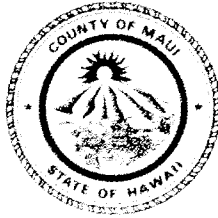


MICHAEL P. VICTORINO
Mayor

JEFFREY T. PEARSON, P.E.
Director

HELENE KAU
Deputy Director



DEPARTMENT OF WATER SUPPLY
COUNTY OF MAUI
200 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793
<http://www.mauicounty.gov/water>

RECEIVED
OFFICE OF THE
COUNTY COUNCIL
2021 DEC 17 PM 3:44

December 17, 2021

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 N.W. 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 FILES**
(BFED-19)

In response to your letter dated December 3, 2021, Department of Water Supply responds as follows:

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

RESPONSE:

Department of Water Supply's Administrative Rules are on the County of Maui's Website located at: <https://mauicounty.gov/205/Rules-Regulations>. In addition, attached are the rules and regulations relating to civil fines. Department of Water Supply is "Title 16".

"By Water All Things Find Life"

✓

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

RESPONSE:

None

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

RESPONSE:

Customers are advised to appeal to the Board of Water Supply.

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

RESPONSE:

None

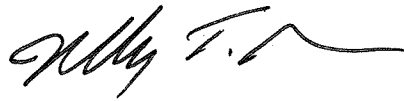
5. A report of all fine reductions for Fiscal Year 2022, Quarter 1 (July 1, 2021 through September 30, 2021).

RESPONSE:

None

If you have any questions, please do not hesitate to contact me. In advance, thank you for your consideration.

Sincerely,



JEFFREY T. PEARSON, P.E.
Director

Council Chair
Alice L. Lee

Vice-Chair
Keani N.W. Rawlins-Fernandez

Presiding Officer Pro Tempore
Tasha Kama

Councilmembers
Gabe Johnson
Kelly Takaya King
Michael J. Molina
Tamara Paltin
Shane M. Sinenci
Yuki Lei K. Sugimura



COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.MauiCounty.us

December 3, 2021

Director of Council Services
Traci N. T. Fujita, Esq.

Deputy Director of Council Services
David M. Raatz, Jr., Esq.

RECEIVED
21 DEC -3 P2:08

OFFICE OF THE MAYOR

Approved: Michael P. Vaiti

Mr. Jeffrey T. Pearson, Director
Department of Water Supply
County of Maui
Wailuku, Hawaii 96793

Date: 12/10/21

Dear Mr. Pearson:

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

May I please request you provide the following:

1. A copy of the Department's Administrative rules.
2. The number of fine reductions over \$7,500 since 2015.
3. The criteria established by the Department to determine if a fine reduction is appropriate.
4. Information on whether the Department allows payment plans for settlement agreements.
5. A report of all fine reductions for Fiscal Year 2022, Quarter 1 (July 1, 2021 through September 30, 2021).

May I further request your written response no later than **December 17, 2021**. To ensure efficient processing, please transmit your response to bfed.committee@mauicounty.us and include the relevant Committee item number in your response's subject line.

Mr. Jeffrey T. Pearson
December 3, 2021
Page 2

Should you have any questions, please contact me or the Committee staff
(Lesley Milner at ext. 7886, or Yvette Bouthillier at ext. 7758).

Sincerely,

A handwritten signature in black ink, appearing to read 'Keani N.W. Rawlins-Fernandez', with a long, sweeping horizontal stroke at the end.

KEANI N.W. RAWLINS-FERNANDEZ, Chair
Budget, Finance, and Economic
Development Committee

bfed:ltr:019aws01:ljcm

cc: Mayor Michael P. Victorino

DEPARTMENT OF PUBLIC WORKS AND WASTE MANAGEMENT

Amendment of Chapter 2
Rules for Administrative Procedures and Civil
Fines for Violations of Titles 16, 18, and 19
of the Maui County Code

SUMMARY

Chapter 2, Department of Public Works and Waste Management, entitled "Rules for Administrative Procedures and Civil Fines for Violations of Titles 16, 18, and 19", is amended and amended to include Titles 12, 14, and 20.

