

RUSH

REQUEST FOR LEGAL SERVICES

RECEIVED
CORPORATION COUNSEL
2017 MAR 28 AM 9:37


Date: March 24, 2017
From: Stacy Crivello, Chair
Housing, Human Services, and Transportation Committee

TRANSMITTAL
Memo to: DEPARTMENT OF THE CORPORATION COUNSEL
Attention: Michael Hopper, Esq.

Subject: UPDATES TO CHAPTER 16.13, MAUI COUNTY CODE, RELATING TO COMMERCIAL SIGNS (HHT-10)

Background Data: The attached revised proposed bills incorporate the revisions made at the March 23, 2017 HHT Committee meeting, the amendments made by Ordinance 4408 (2017), and other nonsubstantive revisions. One version shows the changes in track changes, while the other is a final version for approval. Please also include the revised hard copy in your response.

Work Requested: FOR APPROVAL AS TO FORM AND LEGALITY
 OTHER:

Requestor's signature  Stacy Crivello	Contact Person <u>Shelly Espeleta</u> (Telephone Extension: <u>7134</u>)
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RECEIVED
OFFICE OF THE COUNTY COUNCIL
2017 MAR 30 AM 11:12

- ROUTINE (WITHIN 15 WORKING DAYS)
- PRIORITY (WITHIN 10 WORKING DAYS)
- RUSH (WITHIN 5 WORKING DAYS)
- URGENT (WITHIN 3 WORKING DAYS)

SPECIFY DUE DATE (IF IMPOSED BY SPECIFIC CIRCUMSTANCES): March 29, 2017

REASON: To meet posting deadlines for the April 7, 2017 Council meeting.

FOR CORPORATION COUNSEL'S RESPONSE

ASSIGNED TO: <u>JMO</u>	ASSIGNMENT NO. <u>2017-0097</u>	BY: <u>kkw</u>
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TO REQUESTOR: APPROVED DISAPPROVED OTHER (SEE COMMENTS BELOW)
 RETURNING--PLEASE EXPAND AND PROVIDE DETAILS REGARDING ITEMS AS NOTED

COMMENTS (NOTE - THIS SECTION NOT TO BE USED FOR LEGAL ADVICE): _____

DEPARTMENT OF THE CORPORATION COUNSEL

Date 3/30/17

By 

(Rev. 7/03)

hht:ltr:010acc01:ske

Attachments

ORDINANCE NO. _____

BILL NO. _____ (2017)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 16.13,
MAUI COUNTY CODE, RELATING TO COMMERCIAL SIGNS

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. Chapter 16.13, Maui County Code, is amended to read as follows:

“Chapter 16.13

COMMERCIAL SIGNS

Sections:

- 16.13.010 Purpose and intent.
- 16.13.020 Applicability and effect.
- 16.13.030 Definitions.
- 16.13.040 Method of determining sign area.
- 16.13.050 General prohibition.
- 16.13.060 Signs authorized in all districts.
- 16.13.070 Signs authorized in airport, hotel/resort, business/commercial, apartment, and industrial districts.
- 16.13.080 Signs authorized in single family and duplex residential districts.
- 16.13.085 Signs authorized in service business residential districts.
- 16.13.090 Signs authorized in agricultural and rural districts.
- 16.13.100 Signs authorized in public and quasi-public districts.
- 16.13.110 Signs authorized for golf courses and private parks.
- 16.13.120 Signs authorized in the interim district and those properties whose legally [established] permitted uses differ from their zoning.
- 16.13.130 Signs authorized in destination areas.
- 16.13.140 General sign regulations.
- 16.13.145 [Signs.] Historic district signs.

- 16.13.150 Prohibited signs.
- 16.13.160 Sign permit procedure.
- 16.13.170 Variances.
- 16.13.180 Appeals.
- 16.13.190 Time limit on sign permits.
- 16.13.200 Transfers of sign permits.
- 16.13.210 Removal of unsafe signs.
- 16.13.220 Nonconforming signs.
- 16.13.230 Violation and penalty.
- 16.13.240 Landscape planting and beautification revolving fund.
- 16.13.250 Rule making authority.

16.13.010 Purpose and intent. The council finds: A. That the people of Maui County have a primary interest in controlling the erection, location, and maintenance of signs in a manner designed to protect the public health[,], and safety[, and morals], and to promote the public welfare while providing a method of effective advertising.

B. That there is a marked increase in the number, type, and size of commercial signs advertising business activities.

C. That the increased number, type, and size of such signs, coupled with the increased use of motor vehicles, make it imperative that the public streets and highways be kept free from signs which distract motorists' attention from driving and which detract from signs promoting traffic safety.

