-4, MCC §19.530.030)

§15-102-3 Purpose. These rules shall govern the administrative enforcement of violations of titles 12, 14, 16, 18, 19, and 20 of the Maui County Code. [Eff 9/3/93, am 12/28/97] (Auth: HRS §46-1.5(24), §46-4) (Imp: HRS §46-1.5(24), §46-4, MCC §19.530.030)

§15-102-4 Construction. These rules shall be construed to secure the just and efficient determination of violations of titles 12, 14, 16, 18, 19, and 20 of the Maui County Code and should be read in conjunction with the provisions of the Hawaii Revised Statutes, the Charter of the County of Maui, and the Maui County Code. In any conflict between these provisions and any other provision, the more specific provision shall govern. [Eff 9/3/93, am 12/28/97] (Auth: HRS §46-1.5(24), §46-4) (Imp: HRS §46-1.5(24), §46-4, MCC §19.530.030)

§15-102-5 Definitions. For the purpose of these rules, unless it is plainly evident from the context that a different meaning is intended, the words and phrases used herein are defined as follows:

"Board" means the board of variances and appeals or the board of code appeals, whichever is applicable.

"Continuing violation" means any violation that continues beyond the time for correction as set forth in any order of the Director.

"Days" means calendar days unless otherwise specified.

"Department" means the department empowered to administer the Maui County code section violated.

"Director" means the director of the department empowered to administer the Maui County code section violated or the director's designated representatives.

"Law" means titles 12, 14, 16, 18, 19, and 20 of the Maui County Code or any rule adopted thereunder including these rules.

"Notice of violation and order" or "Order" means a document signed by the director, identifying a violation, specifying corrective action and assessing a fine, as provided by section 19.530.030 of the Maui County Code and these rules.

"Owner" means the person or persons designated as the owner in the real property tax records for the County of Maui on the date of the violation.

"Person" means a natural person, known or unknown, the person's heirs, executors, administrators or assigns, and also includes a firm, partnership, corporation, society or association, its or their successors or assigns, or the agent of any of the foregoing.

"Repeat violation" means a subsequent violation causing issuance of a notice of violation and order, order, or stop work order for violation of the same section of the law on the same property within a one-year period from the date of the previous violation.

"Service" means proper notification by the director as provided in these rules.

"Stop work order" means a document signed by the director, identifying a violation, requiring that corrective measures be instituted and all specified work cease until the order is removed by the director.

"Violation" means:

(a) Use of any structure or land, or the location or construction of any structure without a permit or other approval required by law; or

(b) Use of any structure or land, or the location or construction of any structure in a manner not

permitted by law or by the conditions of any permit or other approval issued pursuant to law; or

(c) Misrepresentation of fact on any application, plan, or other submittal required to obtain any approval or permit, including but not limited to, representations in affidavits, recorded covenants, parking agreements, and joint development agreements.

"Violator" means any individual, organization, partnership, firm, association, trust, estate, public or private corporation, or any other entity who is responsible for the violation or who has an interest in the property on which the violation occurs. [Eff 9/3/93, am 12/28/97] (Auth: HRS §46-1.5(24), §46-4) (Imp: HRS §46-1.5(24), §46-4, MCC §19.530.030)

SUBCHAPTER 2

ENFORCEMENT: ADMINISTRATIVE PROCEDURES AND
CIVIL FINES FOR VIOLATIONS OF TITLES
12, 14, 16, 18, 19, AND 20 OF THE MAUI COUNTY CODE

§15-102-6 Issuance of order. (a) Upon a determination that there is a violation, the director may issue a notice of violation and order.

(b) The director shall have the order served upon the violator, including but not limited to the owner, tenant or other persons responsible for the violation. Service shall be in person or by certified mail, restricted delivery, return receipt requested.

(c) For purposes of these rules service of the notice of violation and order shall be deemed complete upon mailing a copy of the notice of violation and order, return receipt requested, to the violator, including but not limited to the owner, tenant or other persons responsible for the violation.

(d) For purposes of these rules service of any stop work order shall be deemed complete upon posting it in a conspicuous place on the property where the violation is occurring or delivery to any employee of the contractor whose work is in violation.

(e) Any notice of violation and order shall state the date of the notice, the name and address of the violator, provision of law or permit violated, a brief description of the violation, the location, including tax map key or street address and date of the violation. The order may require that the violator stop work or stop further violation, correct the violation before a certain date, pay a fine before a certain date and pay an additional fine for each and every day the violation continues beyond a certain date.

(f) The order shall advise the violator(s) that the order shall become final thirty days after the date of its mailing or delivery unless an appeal is properly filed with the board.

(g) Any person may appeal an order issued pursuant to this section to the board. The appeal must be received no later than thirty days from the date of mailing or personal service of the order, and must be in accordance with the board's rules of practice and

procedure. The order becomes final if an appeal is not properly filed within thirty days from the date of mailing or personal service. [Eff 9/3/93, am 12/28/97] (Auth: HRS §46-1.5(24), §46-4) (Imp: HRS §46-1.5(24), §46-4, MCC §19.530.030)

§15-102-7 Stop work order. Stop work orders shall be issued with the notice of violation in the following circumstances:

(a) When work is performed without a valid or required permit(s).

(b) When work is not in general compliance with approved plans.

(c) When work is performed by an unlicensed contractor when a licensed contractor is required.

(d) When the structure foundation has been constructed without the required inspection.

(e) When framing, electrical wiring, electrical or plumbing conduits have been concealed (by wall covering, flooring, trench backfill, etc.) without the required inspection.

(f) When a violation has not been corrected within the time for correction and no extension has been granted.

(g) When an unsafe condition exists. [Eff 9/3/93, am 12/28/97] (Auth: HRS §46-1.5(24), §46-4) (Imp: HRS §46-1.5(24), §46-4, MCC §19.530.030)

§15-102-8 Time period of compliance. (a) When specifying the corrective action to be taken and a reasonable time within which to correct the violation, the director shall use the following schedules:

Schedule for correction of violations for titles 16, 18 and 19

TYPE OF VIOLATION	TIME FOR CORRECTION
Development standard, i.e., set-back, height limits, lot size, lot width, floor area, lot coverage, etc.	7 days

TYPE OF VIOLATION	TIME FOR CORRECTION
Permit conditions	1 day
Permits	
1. a. Building without a building permit	30 days
b. Occupying the building without a certificate of occupancy	30 days
c. Demolition without a building permit	7 days
d. Electrical and/or plumbing work without a permit	7 days
e. Relocation of a building without a permit (i.e., reposting)	30 days
2. Not complying with stop work order	Immediately
3. Change in use of the building or space without a building permit and/or certificate of occupancy	7 days
4. Failure to follow approved plans	1 day

TYPE OF VIOLATION	TIME FOR CORRECTION
5. Safety hazards, i.e. hazardous occupancies, fire alarm, fire sprinkler, standpipe system, protection of pedestrians during construction or demolition, safety glazing, barb wire, swimming pool enclosure, etc.	Immediately
6. Erecting temporary structures without a building permit, i.e. tents, temporary booths	1 day
7. Unsafe buildings	1 day
8. Building code violations with a building permit:	
Sign	1 day
Use	Immediately
9. Other violations of titles 16, 18, and 19 not specifically listed above	7 days

Schedule for correction of violations for titles 12 and 20

TYPE OF VIOLATION	TIME FOR CORRECTION
Not complying with stop work order	Immediately
Permit conditions	1 day