D. That the indiscriminate erection, location, illumination, [coloring,] and size of signs constitute a significant contributing factor in increasing the number of traffic accidents on the public streets and highways.

E. That the construction, erection, and maintenance of large signs suspended from, or placed on top of buildings, walls, or other structures, constitutes a direct danger to pedestrian traffic below such signs, especially during periods when winds of high velocity are prevalent.

F. That the size and location of such signs may, if uncontrolled, constitute an obstacle to effective fire fighting techniques.

G. That the people of Maui County have a primary interest in preserving the quality of life in the County by retaining the natural beauty of landscape, view, and attractive surroundings of the County.

H. That such unique aesthetic qualities of the County also constitute an attraction for visitors and that a major source of income and revenue of the people of the County is derived from the visitor industry.

I. That the indiscriminate erection and maintenance of large signs seriously detract from the enjoyment and pleasure of the natural scenic beauty of the County which in turn has a detrimental effect on the visitor industry and thereby the economic well-being of the County.

J. That it is necessary for the promotion and preservation of the public health, safety, and welfare of the people of the County that the erection, construction, location, and maintenance of signs be regulated and controlled.

K. That signs in historic district no. 1 and historic district no. 2, as established by chapter 19.50 of this code, be regulated by the Maui County cultural resources commission in order to ensure that such signs maintain the historic character and integrity of the districts.

This chapter regulates commercial signs that are not regulated by chapter 16.12A of this code. The content, message, or viewpoint of any sign shall not be regulated.

16.13.020 Applicability and effect. A. This chapter shall apply only to non-governmental signs that display messages related to the use of, products sold on, or the sale or lease of, the property on which they are displayed and that are located on private property.

B. This chapter shall not apply to historic districts created by chapter 19.50 of this code, except for section 16.13.145, which shall apply to historic district no. 1 and historic district no. 2. This chapter shall not apply to lands administered by the department of Hawaiian home lands, or land designated as conservation by the State.

C. The provisions of this chapter are not exclusive, and more restrictive requirements imposed pursuant to other laws shall apply, such as sign regulations pertaining to business country town districts, Wailuku redevelopment area, or other areas with adopted design guidelines, and prohibitions or restrictions set forth in land use approvals.

D. No sign permit issued under this chapter shall be deemed to constitute permission or authorization to maintain an unlawful sign, nor shall any sign permit constitute a defense to enforcement.

16.13.030 Definitions. Unless otherwise expressly stated, whenever used in this chapter the following terms shall be taken to have the following meanings:

“Applicant” means the owner of real property, or a person or entity who has written permission from the property owner to conduct a legal activity on the owner's property, on which a sign is being placed.

“Awning sign” means a sign that is part of or attached to an awning, canopy, or other structural protective cover over a door, entrance, window, or outdoor service area.

“Banner” means a sign of lightweight fabric or similar material.

“Board” means the urban design review board of the County of Maui, as established by the Maui County Code.

“Board of variances and appeals” means the board of variances and appeals of the County of Maui as established by the [Maui County Charter.] revised Charter of the County of Maui (1983), as amended.

“Building frontage” means the length of a building side facing an adjacent street, rounded to the nearest foot.

“Building identification sign” means a sign identifying the name of the multi-tenant building to which the sign is attached without any other commercial messages.

“Building setback” means the distance from the building to the street property line, perpendicular to the building frontage, rounded to the nearest foot.

“Business establishment” means a person or other entity renting, leasing, or owning a building or unit in a building being used for commercial or nonprofit purposes [with a general excise tax license.] , but not including governmental purposes.

“Business frontage” means the widest length, from demising wall to demising wall, of the front of a building unit occupied by a business establishment, rounded to the nearest foot.

“Business identification sign” means a sign identifying the attached business establishment and which may include other commercial messages.

“Commercial message” means any wording, logo, or other representation that, directly or indirectly, names or advertises a business, [nongovernmental] or nonprofit organization, product, service, or other [commercial] activity^[.] , but not including governmental activity.

“Commission” means the Maui County cultural resources commission.

“Construction project sign” means a temporary sign which is erected on land where construction is occurring pursuant to a valid building permit, and which informs the public about the project being constructed.

“Department” means the department of planning of the County of Maui.

“Destination area” means one of the planned resort destination or project district areas of Kaanapali, Kapalua, Makena, and Wailea, which is intended as a major tourist destination area, consistent with the general and community plans.

“Direct illumination sign” means a sign which is illuminated internally or backlit such that an artificial light source shines outward, away from the sign.