TYPE OF VIOLATION	TIME FOR CORRECTION
Failure to follow approved plans	1 day
Grading without a grading permit	30 days
Work in the County right-of-way without a WTP permit	7 days
Failure to repair damage in County right-of-way	7 days
Construction of driveway without a driveway permit	7 days
Failure to comply with order to maintain sidewalk	21 days
Failure to comply with order to maintain drainage ways	14 days
Failure to comply with order to maintain hedges at intersections	21 days
Failure to comply with rules for glass recycling for licensed liquor establishments or chapter 20.22 of the Maui County Code	7 days
Other violations of titles 12 and 20 not specifically listed above	7 days

Schedule for correction of violations for title 14

TYPE OF VIOLATION	TIME FOR CORRECTION
Improper maintenance or maintenance documentation of a grease trap	2 days

Improper cleaning and maintenance of a private collection system	Immediately
Failure to install a grease trap	30 days
Illegal discharge (substance)	Immediately
Use of non-approved grease trap additives	Immediately
Discharging into a non-approved wastewater manhole	Immediately
Illegal fixtures plumbed to grease interceptor/trap	30 days
Refusal to install a required backflow prevention device	Immediately
Refusal to test a backflow prevention device	14 days
Refusal to repair or replace a faulty backflow prevention device	7 days
Direct or indirect connection between the county's or private potable water system and the reclaimed water system	1 day

TYPE OF VIOLATION	TIME FOR CORRECTION
Direct or indirect connection between the county's reclaimed water system and a system or equipment containing contaminants	1 day
A situation which presents an immediate health hazard to the county's or private potable and/or reclaimed water system, as determined by the county or by the department of health	Immediately
Operations contrary to this chapter or the state reuse guidelines resulting in overspray of reclaimed water into unapproved areas, excessive application rates or time, or improper ponding or runoff of reclaimed water onto public rights-of-way or adjoining areas not approved for reclaimed water use	Immediately

TYPE OF VIOLATION	TIME FOR CORRECTION
Failure to comply with any compliance schedules established by the department to correct deficiencies of chapter 14 of the Maui county code	1 day
Other violations of title 14 not specifically listed above	1 day

(b) The above schedule may be extended upon payment of the initial fine and presenting a written request to the director within the time to correct. Before approving a time extension the director shall consider the following:

- (1) The type and the degree of the violation, whether it is a recurrent violation, and the number of violations cited in the order;
- (2) The threat to human health and safety by allowing any extension;
- (3) Previous extensions given to the same violator;
- (4) The degree of cooperation provided by the violator during the investigation;
- (5) Whether it is necessary to obtain a permit or other authorization to carry out corrective action;
- (6) The complexity of the corrective action required; and
- (7) Any other circumstances beyond the control of the violator which may justify such an extension. [Eff 9/3/93, am 12/28/97, am 3/27/99, am 12/10/01] (Auth: HRS §46-1.5(24), §46-4) (Imp: HRS §46-1.5(24), §46-4, MCC §19.530.030)

§15-102-9 Administrative fines. (a) In addition to correcting the violation, the violator shall pay to

the County a fine in the amount prescribed by this section:

Schedule of civil monetary fines for titles 16, 18 and 19

TYPE OF VIOLATION	AMT. INITIAL FINE	AMT. DAILY FINES
Development standard, i.e., set-back, height limits, lot size, lot width, floor area, lot coverage, etc.	\$1,000	\$100
Misrepresentations	\$1,000	\$100
Permit conditions	\$1,000	\$100
Permits		
1.		
a. Building without a building permit	\$500	\$100
b. Occupying a building without a certificate of occupancy	\$500	\$100
c. Demolition without a building permit	\$100	\$50
d. Electrical and/or plumbing work without a permit	\$200	\$200
e. Relocation of a building without a building permit (i.e. reposting)	\$100	\$50
2. Not complying with stop work order	\$1,000	\$100

TYPE OF VIOLATION	AMT. INITIAL FINE	AMT. DAILY FINES
3. Change in use of the building or space without a building permit and/or certificate of occupancy	\$1,000	\$100
4. Failure to follow approved plans	\$1,000	\$100
5. Safety hazards, i.e., hazardous occupancies, fire alarm, fire sprinkler, standpipe system, protection of pedestrians during construction or demolition, safety glazing, barb wire, swimming pool enclosure, etc.	\$1,000	\$200
6. Erecting temporary structures without a building permit, i.e., tents, temporary booths	\$200	\$100
7. Unsafe buildings	\$1,000	\$100
8. Building code violations with a building permit:		
Sign	\$200	\$50
Use	\$1,000	\$100

TYPE OF VIOLATION	AMT. INITIAL FINE	AMT. DAILY FINES
9. Other violations of titles 16, 18, and 19 not specifically listed above	\$200	\$100

Schedule of civil monetary fines for titles 12 and 20

TYPE OF VIOLATION	AMT. INITIAL FINE	AMT. DAILY FINES
Not complying with stop work order	\$1,000	\$100
Permit conditions	\$200	\$100
Failure to follow approved plans	\$200	\$100
Grading without a grading permit	\$200	\$100
Work in the County right-of-way without a WTP permit	\$200	\$100
Failure to repair damage in County right-of-way	\$200	\$100
Construction of driveway without a driveway permit	\$50	\$50
Failure to comply with order to maintain sidewalk	\$50	\$50
Failure to comply with order to maintain drainage ways	\$50	\$50

TYPE OF VIOLATION	AMT. INITIAL FINE	AMT. DAILY FINES
Failure to comply with order to maintain hedges at intersections	\$50	\$50
Failure to comply with rules for glass recycling for licensed liquor establishments or chapter 20.22 of the Maui County Code	\$1000	\$50
Other violations of titles 12 and 20 not specifically listed above	\$150	\$50

Schedule for civil monetary fines for title 14

TYPE OF VIOLATION	AMT. INITIAL FINE	AMT. DAILY FINES
Improper maintenance or maintenance documentation of a grease trap	\$1,000	\$100
Improper cleaning and maintenance of a private collection system	\$1,000	\$100
Failure to install a grease trap	\$1,000	\$100
Illegal discharge (substance)	\$1,000	\$100
Use of non-approved grease trap additives	\$100	\$100
Discharging into a non-approved wastewater manhole	\$500	\$100

TYPE OF VIOLATION	AMT. INITIAL FINE	AMT. DAILY FINES
Illegal fixtures plumbed to grease interceptor/trap	\$500	\$100
Refusal to install a required backflow prevention device	\$500	\$100
Refusal to test a backflow prevention device	\$100	\$50
Refusal to repair or replace a faulty backflow prevention device	\$500	\$100
Direct or indirect connection between the County's or private potable water system and the reclaimed water system	\$500	\$100
Direct or indirect connection between the County's reclaimed water system and a system or equipment containing contaminants	\$500	\$100
A situation which presents an immediate health hazard to the County's or private potable and/or reclaimed water system, as determined by the County or by the department of health	\$500	\$100

TYPE OF VIOLATION	AMT. INITIAL FINE	AMT. DAILY FINES
Operations contrary to this chapter or the State reuse guidelines resulting in overspray of reclaimed water into unapproved areas, excessive application rates or time, or improper ponding or runoff of reclaimed water onto public rights-of-way or adjoining areas not approved for reclaimed water use	\$500	\$100
Failure to comply with any compliance schedules established by the department to correct deficiencies of chapter 14 of the Maui County Code	\$500	\$100
Other violations of title 14 not specifically listed above	\$500	\$100

(b) For other violations not specifically listed above, the director shall assess initial fines and daily fines in a manner generally consistent with the above schedule.

(c) The above daily fines may be waived upon payment of the initial fine and the approval of a written request to the director within the time to correct. In waiving these daily finds the director shall consider the following:

- (1) The type and the degree of the violation, whether it is a recurrent violation, and the number of violations cited in the order;
- (2) Previous violations by the same person;
- (3) The degree of cooperation provided by the violator during the investigation;

- (4) Whether it is necessary to obtain a permit or other authorization to carry out corrective action;
 - (5) The costs associated with the corrective action required; and
 - (6) Any other circumstances beyond the control of the violator which may justify such a waiver.
- (d) The fine assessed for the violation is payable whether the violation is corrected before or after the order becomes final.
- (e) When a violation is not corrected and continues beyond the deadline established in the order or as extended by the director, the violator shall be assessed a fine for each separate day during which the violation continues.
- (f) In the case of continuing violation the daily fine shall be doubled on the first day of each thirty day period after the end of the time to take corrective action, up to a maximum amount of \$1,000 per day.
- (g) In the case of a repeat violation as defined herein the initial daily fine shall be double the amount allowed in the schedule. [Eff 9/3/93, am 12/28/97, am 3/27/99, am 12/10/01] (Auth: HRS §46-1.5(24), §46-4) (Imp: HRS §46-1.5(24), §46-4, MCC §19.530.030)

§15-102-10 Joint and severability. The penalties in these rules may be assessed against all violators, jointly or severally, and the director shall have the right to proceed against such persons as the director may choose. [Eff 9/3/93, am 12/28/97] (Auth: HRS §46-1.5(24), §46-4) (Imp: HRS §46-1.5(24), §46-4, MCC §19.530.030)

§15-102-11 Other legal remedies. The provisions in these rules are in addition to the remedies already provided by the applicable provisions of the Maui County Code and do not preclude civil or criminal injunctive relief or other criminal penalties. [Eff 9/3/93, am 12/28/97] (Auth: HRS §46-1.5(24), §46-4) (Imp: HRS §46-1.5(24), §46-4, MCC §19.530.030)

DEPARTMENT OF PUBLIC WORKS AND WASTE MANAGEMENT

Adoption of Chapter 108
Rules for Refuse Collection

1. Chapter 15-108, entitled "Rules for Refuse Collection," is adopted to read as follows:

2007 NOV -5 PM 3:08
CITY OF
CITY CLERK

"TITLE MC-15
DEPARTMENT OF PUBLIC WORKS AND WASTE MANAGEMENT
SUBTITLE 01
DIRECTOR OF PUBLIC WORKS AND WASTE MANAGEMENT
CHAPTER 108
RULES FOR REFUSE COLLECTION

Subchapter 1 General Provisions

§15-108-1 Title
§15-108-2 Purpose
§15-108-3 Definitions

Subchapter 2 General Collection

§15-108-4 Collection requirements - preparation and
placement
§15-108-5 Collection, removal and disposal
§15-108-6 Collection limitations
§15-108-7 Unauthorized removal of refuse prohibited
§15-108-8 Bulky refuse

Subchapter 3 Manual Collection

§15-108-9 Collection requirements - preparation and
placement
§15-108-10 Collection, removal and disposal
§15-108-11 Collection for areas inaccessible to
County refuse trucks

Subchapter 4 Automated Collection

§15-108-12 Collection requirements - preparation and
placement
§15-108-13 Collection, removal and disposal
§15-108-14 County-issued refuse containers

Subchapter 5 Miscellaneous

§15-108-15	Violations - penalty
§15-108-16	Severability

SUBCHAPTER 1

GENERAL PROVISIONS

§15-108-1 Title. The rules in this chapter shall be known as the "Rules for Refuse Collection." [Eff 3/8/02] (Auth: MCC §8.04.079) (Imp: MCC §8.04.079)

§15-108-2 Purpose. The purpose of these rules is to establish the means by which all refuse in the County shall be collected and removed. [Eff 3/8/02] (Auth: MCC §8.04.079) (Imp: MCC §8.04.079)

§15-108-3 Definitions. For purposes of this chapter, unless it is plainly evident from the context that a different meaning is intended, certain words and phrases used herein are defined as follows:

"Automated collection" means refuse collection service, using a county-issued refuse container (cart), which requires no manual moving and no manual lifting by county personnel.

"Automated refuse collection unit" means one county-issued refuse container.

"Bundle" means rubbish consisting of tree branches, tree trunks, hedge and plant cuttings and other similar material or cardboard cartons, wooden boxes or other similar empty containers secured together.

"Business" means a sole-proprietorship, partnership, firm, corporation, or other entity.

"Carcass" means the body of a dead animal.

"Council" means the council of the County of Maui.

"Department" means the department of public works and waste management of the County of Maui.

"Director" means the director of the department of public works and waste management or a designated representative.

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

"Garbage" means all organic waste not fit for human consumption.

"Manual collection" means refuse collection service using an owner-provided refuse container or bag which requires manual moving and manual lifting by county personnel.

"Manual refuse collection unit" means the aggregate of six containers, bags or bundles.

"Multifamily dwelling unit" means a building which consists of three or more dwelling units and which is designed for occupancy by three or more families living independently of each other.

"Owner" means the occupant of a residential unit; provided, however, that if the residential unit is rented to any such occupant, then "owner" means the person listed as "owner" in the real property tax records of the County of Maui.

"Refuse" means all discarded and disposable matter, including garbage and rubbish as defined in this section.

"Residential unit" means any building, structure or part thereof used for residential purposes except for multifamily dwelling units.

"Rubbish" means all solid wastes or rejected materials including, but not limited to, paper and cardboard cartons, straws, excelsior, rags, clothes, shoes, bottles, tin cans, china, glass, metal ware, grass, leaves, tree branches, tree stumps and any other material of similar character; but not including such materials as lumber or iron pipes exceeding five feet in length, concrete blocks, tile, cement, acids, explosives, ice boxes, refrigerators, ranges, radios, television sets, phonographs, bedsteads, bed springs, tables, sofas, chairs, and other furniture, water heater, water tanks, sinks and other similar materials or equipment of a weighty or bulky nature.

"Sidewalk area" means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians. [Eff 3/8/02] (Auth: MCC §8.04.079) (Imp: MCC §8.04.079)

SUBCHAPTER 2

GENERAL COLLECTION

§15-108-4 Collection requirements - preparation and placement. (a) All refuse containers and all refuse prepared for collection, as provided in this chapter, shall be placed at one collection point. Refuse containers shall be placed within the sidewalk area as close to the roadway as practical for collection by 5:00 a.m. on collection days but not before 6:00 p.m. on the previous evenings. Unless otherwise permitted herein, refuse containers shall not be left within the sidewalk area on non-collection days. It shall be the responsibility of the owner to replace refuse containers within any refuse container enclosures.

(b) The department shall, from time to time, establish and change schedules for the collection of refuse within the County to meet proper health and sanitation standards, and shall also establish and change, from time to time, the hours for the collection of such refuse. Prior to the establishment or change of the schedules or hours of collection, the department shall publicize such proposal so that the owners who may be affected by such schedules may have reasonable notice of such change.

(c) All refuse consisting of ashes, powders, dust, sawdust, broken bottles, glass or china, needles, corrosive liquids, medical waste, or other materials likely to cause injury to persons collecting the same shall be securely wrapped or contained.

§15-108-5 Collection, removal, and disposal.

(a) The collection of refuse, as provided in this chapter, shall be carried out by the department or by such person as may be contracted by the County.