“Directional sign” means a sign which [contains no commercial message but] is intended to guide vehicular and/or pedestrian traffic within a lot or destination area. [Except within destination areas,] Directional signs may identify business establishments [may be identified.] but shall not contain any other commercial message.

“Director” means the director of the department of planning of the County of Maui or the director's authorized representative.

“Directory sign” means a sign which lists the names of the business establishments located on [the] a multi-tenant property.

“Drive-through sign” means a sign intended only for patrons using a drive-through lane at a business establishment, such as fast-food restaurants, pharmacies, gasoline stations, and car washes. Drive-through signs shall be located on the interior of the site and positioned and shielded to minimize visibility from public rights-of-way and adjacent properties.

“Ground sign” means a free standing, self supported, non-moveable, permanent structure erected or supported securely from the ground containing one or more sign faces. Ground signs do not count toward any sign allowance for the building, business, or lot. A maximum of one ground sign is allowed per lot frontage. Except for real estate, directory, and drive-through signs, which are limited in size by this chapter, ground signs shall be no greater than sixteen square feet on lots with frontages no greater than one hundred feet and shall be no greater than thirty-two square feet on lots with frontages greater than one hundred feet.

“Hanging sign” means a sign which hangs down from and is supported by or attached to the underside of an awning, canopy, or marquee, or a sign hung from an arm attached to a building or structure.

“Illuminated sign” means a sign which is illuminated from an artificial source either directly or indirectly.

“Information sign” means a sign identifying[;] a product or service available within a business establishment[;] , whether a business establishment is open or closed[;] , [or] store hours, conditions of sale, or acceptable methods of payment.

“Indirect illumination sign” means a sign that is illuminated by an artificial light source shining toward and on to the sign.

“Lot” means a parcel of land as defined in [title 19,] chapter 19.04[, Maui County Code,] of this code provided that parcels shall be considered one lot if developed or used as a single project, including but not limited to shopping centers, apartments, office

buildings, hotels, industrial yards, warehouse facilities, schools, churches, and hospitals.

“Lot frontage” means the length of the side of a lot facing an adjacent street, rounded to the nearest foot.

“Non-profit entity” means an entity which complies with section 501(c) of the Internal Revenue Code and any other requirements under federal, [state] State, and County law regulating the conduct of charitable or nonprofit organizations.

“Portable sign” means a sign designed to be movable, rather than being permanently affixed to real property.

["Projecting sign" means a sign installed at an angle of more than thirty degrees from the side of a building.]

“Project notice sign” means a sign required by a government agency to notify the general public of a proposed land use permit or change in zoning to occur on the subject property.

“Projecting sign” means a sign installed at an angle of more than thirty degrees from the side of a building.

“Promotional sign” means a temporary sign advertising a special event and having a limited duration, including but not limited to banners.

“Public right-of-way” means property the public has a right to enter.

“Real estate sign” means a temporary sign erected on real property while offers are being solicited for the rent, lease, or sale of the real property.

“Repair and maintenance” means the keeping of a sign in good condition.

“Roof sign” means a sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design.

“Sign” means a device, fixture, placard, structure, or direct application on real property, either outside a building or inside within three feet of a window or door, which is clearly visible from a public right-of-way or adjacent property, that uses any [color,] form, graphic, logo, illumination, symbol, or commercial messages to advertise, announce the purpose of, or identify the purpose of a person or entity or to communicate commercial information of any kind to the public; provided the term shall not include window displays, scoreboards, gravestones, commemorative plaques, government signs, automobile bumper stickers, or signs held or worn by an individual.

“Wall sign” means a sign attached parallel to, but within six inches of a wall, painted on the surface of a wall, or erected and confined within the limits of a wall of any building or structure, which is supported by such wall or building, and which displays only one sign surface.

“Wind sign” means a sign made of lightweight fabric or similar material that is mounted to a pole or other fixed support at one side of the fabric or material and is designed to move in or with the wind and is attached as a ground or projecting sign but does not include government flags. Wind signs shall be no larger than twelve square feet for each building or lot, or four square feet per business establishment, whichever is greater.

“Window display” means the display of any merchandise for sale on the premises within a window.

“Window sign” means a sign that is placed on the outside of a window or inside within three feet of a window, occupies no more than fifty percent of available window area, and [which] is visible from a public right-of-way. Window signs do not count toward any sign allowance for the building, business, or lot.

16.13.040 Method of determining sign area. A. The sign area shall consist of the entire surface area including any plate, frame, outline, or trim. Circular shape to be determined by formula: $3.14 (\pi) \times \text{radius} \times \text{radius} = \text{circular shape area}$.