(b) The department shall collect, remove and dispose of refuse from all residential units on real property fronting on public highways and where collection service is provided. The department shall collect only the amount of refuse for which payment has been made.

(c) The department shall not serve any real property when the owner thereof has installed or provided

the premises with private incineration equipment or other refuse disposal facilities which have been approved by the department as being adequate and safe and which have been approved by the State department of health.

(d) The department may provide refuse collection services to businesses or government buildings where no private collection services are available.

(e) Any refuse collected by the County and any solid waste accepted by the County shall become the property of the County. [Eff 3/8/02] (Auth: MCC §8.04.079) (Imp: MCC §8.04.079)

§15-108-6 Collection limitations. Unless otherwise provided herein, the department shall not be required to collect:

(a) Any discarded wastes, materials or objects not within the definition of garbage or rubbish, as defined in this chapter;

(b) Liquid garbage;

(c) Any refuse not prepared for collection as required in this chapter;

(d) Any refuse not properly placed for collection as required in this chapter;

(e) Any refuse placed for collection in a place which is unsafe or is likely to cause injury to the person collecting the refuse;

(f) Any refuse from any residential unit or place of business where the owner thereof has failed to pay the service charges provided for in chapter 8.04 of the Maui County Code;

(g) Any refuse scattered due to the weather, animals, or any other cause or instrumentality;

(h) Any carcass;

(i) Any garbage not sealed in a leak-proof container;

(j) Any commercial construction debris;

(k) Any animal feces; and

(l) Any refuse in excess of a refuse collection unit.

§15-108-7 Unauthorized removal of refuse prohibited. No person, other than the owner, person or entity

authorized by the owner, or authorized county personnel during work hours shall:

- (a) Remove or disturb any refuse from the place where the same has been placed for collection;
- (b) Collect or haul away any refuse from the place where the same has been placed for collection; or
- (c) Transport any refuse.

§15-108-8 Bulky refuse. Bulky refuse may be collected under procedures determined by the director. Bulky refuse shall be placed on the street or sidewalk for collection no earlier than the evening before the scheduled day(s) of collection. [Eff 3/8/02] (Auth: MCC §8.04.079) (Imp: MCC §8.04.079)

SUBCHAPTER 3

MANUAL COLLECTION

The provisions of this subchapter shall apply only to manual collection:

§15-108-9 Collection requirements - preparation and placement. (a) All refuse containers and all refuse prepared for collection, as provided in this chapter, shall be placed for collection within the sidewalk area.

(b) Refuse shall be prepared for collection as follows:

- (1) All rubbish consisting of tree branches, tree trunks and stumps (not exceeding fifty pounds), hedge and plant cuttings, palm and coconut branches, vines and other similar materials shall be cut into lengths not exceeding three feet and shall be tied in bundles which shall weigh not more than fifty pounds each.
- (2) All empty cardboard and other fibrous cartons, wooden boxes and crates and other similar empty containers shall be flattened and securely tied in bundles which shall weigh not more than fifty pounds each.

- (3) Where refuse containers for more than one residential unit are assembled at a central pickup point, each container must have the address of the residential unit being served written on the container so the department can determine whether such residential unit is on the pickup roster.
- (4) All refuse containers shall have covers and be made of leak-proof material. Refuse containers shall not contain more than thirty-two gallons in volume of refuse. No refuse shall be accepted for collection when its gross weight, including the receptacle or container, exceeds fifty pounds.
- (5) Bags may be utilized as refuse containers. These containers must be properly protected to withstand inclement weather and be strong enough to carry its contents when picked up by its sides or top. Such contents shall not exceed fifty pounds in weight including the weight of the box or bag, nor exceed thirty-two gallons in volume. Any spillage or scattering of refuse due to breakage of the containers when lifted will be left as is and it shall be the responsibility of the owner and not the County to promptly clean up such spillage or breakage. [Eff 3/8/02] (Auth: MCC §8.04.079) (Imp: MCC §8.04.079)

§15-108-10 Collection, removal, and disposal.
The department shall not serve any real property when the owner thereof has made provision for private collection service and has notified the department of that fact.

§15-108-11 Collection for areas inaccessible to County refuse trucks. (a) The director may designate residential units located within County refuse collection routes inaccessible to County refuse trucks. With regard to units so designated, the director may designate an alternate location where properly prepared refuse containers shall be placed for collection.

(b) Alternate refuse placement locations shall be subject to all requirements of this chapter including, but not limited to, proper refuse preparation, address identification of each refuse container, payment of refuse collection fees, and refuse collection limitations.

(c) The director may authorize a volunteer(s) to coordinate the maintenance of each alternate refuse placement location.

(d) Scattered refuse on or about the alternate refuse placement location picked up by the volunteer shall be placed in containers designated by the director. Such containers at each alternate refuse placement location shall be deemed a refuse collection unit.

(e) No person, other than the occupant of the residential unit deemed inaccessible to County refuse trucks or an authorized volunteer maintaining an alternate refuse placement location, shall place refuse at the alternate refuse placement location.

(f) Any unauthorized person placing refuse at an alternate refuse placement location shall be guilty of violating this section and littering and shall be subject to all applicable penalties pursuant to these rules and the Maui County Code as well as responsible for any cost incurred by the County for litter removal. [Eff 3/8/02] (Auth: MCC §8.04.079) (Imp: MCC §8.04.079)

SUBCHAPTER 4

AUTOMATED COLLECTION

The provisions of this subchapter shall apply only to automated collection:

§15-108-12 Collection requirements - preparation and placement. (a) All refuse shall be placed in county-issued refuse containers with the lid closed.

(b) County-issued refuse containers shall be placed within the sidewalk area with the handle away from the street. Containers shall be placed to provide at least five feet of clearance from fences, lamp posts, fire hydrants, telephone poles, mailboxes, parked cars, and other obstructions. County-issued refuse containers shall

not be emptied if cars are parked in front of or within five feet of such containers. The lateral location for each owner's refuse shall be limited to the street frontage abutting the owner's property or where approved by the director.

(c) Cardboard should be cut or torn into pieces so it falls freely from the county-issued refuse container.

(d) County-issued refuse containers shall not be left on the street or sidewalk area after the day of collection. In cases of hardship, as determined by the director, county-issued refuse containers may be left on the street or sidewalk area.

§15-108-13 Collection, removal, and disposal.
All occupants of residential units located within automated refuse collection routes shall make arrangements with the department for refuse collection.

§15-108-14 County-issued refuse containers.

(a) All county-issued refuse containers shall be the property of the County of Maui.

(b) No county-issued refuse container shall be damaged, modified or altered in any way.

(c) County-issued refuse containers shall be used solely for refuse collection purposes on the property to which the container has been assigned.

(d) All replacement and/or repair costs of a county-issued refuse container shall be the sole responsibility of the owner to which it was assigned, reasonable wear and tear excepted at the sole determination of the director.

SUBCHAPTER 5

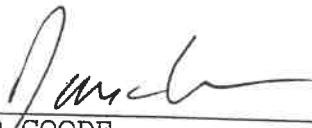
MISCELLANEOUS

§15-108-15 Violations - penalty. Any person who violates any provision of these rules shall, upon conviction, be fined not more than \$1,000. [Eff] (Auth: MCC §8.04.079) (Imp: MCC §8.04.079)


§15-108-16 Severability. If any subchapter, sentence, clause, phrase or portion of the provisions of these rules should for any reason be held invalid or unconstitutional by any court, the same shall not affect the validity of the rules as a whole or any part thereof other than the part so declared invalid." [Eff 3/8/02]
(Auth: MCC §8.04.079) (Imp: MCC §8.04.079)

ADOPTED THIS 25th day of FEBRUARY, 2002,
at Wailuku, Maui, Hawaii.