Elliptical shape to be determined by formula: $3.14 (\pi) \times \text{radius (short axis)} \times \text{radius (long axis)} = \text{elliptical shape area}$.

B. When a sign consists of letters, words, or graphics intended to be viewed as a whole, the sign area shall be the combined area of up to three abutting squares, rectangles, circles, or elliptical shapes, within which the entire letters, words, and graphics can fit.

C. For multi-faced signs, the perimeter of the measurable area shall be the outline of the sign when viewed from its largest side.

D. The perimeter of measurable area shall not include structures required for its support.

16.13.050 General prohibition. All signs not specifically authorized by this chapter are prohibited.

16.13.060 Signs authorized in all districts.

Sign Type or Purpose	Quantity	Maximum Size (square feet)	[Possible] Physical Kinds or Locations	Other Regulations	Permit Required
Construction project	1 per lot, <u>building, or business frontage</u>	32 square feet for <u>ground or wall</u> ; 16 <u>square feet for hanging</u>	Ground, <u>wall, hanging, or projecting</u>	Only while valid building, grading, or subdivision construction permit in effect	No

		<u>or projecting</u>		and for 14 days thereafter	
Real estate	1 per lot, building, or business frontage	9 square feet	Ground, wall, wind, <u>hanging, projecting,</u> or window	[4 feet max. height above grade;] Only while offers being solicited for rent, lease, or sale of property on which sign is located and for [10] <u>14</u> days thereafter	No
Directional	N/A	<u>Per business:</u> 12 square feet destination areas; 8 square feet other districts	Ground, wall, [window,] hanging, or projecting	No commercial messages <u>other than identifying a business establishment</u>	No
Project [Notice] <u>notice</u>	N/A	32 square feet	Ground or wall	As prescribed by county or state notice requirements	No

16.13.070 Signs authorized in airport, hotel/resort, business/commercial, apartment, and industrial districts.

Sign Type or Purpose	Quantity	Maximum Size (square feet)	[Possible] Physical Kinds or Locations	Other Regulations	Permit Required
Building [Identification] <u>identification</u>	1 per building frontage	See chart below; 16 square feet if projecting or hanging	Wall, window*, <u>awning, ground*, hanging, projecting,</u> wind, or roof	Must be a multi-tenant building	Yes, if sign is greater than 12 square feet
Business identification	[1] <u>2</u> per business frontage; 1 additional sign	See chart below[;] <u>for total combined size of all signs per exterior building</u>	Wall, window*, <u>awning, ground*,</u>	May be projecting if business unit has	Yes, if <u>any one</u> sign is greater

	may be permitted if business is [directly] adjacent to more than one street	<u>side</u> ; 16 square feet if projecting or hanging	hanging, projecting, wind, <u>banner</u> , or roof	entrance on ground floor; Must be attached to unit if multi-story building	than 12 square feet
Promotional	1 per business establishment; 1 additional sign may be permitted if business is directly adjacent to more than one street; 6 times per year limit	12 square feet combined for business/building frontage less than 40 feet; 36 square feet combined for business/building frontage 40 feet or more	Banner, wall, <u>wind</u> , <u>window*</u> , or ground* if attached to a permanent frame or structure	Shall not be erected more than 7 days before event and shall be removed 1 day after event, but in no case shall it be erected for more than 14 days	Yes
[Window]	[N/A]	[50% of available window area]	[N/A]	[N/A]	[No]
Information	N/A	10 square feet combined per business	Wall	N/A	No
[Ground] <u>Directory</u>	1 per [lot frontage] <u>multi-tenant building</u>	16 square feet [for lot frontage up to 100 feet; 32 square feet for lot frontage over 100 feet]	[N/A] <u>Wall</u> , <u>ground*</u> , <u>hanging</u> , or <u>projecting</u>	[May be a directory sign] <u>Must be a multi-tenant building</u>	Yes
[Wind]	[N/A]	[12 square feet for each building or lot or 4 square feet per establishment, whichever is greater]	[N/A]	[N/A]	[No]
<u>Drive-through</u>	<u>N/A</u>	<u>48 square feet total combined size for all signs per drive-through lane, including any component that communicates commercial</u>	<u>Wall</u> , <u>hanging</u> , <u>ground</u> , <u>projecting</u>	<u>Shall be posted along or above the drive-through lane</u>	<u>No</u>

		<u>information such as logos</u>			
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*Ground signs and window signs that serve as business identification signs, building identification signs, promotional signs, or directory signs shall not be counted in the quantity limits herein.