By



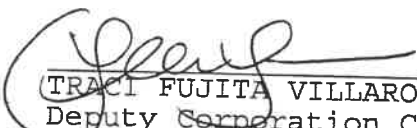
DAVID GOODE
Director
Department of Public Works
and Waste Management



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

Approved this 25th day of
FEBRUARY, 2002.


APPROVED AS TO FORM AND LEGALITY:



TRACI FUJITA VILLAROSA
Deputy Corporation Counsel
County of Maui

S:\CLERICAL\TLL\RULES\Refuse Coll

Received this 26th day of
February, 2002.



ROY HIRAGA
Clerk, County of Maui

CERTIFICATION

I, DAVID GOODE, in my capacity as Director 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 rules drafted in Ramseyer format, pursuant to the requirements of Section 91-4.1, Hawaii Revised Statutes, which were adopted on FEBRUARY 25th 2002, and 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 6th & 7th, 20 02.



DAVID GOODE, Director
Department of Public
Works and Waste Management
County of Maui

DEPARTMENT OF PUBLIC WORKS AND WASTE MANAGEMENT
COUNTY OF MAUI

Adoption of Chapter 601
Rules for Glass Recycling in
Licensed Liquor Serving Establishments

1. Chapter 601, entitled "Rules for Glass Recycling in Licensed Liquor Serving Establishments", is hereby adopted to read as follows:

RECEIVED
CORPORATION COUNCIL
2001 DEC 14 PM 4:03

"TITLE MC-15

DEPARTMENT OF PUBLIC WORKS AND WASTE MANAGEMENT

SUBTITLE 01

CHAPTER 601

RULES FOR GLASS RECYCLING IN
LICENSED LIQUOR SERVING ESTABLISHMENTS

Subchapter 1 General Provisions

§15-601-1	Title
§15-601-2	Purpose
§15-601-3	Definitions
§15-601-4	Registration
§15-601-5	Record keeping
§15-601-6	Suspension
§15-601-7	Violation and penalty
§15-601-8	Severability

SUBCHAPTER 1
GENERAL PROVISIONS

§15-601-1 Title. These rules shall be known as the "Rules for Glass Recycling for Licensed Liquor Establishments." [Eff 12/10/01] (Auth: MCC §20.22.030) (Imp: MCC Chapter 20.22)

§15-601-2 Purpose. The purpose of these rules is to establish procedures for glass recycling registration and record keeping by licensees. [Eff 12/10/01] (Auth: MCC §20.22.030) (Imp: MCC Chapter 20.22)

§15-601-3 Definitions. For purposes of this chapter, unless it is plainly evident by the context that a different meaning is intended, certain words and phrases used in this chapter are defined as follows:

"Department" means the department of public works and waste management, County of Maui.

"Director" means the director of the department of public works and waste management, County of Maui, or an authorized representative.

"Licensed liquor establishment" means a business establishment which has been issued a liquor license by the liquor control commission of the County of Maui in which liquor is consumed or disposed of on the premises. For purposes of this chapter, business establishments that have been issued the following classes of liquor licenses shall be excluded from this definition: class 4, retail dealers licenses; and class 10, special licenses.

"Licensee" means the holder of a liquor license for a licensed liquor establishment issued by the liquor control commission of the County of Maui, including all agents, servants, or employees thereof. [Eff 12/10/01] (Auth: MCC §20.22.030) (Imp: MCC Chapter 20.22)

§15-601-4 Registration. (a) Licensees shall register with the department annually. Glass recycling registration forms shall be mailed to the licensee every February. Registration forms shall also be available via the internet <www.co.maui.hi.us/> or may be picked up at

the department or such other locations designated by the director. Registration forms shall be mailed, faxed or e-mailed to the department no later than March 31st of each year. Information provided by the licensee shall be confirmed by the department with glass recycling haulers and/or processors, and by review of billings and weigh slips and/or by site inspections.

(b) Upon confirmation that the licensee is recycling glass, a certificate of compliance shall be mailed to the licensee as proof of compliance with these rules and Maui County Code ("MCC") Chapter 20.22. [Eff 12/10/01] (Auth: MCC §20.22.030) (Imp: MCC Chapter 20.22)

§15-601-5 Record keeping. Licensees shall keep a record of billings from glass recycling haulers and/or weigh slips from glass processors for a period of one year commencing on the date on the certificate of compliance. The director may confirm the records with the haulers and/or glass processors and may inspect licensee's premises. Licensees shall make available all licensee records for review and copying by the director. [Eff 12/10/01] (Auth: MCC §20.22.030) (Imp: MCC Chapter 20.22)

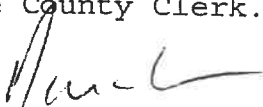
§15-601-6 Suspension. Licensees may petition the director for a suspension from the requirements of these rules and chapter 20.22, Maui County Code. All requests for a suspension shall be in writing and shall demonstrate that a recycling pick-up service or a drop-off facility is unavailable to the licensee. The request for suspension shall be denied if the director determines that a recycling pick-up service or drop-off facility is available to the licensee. If the licensee is granted a suspension, the director shall issue a letter of suspension to the licensee. The director shall periodically review any suspensions granted and shall revoke any suspension upon finding that a recycling pick-up service or drop-off facility is available to the licensee. Upon revocation, the licensee shall comply with these rules and chapter 20.22, Maui County Code, within thirty calendar days. [Eff 12/10/01] (Auth: MCC §20.22.030) (Imp: MCC Chapter 20.22)

§15-601-7 Violation and penalty. Any licensee who violates any provision of these rules or chapter 20.22, Maui County Code, shall upon conviction be fined an amount not more than \$1,000. A notice of the violation shall be submitted to the department of liquor control of the County of Maui. [Eff 12/10/01] (Auth: MCC §20.22.030) (Imp: MCC Chapter 20.22)

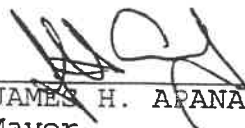
§15-601-8 Severability. If any section, sentence, clause, phrase, or portion of these rules should for any reason be held invalid or unconstitutional by any court, the same shall not affect the validity of the rules as a whole or any part thereof other than the part so declared invalid." [Eff 12/10/01] (Auth: MCC §20.22.030 MCC) (Imp: MCC Chapter 20.22)

ADOPTED this 1st day of November, 2001,
at Wailuku, Maui, Hawaii.

Chapter 601, Rules for Glass Recycling in Licensed
Liquor Serving Establishments, shall take effect ten days
after filing with the Office of the County Clerk.



DAVID C. GOODE
Its Director
Department of Public Works
and Waste Management
County of Maui



JAMES H. APANA, JR.
Mayor
County of Maui


Approved this 1st day of
November, 2001.

APPROVED AS TO FORM
AND LEGALITY:



TRACI FUJITA VILLAROSA
Deputy Corporation Counsel
County of Maui

Received this 30th day of
November, 2001.



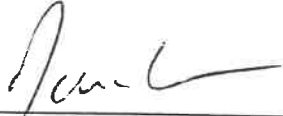
ROY T. HIRAGA
County Clerk
County of Maui

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CERTIFICATION

I, DAVID C. GOODE, in my capacity as Director of Public Works and Waste Management, County of Maui, do hereby certify:

1. That the foregoing is a copy of the Rules for Glass Recycling in Licensed Liquor Serving Establishments, drafted in Ramseyer format pursuant to the requirements of Section 91-41, Hawaii Revised Statutes, which were adopted on November 1, 2001, following a public hearing on October 24, 2001 2:30 PM; and
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 September 19, 2001.



DAVID C. GOODE
Director
Department of Public Works
and Waste Management
County of Maui

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

Adoption of Chapter 17-105
Rules Relating to Plastic Bag Reduction

SUMMARY

1. Chapter 17-105, entitled "Rules Relating to Plastic Bag Reduction", is adopted to read as follows:

"TITLE MC-17

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

SUBTITLE 01

DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

CHAPTER 105

RULES RELATING TO PLASTIC BAG REDUCTION

Subchapter 1 General Provisions

§17-105-1 Title
§17-105-2 Purpose
§17-105-3 Definitions

Subchapter 2 Plastic Bag Restrictions

§17-105-4 Prohibition
§17-105-5 Permissible bags
§17-105-6 Reusable bags and paper bags

Subchapter 3 Enforcement

§17-105-7 Notice of violation and order
§17-105-8 Judicial enforcement of order
§17-105-9 Administrative fines
§17-105-10 Collection of unpaid civil fines
§17-105-11 Joint and several assessment
§17-105-12 Other legal remedies

SUBCHAPTER 1

GENERAL PROVISIONS

§17-105-1 Title. The rules of this chapter shall be known as the "Rules Relating to Plastic Bag Reduction". [Eff 1/12/11] (Auth: HRS §§46-1.5(24), 46-4; Charter §8-15.3(1); MCC §§19.530.030, 20.18.030) (Imp: HRS §46-1.5(24); MCC §19.530.030)

§17-105-2 Purpose. These rules shall govern administrative procedures and enforcement of chapter 20.18, Maui County Code. [Eff 1/21/11] (Auth: HRS §§46-1.5(24), 46-4; Charter §8-15.3(1); MCC §§19.530.030, 20.18.030) (Imp: HRS §46-1.5(24); MCC §19.530.030)

§17-105-3 Definitions. For the purpose of these rules, unless it is plainly evident from the context that a different meaning is intended, the words and phrases used herein are defined as follows:

"Board" means the board of variances and appeals.

"Business" means any commercial enterprise or establishment, including sole proprietorships, joint ventures, partnerships, and corporations, or any other legally cognizable entity, whether for profit or not for profit, and includes all employees of the business or any independent contractors associated with the business.

"Continuing violation" means any violation that continues beyond the time for correction as set forth in any order of the director.

"Days" means calendar days unless otherwise specified.

"Department" means the department of environmental management.

"Director" means the director of the department of environmental management or the director's designated representatives.

"Notice of violation and order" means a document signed by the director, identifying a violation, specifying corrective action and assessing a fine, as

provided by section 19.530.030, Maui County Code, and these rules.

"Plastic bag" means a bag that is made from noncompostable plastic or compostable plastic, and is not specifically designed and manufactured for multiple re-use.

"Prescription drug" means the same as defined in section 461-1, Hawaii Revised Statutes, as amended.

"Repeat violation" means a violation resulting in issuance of a notice of violation and order to a business within a five-year period from the date of a previous violation by the business.

"Reusable bag" means a bag that is specifically designed and manufactured for multiple re-use and is:

- (1) Made of cloth or other washable fabric, or
- (2) Made of durable material suitable for reuse.

"Violation" means providing or offering to provide plastic bags to business customers at the point of sale for the purpose of transporting groceries or other goods.

"Violator" means any business that is responsible for the violation. [Eff 1/21/11] (Auth: HRS §46-1.5(24); Charter §8-15.3(1); MCC §§19.530.030, 20.18.030.A) (Imp: HRS §46-1.5(24); MCC §20.18.020)

SUBCHAPTER 2

PLASTIC BAG RESTRICTIONS

§17-105-4 Prohibition. Businesses are prohibited from providing plastic bags to their customers at the point of sale for the purpose of transporting groceries or other goods. [Eff 1/21/11] (Auth: HRS §46-1.5(24); Charter §8-15.3(1); MCC §§19.530.030, 20.18.030) (Imp: HRS §46-1.5(24); MCC §§19.530.030, 20.18.040.A)

§17-105-5 Permissible bags. The following types of plastic bags, provided other than at the point of sale and not for the purpose of transporting groceries or other goods, shall not be subject to the prohibition set forth in §17-105-4:

- (1) Bags without handles, designed and used solely for protection of food products, protection of property, or for preventing contamination, including, but not limited to, bags for: raw meat, poultry, seafood, and unpackaged bakery items.
- (2) Bags without handles, designed and used solely for self-service packing of non-prepackaged food items sold in bulk, including, but not limited to, bags for: fruits, vegetables, nuts, grains, cereal, flour, rice, and candy.
- (3) Bags designed and used solely for protecting garments, when provided by a garment cleaning business.
- (4) Bags used for dispensing prescription drugs that are not provided in any other container or receptacle. [Eff 1/21/11] (Auth: HRS §46-1.5(24); Charter §8-15.3(1); MCC §§19.530.030, 20.18.030) (Imp: HRS §46-1.5(24); MCC §§19.530.030, 20.18.040)

§17-105-6 Reusable bags and paper bags. (a) Businesses may make reusable bags and paper bags available for sale or without charge to customers at the point of sale for the purpose of transporting groceries or other goods.

(b) The director may determine that a bag made from plastic is specifically designed and manufactured for multiple re-use if the bag has handles and is at least 3.0 mils thick. [Eff 1/21/11] (Auth: HRS §46-1.5(24); Charter §8-15.3(1); MCC §§19.530.030, 20.18.030) (Imp: HRS §46-1.5(24); MCC §§ 19.530.030, 20.18.040.B)

SUBCHAPTER 3

ENFORCEMENT

§17-105-7 Notice of violation and order. (a)

The director shall determine whether a business is providing plastic bags to its customers at the point of sale for the purpose of transporting groceries or other goods.

(b) If the director determines that a business is providing plastic bags to its customers at the point of sale for the purpose of transporting groceries or other goods, the director may issue a notice of violation and order after one written warning.

(c) The director shall serve the notice of violation and order upon the business or any authorized agent of the business. Service shall be in person or by certified mail, return receipt requested. For purposes of these rules, service of the notice of violation and order shall be deemed complete either upon personal delivery or upon mailing.

(d) A notice of violation and order shall state the date of the notice, the name and address of the violator, provision of law violated, a brief description of the violation, the location of the violation, including tax map key number or street address, and date of the violation. The order may require that the violator stop further violation, pay a fine before a certain date, and pay an additional fine for each day the violation continues beyond a certain date.

(e) The order shall state that the order shall become final thirty days after service of the order unless an appeal is properly filed with the board.

(f) A business may appeal a notice of violation and order issued pursuant to this section by filing with the board a notice of appeal no later than thirty days from the date of service of the notice of violation and order, in accordance with the board's rules of practice and procedure. The order shall become final if an appeal is not properly filed within thirty days from the date of service. [Eff 1/21/11]
(Auth: HRS §46-1.5(24); Charter §8-15.3(1); MCC §§

19.530.030, 20.18.030) (Imp: HRS §46-1.5(24); MCC §19.530.030)

§17-105-8 Judicial enforcement of order. The director may institute a civil action in any court of competent jurisdiction for the enforcement of any notice of violation and order. Where a civil action has been instituted to enforce a civil fine imposed by an order, the director need only show that the notice of violation and order was served, that a civil fine was imposed, the amount of the civil fine imposed, and that the fine imposed has not been appealed in a timely manner nor paid. [Eff 1/21/11] (Auth: HRS §46-1.5(24); Charter §8-15.3(1); MCC §§19.530.030, 20.18.030) (Imp: HRS §46-1.5(24); MCC §19.530.030)

§17-105-9 Administrative fines. (a) In addition to correcting a violation, the violator shall pay to the County a civil fine in the amount of \$500.