BUILDING IDENTIFICATION AND BUSINESS IDENTIFICATION SIGN SIZES

A sign permit is required for all signs greater than twelve square feet in size. The maximum size area allowed is as follows:

Building setback: Less than 25 feet	
Building/business frontage (feet):	Maximum sign area (square feet)
49 or less	24
50—59	27
60—69	30
70 or more	33
Building setback: 25 feet—99 feet	
Building/business frontage (feet):	Maximum sign area (square feet)
39 or less	24
40—49	32
50—59	36
60—69	40
70—79	44
80 or more	48
Building setback: 100 feet or more	
Building/business frontage (feet):	Maximum sign area (square feet)
39 or less	24
40—49	40
50—59	45
60—69	50
70—79	55
[80 or more] <u>80—99</u>	64
<u>100 or more</u>	<u>10% of area of building façade, not to exceed 200 square feet</u>

16.13.080 Signs authorized in single family and duplex residential districts.

Sign Location or Type	Quantity	Maximum Size (square feet)	Other Regulations	Permit Required
Ground	[1] <u>2</u> per subdivision or planned development located at the primary entrance	32 square feet <u>total combined</u>	Shall only identify the subdivision or planned development	No
Building identification, business identification, ground, information or promotional	See section 16.13.070	See section 16.13.070	Must be a legally permitted commercial use	See section 16.13.070

16.13.085 Signs authorized in service business residential districts.

Sign Type	Quantity	Maximum Size (square feet)	Other Regulations	Permit Required
Business identification	1 per business	8 square feet	Must be a legally permitted commercial use; non-illuminated signs only	No

16.13.090 Signs authorized in agricultural and rural districts.

Sign Location or Type	Quantity	Maximum Size (square feet)	Other Regulations	Permit Required
Ground	1 per lot or group of contiguous lots owned or leased by the same entity	10 square feet	Must be a legally established use; only indirect lighting from shielded sources shall be used; internally-illuminated, back-lit, neon, fluorescent, fiber	No

			optic or other similar lighting shall be prohibited; signs shall be made of natural or natural-appearing materials only.	
Building/business identification	1 per building or group of buildings owned or leased by the same entity for the purpose of operating one business	12 square feet	Must be a legally established use; only indirect lighting from shielded sources shall be used; internally-illuminated, back lit, neon, fluorescent, fiber optic or other similar lighting shall be prohibited; signs shall be made of natural or natural-appearing materials only	No

16.13.100 Signs authorized in public and quasi-public districts.

Sign Location or Type	Quantity	Maximum Size (square feet)	Possible Kinds	Other Regulations	Permit [required] Required
Building identification	1 per building frontage	16 square feet if projecting; 8 square feet if hanging	Wall, window, hanging, projecting, or roof	Must be a multi-tenant building	No
Business identification	1 per business frontage with an entrance	12 square feet; 8 square feet if projecting or hanging	Wall, window, hanging, projecting or roof	May be projecting if business unit has entrance on ground floor; Must be architecturally compatible	No

				with building if multi-story building; Must be located on entrance side of a business	
Promotional	1 per business establishment; 6 times per year limit	12 square feet for business/building frontage less than 40 feet; 36 square feet for business/building frontage 40 feet or more	Banner, wall, ground or window	Shall not be erected more than 7 days before event and shall be removed 1 day after event but in no case shall it be erected for more than 14 days	Yes
Information	N/A	2 square feet combined per business establishment within multi-tenant building; 6 square feet combined per single business building	Wall or window	N/A	No
Ground	1 per lot frontage	16 square feet	N/A	May be a directory sign	No

16.13.110 Signs authorized for golf courses and private parks.

Sign Type	Quantity	Maximum Size	Other Regulations	Permit Required
[Ground]	[1 per lot frontage]	[16 square feet]	[N/A]	[No]
<u>Business identification</u>	<u>See section 16.13.070</u>	<u>See section 16.13.070</u>	<u>May be wall, awning, ground, hanging, projecting, or roof; see section 16.13.070 for additional regulations</u>	<u>Yes, if any one sign is greater than 12 square feet</u>

Promotional	N/A	36 square feet <u>total combined</u>	Shall not be erected more than 7 days before event and shall be removed 1 day after event but in no case shall it be erected for more than 14 days	Yes
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16.13.120 Signs authorized in the interim district and those properties whose legally [established] permitted uses differ from their zoning. Signs for uses legally [established] permitted within the interim district and those properties whose legally [established] permitted uses differ from their zoning shall be regulated as follows:

<u>Legally [established type] Permitted Use</u>	Regulating Section of Maui County Code
Business, light and heavy industrial, airport and hotel	16.13.070
Single-family and multi-family	16.13.080
Agricultural and rural	16.13.090
Public and quasi-public	16.13.100
Park	16.13.110

16.13.130 Signs authorized in destination areas. An authorized representative of a destination area may submit a comprehensive sign plan for the destination area for review and approval by the director. If a comprehensive sign plan is not approved by the director, the destination area shall comply with the following:

<u>Sign Location or Type</u>	Quantity	Maximum Size (square feet)	Other Regulations	<u>Permit [required] Required</u>
Ground	[1] <u>2</u> per destination area located at each of the primary entrances to the destination area	64 square feet	Shall only identify the name of the destination area	No

Directional	N/A	12 square feet	N/A	No
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Individual establishments within the destination area are subject to the requirements of this chapter.

16.13.140 General sign regulations. A. The highest point of any sign shall not extend above the highest point of the portion of the roof or wall of a building or structure to which it is attached. Roof signs shall not extend vertically above the highest portion of the roof and no part of the sign shall be separated from the rest of the roof by a space of more than six inches.

B. The highest point of any ground sign, except wind signs, shall not exceed twelve feet above the ground, including any structures required for its support.

C. The highest point of wind signs shall not exceed twenty-five feet above the ground.

D. The lowest point of any sign projecting over walkways or paths shall not be lower than eight feet above the ground, and the lowest point of any sign projecting over streets or alleys shall not be lower than fifteen feet above the ground.

E. No sign or its support structure shall prevent or hinder passage to or from any window, door, or fire escape of a building. No sign or its support structure shall interfere with free passage from one part of a roof to another.

F. Ground signs shall be securely affixed to the ground and shall not overhang any public right-of-way.

G. No ground signs shall be permitted between a building and a street right-of-way less than ten feet away.

[H. All ground signs must be accompanied by landscaping.]

[I.] H. No signs, except wind signs, shall be designed, constructed or maintained so as to allow the sign to swing in the wind.

[J.] I. Directly illuminated signs are prohibited in and within one hundred fifty feet of residential districts. Indirectly illuminated signs must be shielded in such a way that no direct rays from the light are visible elsewhere than on the lot where the illumination occurs.

[K.] J. Every sign and the structure that supports it shall be maintained in a clean, rust free, painted, and structurally sound manner.

[L.] K. Upon closure of a business, any sign relating or granted to said business shall be removed.

16.13.145 [Signs.] Historic district signs. A. Within historic district no. 1 and historic district no. 2, no signs that blink, revolve, or contain lighting from within shall be allowed. Signs parallel to a building or structure shall be no larger than twelve square feet. Signs perpendicular to a building or structure shall be no larger than eight square feet. All signs shall conform to the architectural style of the district and any design guidelines or other rules that have been adopted by the commission.

B. Signs shall require a permit issued by the department. The commission may promulgate rules to clarify and implement this section, including the permit process, and the type, kind, number, size, placement, and design of signs.

16.13.150 Prohibited signs. The following signs shall be prohibited:

A. Any sign requiring mechanical, electrical, or any other power source for its animation, flashing, movement or motion, except wind.

B. Inflatable signs.

C. Signs which refer to activities or uses on another lot.

D. Signs greater than six square feet composed primarily of reflective materials, such as mirrors, bright metals, and highly reflective paint.

E. Portable signs.

F. Signs attached to or placed on a non-registered vehicle, trailer, or vessel.

G. Signs attached to or placed on a permanently parked vehicle, trailer, or vessel.

H. Signs attached to, painted, or placed on a registered vehicle, trailer, or vessel which include arrows or directional information, except addresses.

16.13.160 Sign permit procedure. A. Promotional signs.

1. The applicant shall apply for a promotional sign permit by submitting a completed application form provided by the department at least two County business days before the sign is to be displayed. Forms may be available at the department, at locations authorized by the department, and via the County's website. Forms may be submitted to the department via facsimile.

2. The application form shall include the applicant's name and business name, the business address, tax map key number and phone number, the name and date of the special event, and the approximate location of the sign.

3. The applicant shall submit a non-refundable filing fee as established in the annual budget ordinance.

Applicants may mail filing fees separately if submitting the form to the department via facsimile. Non-profit entities shall be exempt from having to submit the non-refundable filing fee.