(b) Fines assessed for a violation shall be payable whether a violation is corrected before or after the order becomes final.

(c) When a violation is not corrected and continues beyond the deadline established in the order or as extended by the director, the violator shall be assessed a daily fine of \$500 for each day during which the violation continues.

(d) In the case of a continuing violation, the daily fine shall be doubled on the first day of each thirty-day period after the end of the time to take corrective action, up to a maximum amount of \$1,000 per day.

(e) In the case of a repeat violation, the initial civil fine shall be \$1,000.

(f) The director may waive the daily fines prescribed under subsections (c) and (d), in whole or in part, after receiving a request for a waiver and considering the following:

- (1) The nature and egregiousness of the violation;
- (2) The duration of the violation;
- (3) The number of recurring and other similar violations;

- (4) Any effort taken by the violator to correct the violation;
- (5) The degree of involvement in causing or continuing the violation;
- (6) Reasons for any delay in the correction of the violation; and
- (7) Other extenuating circumstances. [Eff 1/21/11] (Auth: HRS §46-1.5(24); Charter §8-15.3(1); MCC §§19.530.030, 20.18.030) (Imp: HRS §46-1.5(24); MCC §19.530.030)

§17-105-10 Collection of unpaid civil fines. In addition to any other procedures for the collection of civil fines available to the County by law or rules of the court, the County may add unpaid civil fines for violations of this chapter to any County taxes, fees, or charges except for residential water or sewer charges. [Eff 1/21/11] (Auth: HRS §46-1.5(24); Charter §8-15.3(1); MCC §§19.530.030, 20.18.030) (Imp: HRS §46-1.5(24); MCC §19.530.030)

§17-105-11 Joint and several assessment. The penalties in these rules may be assessed against all violators, jointly or severally, and the director may proceed against such persons as the director may choose. [Eff 1/21/11] (Auth: HRS §46-1.5(24); Charter §8-15.3(1); MCC §§19.530.030, 20.18.030) (Imp: HRS §46-1.5(24); MCC §19.530.030)

§17-105-12 Other legal remedies. The enforcement provisions of this chapter are in addition to remedies provided by the Maui County Code and other law, and do not preclude other civil or criminal penalties or injunctive relief." [Eff 1/21/11] (Auth: HRS §46-1.5(24); Charter §8-15.3(1); MCC §§19.530.030, 20.18.030) (Imp: HRS §46-1.5(24); MCC §19.530.030)

2. Chapter 17-105, Rules Relating to Plastic Bag Reduction, shall take effect ten days after filing with the Office of the County Clerk.

ADOPTED THIS 11th DAY OF January,
20 11, at Wailuku, Maui, Hawaii.

COUNTY OF MAUI



KYLE K. GINOZA
Director of Environmental
Management



ALAN M. ARAKAWA
Mayor
County of Maui

Approved this 1 day of
JANUARY 20 11.

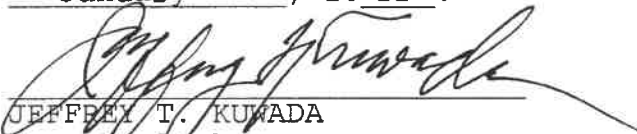
APPROVED AS TO FORM
AND LEGALITY:



DAVID A. GALAZIN
Deputy Corporation Counsel
County of Maui

S:\ALL\DAG\RULES\EM\PlasticBag 17-105 ram V2.wpd

Received this 11th day of
January, 20 11.



JEFFREY T. KURADA
County Clerk
County of Maui

CERTIFICATION

I, KYLE K. GINOZA, Director of Environmental Management, County of Maui, do hereby certify:

1. That the foregoing is a full, true and correct copy of the Rules Relating to Plastic Bag Reduction, drafted in Ramseyer format pursuant to Section 91-4.1, Hawaii Revised Statutes, which were adopted on the 11th day of January, 20 11, following a public hearing that closed on the 17th day of August, 20 10, 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 July 16, 20 10.



KYLE K. GINOZA
Director of Environmental
Management

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

COUNTY OF MAUI

Adoption of Title 17, Subtitle 04, Chapter 402

County of Maui Administrative Rules

1. Title 17, Subtitle 04, Chapter 402, County of Maui Administrative Rules, entitled "Rules Relating to Polystyrene Foam Food Service Containers", is adopted to read as follows:

"COUNTY OF MAUI ADMINISTRATIVE RULES

TITLE MC-17

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

SUBTITLE 04

ENVIRONMENTAL PROTECTION & SUSTAINABILITY

CHAPTER 402

RULES RELATING TO POLYSTYRENE FOAM FOOD SERVICE CONTAINERS

§17-402-1	Title
§17-402-2	Purpose
§17-402-3	Definitions
§17-402-4	Prohibition
§17-402-5	Exemptions
§17-402-6	Application for exemption under §17-402-5(4) for packaging in situations unique to the type of food
§17-402-7	Application for exemption under §17-402-5(5) for packaging in situations unique to the food provider
§17-402-8	Duration, renewal, and revocation of exemptions
§17-402-9	Appeal
§17-402-10	Violations and penalties

§17-402-1 Title. The rules of this chapter shall be known as the "Rules Relating to Polystyrene Foam Food Service Containers". [Eff 12/31/18] (Auth: HRS §§91-2, 46-1.5(13), 46-1.5(14); Charter §8-15.3; MCC §20.26.030(A) (Imp: HRS §91-2)

§17-402-2 Purpose. These rules shall govern administrative procedures related to chapter 20.26, Maui County Code. [Eff 12/31/18] (Auth: HRS §§46-1.5(13), 46-1.5(14); Charter §8-15.3; MCC §20.26.010) (Imp: HRS §91-2, MCC §20.26.010)

§17-402-3 Definitions. For the purpose of these rules, unless it is plainly evident from the context that a different meaning is intended, the words and phrases used herein are defined as follows:

"Affordable" means that a non-polystyrene foam food service container costs less than 140 percent of the cost of an equivalent polystyrene foam food service container.

"Department" means the department of environmental management.

"Director" means the director of environmental management or the director's authorized representative.

"Food provider" means any entity or person providing prepared food for consumption within the County, including any store, shop, sales outlet, restaurant, bar pub, coffee shop, cafeteria, caterer, convenience store, liquor store, grocery store, supermarket, delicatessen, food truck, catering vehicle or cart, or roadside stand.

"Food service container" means all plates, trays, cups, bowls, cartons, and hinged or lidded containers (clamshells) on or in which any foods or beverages are placed or packaged or intended to be placed or packaged and designed for one-time use.

"Polystyrene foam" means blown polystyrene and expanded and extruded foams that are thermoplastic petrochemical materials utilizing a styrene monomer and processed by techniques including fusion of polymer spheres (expandable bead polystyrene), injection molding, foam molding, and extrusion-blown molding (extruded foam polystyrene). Polystyrene foam does not include clear or solid polystyrene (oriented polystyrene).

"Prepared food" means any food or beverage prepared for consumption using any cooking, packaging, or food preparation technique, including chopping, slicing, mixing, brewing, freezing, or squeezing, and or otherwise prepared for consumption. [Eff 12/31/18] (Auth: HRS §§46-1.5(13), 46-1.5(14); Charter §8-15.3; MCC §20.26.020)

§17-402-4 Prohibition. Unless exempt under §17-402-5:

- (1) Food providers shall not sell, use, provide, or offer the use of polystyrene foam food service containers.