B. Other signs.

1. An owner of real property, an agent of the owner with written authorization from the owner, a licensed property manager, a lessee of real property with the written authorization of the owner or an agent of the lessee with written authorization from the owner and lessee may apply for a sign permit by submitting an application to the director. The director shall prescribe forms for this purpose. The application shall include the following information:

a. The name, address, and telephone number of the applicant and, if the applicant is an agent, property manager, or lessee, the name, address, and telephone number of the owner and any intervening lessees of the real property on which the sign is to be erected[;] .

b. For applicants who are [agents or] lessees, written consent executed by the owner [and any intervening lessees] of the real property on which the sign is to be erected, authorizing the applicant to apply for the sign permit and an authorized licensed sign contractor to erect the sign[;] .

c. An accurate written description of the dimensions of the sign, setbacks from the property lines and other buildings, method of construction and attachment to buildings and structures, illumination, materials, graphics, [colors,] logos, lettering, and message of the sign [including style and landscaping].

d. Plans of the sign, including a site plan, graphic representation of the sign design, and elevation of the sign on any buildings or structures[, and landscaping plans for ground signs]. The site plan shall identify the type, size, sign area, and location of all other signs that are on buildings and business establishments on the lot.

e. For multi-tenant buildings and lots, an approved comprehensive signage plan shall be submitted. If a plan has not been approved, sign permit applications shall be considered, provided that:

1. The proposed sign complies with all applicable County sign codes[;] .

2. The [building landlord] property owner, authorized agent, or licensed property manager confirms in writing that the proposed

sign conforms to a planned comprehensive signage plan to be filed[; and] .

3. A complete comprehensive signage plan application is filed within one hundred eighty days of the granting of a sign permit under this subparagraph, and that the sign permit be issued conditionally with this noted.

f. Photographs of the lot and all signs located on the lot.

g. A non-refundable filing fee as established in the annual budget ordinance.

2. The director shall review the application for completeness and inform the applicant within five working days of any additional information required to complete the application.

3. The director may transmit the application to the board for recommendation. The board shall make a recommendation to the director to approve, approve with modifications, or disapprove the application within sixty days after receiving the completed application or the application will be deemed approved. The board shall set forth in writing the specific facts upon which the board relies in making its recommendation.

4. The director may approve, approve with modifications, or disapprove the application in accordance with this chapter. The director shall make this final determination within thirty days from the receipt of a completed application [or two working days after the director receives a recommendation from the board, if applicable, whichever is later]. This period may be extended for an additional time, not to exceed forty-five days, by mutual agreement of the applicant and the director.

5. Within two working days after the director makes the final determination, the director shall issue an appropriate sign permit, with or without conditions, to the applicant or transmit a notice to the applicant that the application has been denied.

16.13.170 Variances. A. A lessee or owner of real property upon which a sign is to be erected or an agent thereof with authorization from the owner and lessee, may apply for a variance from the requirements of this chapter. The director shall prescribe forms for this purpose.

B. The variance application shall be submitted to the director, with a non-refundable filing fee, as established in the budget ordinance. The director shall review the application for

completeness and shall inform the applicant within five working days of any additional information required to complete the application. Within five working days after receiving a completed application, the director shall transmit the application to the board for action. For variances for signs in historic district no. 1 and historic district no. 2, as established by chapter 19.50 of this code, the director shall transmit the application to the commission. The board or commission, as applicable, shall hold a meeting on the application.

C. The board or commission, as applicable, may grant a variance if it finds one of the following:

1. A variance may be granted for a structure or activity which is undertaken by a public agency or by a public utility regulated under chapter 269, Hawaii Revised Statutes, [chapter 269] or a private facility or improvement which is undertaken by a private entity and is clearly in the public interest; provided that the proposal is the practicable alternative which best conforms to the purpose of this chapter.

2. A variance may be granted for a sign if the following criteria are met:

a. Unique circumstances or special conditions exist which are peculiar to the land, structure, or activity involved.

b. The proposal is the most practicable alternative.

c. The granting of the variance would not be contrary to the purposes of this chapter.

D. Within sixty days after the public meeting for a variance application, the board or commission, as applicable, shall grant the variance, grant the variance with appropriate conditions, or deny the variance; provided, that if the board or commission does not act within sixty days, the variance application shall be deemed approved. The board or commission shall set forth in writing the specific reasons for actions taken for variance applications.

E. Within two business days after the board or commission, as applicable, makes its final decision, the director shall issue an appropriate sign permit, with or without conditions, to the applicant or transmit a notice to the applicant that the variance application has been denied.

F. The board and commission may adopt rules to implement this section.

16.13.180 Appeals. A. Any person aggrieved by a final decision of the director made pursuant to this chapter may appeal the decision to the board of variances and appeals within ten

working days after receiving actual or constructive notice of the determination. The determination being appealed shall be held in abeyance, pending the decision of the board of variances and appeals. The board of variances and appeals may adopt rules and prescribe forms to implement this section.

B. An appeal may be granted only if the board finds one of the following:

1. That the subject decision or order was based on an erroneous finding of a material fact or erroneously applied the law;
2. That the subject decision or order was arbitrary and capricious in its application; or
3. That the subject decision or order was a manifest abuse of discretion.

C. Any person aggrieved by a final decision of the board may appeal the board's decision to the circuit court of the second circuit in the manner set forth in [HRS] section 91-14[.] , Hawaii Revised Statutes.

16.13.190 Time limit on sign permits. Each permit for a new sign shall require the permittee to erect the sign within [ninety] one hundred eighty days after the permit is issued. [The permit shall require the permittee to screen the sign from public view while the sign is being erected, except while work is actually being done.]

16.13.200 Transfers of sign permits. A sign permit is not transferable from one [entity] business establishment to another for the same sign location and size unless a notice of transfer is filed with the director within ninety days of the effective date of a transfer of real property on which the sign is erected. The director shall prescribe forms for this purpose. A sign permit is not transferable from one location to another. Sign permits for legal nonconforming signs as defined in section 16.13.220 [shall not] may be transferable.

16.13.210 Removal of unsafe signs. A. When any sign is an immediate safety hazard to the public, the director may cause the sign to be removed summarily and without advance notice.

B. After removal of the sign, a written notice shall be given to the owner or lessee of the real property upon which the sign was erected, stating the nature of the work, the date on which it was performed, and demanding payment of the costs as certified by the director together with an additional twenty [per cent] percent for inspection and incidental costs. The owner or lessee shall make payment within thirty days. Upon payment, the sign shall be returned to the owner. If payment is not received within thirty days, the matter shall be referred to the corporation counsel for collection.

C. Payment under this section shall not preclude prosecution under this chapter.

16.13.220 Nonconforming signs. A. Signs which do not conform to this chapter, but which have a valid sign permit issued by the County, or that were otherwise lawful when they were installed, are hereby deemed a legal nonconforming sign. [All other signs which do not conform to this chapter shall comply with the provisions of this chapter within eighteen months of this chapter taking effect.]

B. Any changes to a legal nonconforming sign must comply with this chapter. Repair and maintenance of a legal nonconforming sign shall be allowed.

C. New signs proposed for properties which are subject to a previously approved comprehensive signage plan shall conform to this chapter.

D. Legally established existing signs on a property that become subject to a new comprehensive signage plan shall be exempt from compliance with the new comprehensive signage plan [for a period of eighteen months from the date of approval of the new comprehensive signage plan], provided the signs are maintained in sound condition.

16.13.230 Violation and penalty. A. An owner or lessee who erects or owns a sign, or allows a sign to exist, be erected or used on the property which does not comply with this chapter and the terms of any sign permit, shall be in violation of this chapter.

B. Administrative enforcement of this chapter and assessment of penalties shall be in accordance with section 19.530.030[, Maui County Code.] of this code.

C. Any person may file a formal written complaint with the director if the complainant believes that a sign is in violation of this chapter.

1. The complaint shall include the address where the sign is erected, the description of the sign and its location, reason(s) why the complainant believes the sign is in violation and any other documentation or evidence. The complainant shall also include complainant's name and telephone number. The director shall prescribe forms for this purpose.

2. The director shall review the information for completeness and inform the complainant of any additional information required to complete the complaint. The director shall then investigate the complaint and determine whether or not the sign is in violation of this chapter.


16.13.240 Landscape planting and beautification revolving fund. There is hereby established and created a fund to be known as the “Landscape Planting and Beautification Revolving Fund.” The fines collected pursuant to section 16.13.230, and for violations of chapter 12.24A of this code, shall be deposited into the fund and are hereby deemed appropriated upon receipt. The director shall utilize the landscape planting and beautification revolving fund to further the purposes and goals of chapter 12.24A of this code.

16.13.250 Rule making authority. The director may promulgate rules to clarify and implement this chapter.”

SECTION 2. Material to be repealed is bracketed. New material is underscored. In printing this bill, the County Clerk need not include the brackets, the bracketed material, or the underscoring.

SECTION 3. This ordinance shall take effect upon its approval. Drive-through signs shall conform to this Code within six months of the effective date of this Ordinance.

APPROVED AS TO FORM AND LEGALITY:



MICHAEL J. HOPPER
Department of the Corporation Counsel
County of Maui
2017-0097
HHT-10 2017-03-30 Updates to Chapter 16.13