- (2) Polystyrene foam food service containers shall not be sold, used, provided, or offered for use at any County facility, County-authorized concession, County-sponsored or County-permitted event, or County program.
- (3) Polystyrene foam food service containers shall not be offered for sale or sold in the County. [Eff 12/31/18] (Auth: HRS §§46-1.5(13), 46-1.5(14); Charter §8-15.3; MCC §20.26.040)

§17-402-5 Exemptions. This chapter shall not apply to the following:

- (1) Polystyrene foam food containers used for raw or butchered meats, poultry, fish, or eggs unless provided for consumption without further food preparation (e.g., sashimi and poke).
- (2) Polystyrene foam coolers and ice chests specifically designed and manufactured for multiple re-use.
- (3) Foam blocks or pieces used as protective packaging during shipping (e.g., packing peanuts).
- (4) Packaging in situations unique to the type of food, where there are no reasonable alternatives to polystyrene foam food service containers, provided the food provider applies for an exemption pursuant to §17-402-6 and such exemption is granted by the director.
- (5) Packaging in situations unique to the food provider, where compliance with this chapter would cause significant hardship and there is no affordable alternative to polystyrene foam food service containers, provided the food provider applies for an exemption pursuant to §17-402-7 and such exemption is granted by the director.
- (6) The sale of polystyrene food service containers to food providers pursuant to an exemption described in this section.
- (7) Packaging in any situation deemed by the County to be an emergency requiring the immediate preservation of life, health, property, safety, or essential public services. This exemption shall be in place until the emergency has ceased or the mayor has determined the exemption is no longer applicable to the situation. [Eff 12/31/18] (Auth: HRS §§46-1.5(13), 46-1.5(14); Charter §8-15.3; MCC §20.26.050)

§17-402-6 Application for exemption under §17-402-5(4) for packaging in situations unique to the type of food. A food provider may submit an application, preferably on the form provided by the director, and shall set forth with specificity:

- (1) The name, address, and copy of the food provider's most current business registration certificate (business license).

- (2) A description of the polystyrene foam food service container(s) at issue, including an estimate of the monthly quantity of the polystyrene foam container(s) used.
- (3) The factual basis to support the requested determination that there is no reasonable alternative to the use of polystyrene foam food service containers, which, for example, may include packaging necessary for safely containing food that is of significantly high or low temperature; specific transportation requirements or safeguards; or franchising agreements that contractually require use of polystyrene foam food service containers without the ability to use alternative products.
- (4) Copies of all exemptions issued to the applicant under this chapter.
- (5) If an exemption is granted under this section, the polystyrene foam food service containers may only be used for the specific food item(s) identified in the application. [Eff 12/31/18] (Auth: HRS §§46-1.5(13), 46-1.5(14); Charter §8-15.3; MCC §20.26.050(D))

§17-402-7 Application for exemption under §17-402-5(5) for packaging in situations unique to the food provider. (a) To qualify for an exemption under 17-402-5(5), an applicant must be a food provider with a gross annual income of less than \$500,000 per location, as shown on the applicant's annual income tax filing for the most recent tax year. To qualify under this section, the applicant must not be a franchisee, part of a chain food service establishment, or a chain store.

(b) A food provider may submit an application, preferably on the form provided by the director, and shall set forth with specificity:

- (1) The name, address, and copy of the food provider's most current business registration certificate (business license).
- (2) The polystyrene foam food service container(s) at issue, including why the food provider requires the product(s) and an estimate of the monthly quantity of the product used.
- (3) The factual basis to support the requested determination that use of compliant food service containers would cause the applicant significant hardship and there is no affordable compliant alternative.
- (4) Copies of all previous exemptions issued to the applicant under this chapter.

(c) In considering whether the applicant may experience a significant hardship, the director may consider factors such as the applicant's gross revenue, adjusted gross income, or average operating profit for the preceding five years; the cost to switch to non-polystyrene food service containers; and the effect of compliance on applicant's cost to operate its existing business. [Eff 12/31/18] (Auth: HRS §§46-1.5(13), 46-1.5(14); Charter §8-15.3; MCC §20.26.050)

§17-402-8 Duration, renewal, and revocation of exemptions. (a) Initial exemptions are valid for a maximum period of two years, except shorter periods may be approved by the director.

(b) Applications to renew exemptions shall be submitted to the department no less than thirty days prior to the expiration of the exemption. Exemption renewals may be granted for up to two years upon a showing that the applicant continues to meet all applicable requirements.

(c) Exemptions may be revoked upon the director's finding that the basis for the exemption is no longer valid or the applicant has otherwise violated this chapter. [Eff 12/31/18] (Auth: HRS §§46-1.5(13), 46-1.5(14); Charter §8-15.3; MCC §20.26.030)

§17-402-9 Appeal. A person aggrieved by the director's decision may appeal the director's decision by filing with the board of variances and appeals a notice of appeal no later than thirty days from the date of mailing of the director's decision pursuant to the appeal procedures set forth in chapter 19.520, Maui County Code. [Eff 12/31/18] (Auth: HRS §§46-1.5(13), 46-1.5(14); Charter §8-15.3; MCC §20.26.030)

§17-402-10 Violations and penalties. This chapter shall be enforced pursuant to section 19.530.030, Maui County Code." [Eff 12/31/18] (Auth: HRS §§46-1.5(13), 46-1.5(14); Charter §8-15.3; MCC §20.26.060)

2. Chapter 402, "Rules Relating to Polystyrene Foam Food Service Containers", shall take effect on December 31, 2018.

2014-2595
2018-07-30 Polystyrene Admin Rules (Effective Version)

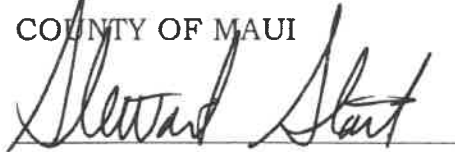
CERTIFICATION

I, STEWART STANT, Director of the Department of Environmental Management, County of Maui, do hereby certify:

1. That the foregoing is a full, true, and correct copy of the Rules Relating to Polystyrene Foam Food Service Containers, pursuant to the requirements of Section 91-4.1, Hawaii Revised Statutes, which were adopted on May 29, 2018, following a public hearing that closed on May 15, 2018, and filed with the Office of the County Clerk.

2. That the notice of public hearing on the foregoing adoptions to the rules was published in the Maui News on April 8, 2018.

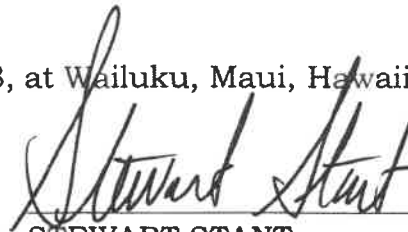
COUNTY OF MAUI

A handwritten signature in cursive script, reading "Stewart Stant", written over a horizontal line.

STEWART STANT

Director, Department of
Environmental Management

Adopted this 29 day of May, 2018, at Wailuku, Maui, Hawaii.



STEWART STANT
Director, Department of
Environmental Management

Approved this 1 day of
June, 2018.



ALAN M. ARAKAWA
Mayor, County of Maui

APPROVED AS TO FORM
AND LEGALITY:



RICHELLE M. THOMSON
Deputy Corporation Counsel
County of Maui

Received this 4th day of
June, 2018.



Kenneth A. Mateo
Clerk, County of Maui