"DEPARTMENT OF PUBLIC WORKS AND WASTE MANAGEMENT

SUBTITLE 01

DIRECTOR OF PUBLIC WORKS AND WASTE MANAGEMENT

CHAPTER 2

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

Subchapter 1 General Provisions

- \$15-2-1 Title
- \$15-2-2 Authority
- \$15-2-3 Purpose
- \$15-2-4 Construction
- \$15-2-5 Definitions

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

- \$15-2-6 Issuance of order
- \$15-2-7 [Time period for compliance] Stop work order
- \$15-2-8 [Administrative fines] Time period of compliance
- \$15-2-9 [Other legal remedies] Administrative fines
- \$15-2-10 [Severability] Joint and severability
- \$15-2-11 Other legal remedies

SUBCHAPTER 1

GENERAL PROVISIONS

§15-2-1 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, [and] 19, and 20 of the Maui County Code". [Eff. 12/28/97] (Auth: HRS §46-1.5(24), §46-4) (Imp: HRS §46-1.5(24), §46-4, MCC §19.530.030)

§15-2-2 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. 12/28/97] (Auth: HRS §46-1.5(24), §46-4) (Imp: HRS §46-1.5(24), §46-4, MCC §19.530.030)

§15-2-3 Purpose. These rules shall govern the administrative enforcement of violations of Titles 12, 14, 16, 18, [and] 19, and 20 of the Maui County Code. [Eff. 12/28/97] (Auth: HRS §46-1.5(24), §46-4) (Imp: HRS §46-1.5(24), §46-4, MCC §19.530.030)

§15-2-4 Construction. These rules shall be construed to secure the just and [Eff. 12/28/97] efficient determination of violations of Titles 12, 14, 16, 18, [and] 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. 12/28/97] (Auth: HRS §46-1.5(24), §46-4) (Imp: HRS §46-1.5(24), §46-4, MCC §19.530.030)

§15-2-5 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" [shall mean] means any violation [with] that continues beyond the time for correction as set forth in any order of the Director.

"Days" [mean] means calendar days unless otherwise specified.

"Department" means the Department [of Public Works and Waste Management] empowered to administer the Maui County code section violated.

"Director" means the director of the department [of public works and waste management] empowered to administer the Maui County code section violated or the director's designated representatives.

"Law" means titles 12, 14, 16, 18, [and] 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 §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" [shall mean] 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:

[(1)] (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

[(2)] (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

[(3)] (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. 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, [AND] 19, AND 20 OF THE MAUI COUNTY
CODE

§15-2-6 Issuance of order
§15-2-7 Time period for compliance
§15-2-8 Administrative fines
§15-2-9 Joint and several liability
§15-2-10 Other legal remedies]

§15-2-6 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] board.

(g) Any person may appeal an order issued pursuant to this section to the [Board] 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] 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. 12/28/97] (Auth: HRS §46-1.5(24), §46-4) (Imp: HRS §46-1.5(24), §46-4, MCC §19.530.030)

§15-2-7 [Time period for compliance.] 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. 12/28/97] (Auth: HRS §46-1.5(24), §46-4) (Imp: HRS §46-1.5(24), §46-4, MCC §19.530.030)

§15-2-8 [Administrative fines.] 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 [schedule] schedules:

Schedule for [Correction of Violations] correction of violations for Titles 16, 18 and 19

TYPE OF VIOLATION	TIME FOR CORRECTION
Development [Standard] <u>standard</u> , i.e., set-back, height limits, lot size, lot width, floor area, lot coverage, etc.	[30] 7 days
Permit [Conditions] <u>conditions</u>	[30 days] 1 day
Permits	[30 days]
1. a. Building [w/o] <u>without</u> a building permit	30 days
b. Occupying the building [w/o] <u>without</u> a certificate of occupancy	30 days
c. Demolition [w/o] <u>without</u> a building permit	[30] 7 days

TYPE OF VIOLATION	TIME FOR CORRECTION
d. Electrical and/or plumbing work without a permit	7 days
e. Relocation of a building [w/o] <u>without</u> a permit (i.e. reposting)	30 days
2. Not complying with stop work order	Immediately
3. Change in use of the building or space [w/o] <u>without</u> a building permit and/or certificate of occupancy	7 days
4. Failure to follow approved plans	[30 days] <u>1 day</u>
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. <u>Erecting temporary structures without a building permit, i.e., tents, temporary booths</u>	<u>1 day</u>
[6]7. Unsafe buildings.	[30 days] <u>1 day</u>

TYPE OF VIOLATION	TIME FOR CORRECTION
[7] 8. Building code violations with a building permit:	[30 days]
Sign	[7 days] <u>1 day</u>
Use	Immediately
9. Other violations of <u>titles 16, 18, and 19</u> not specifically listed above	[As determined by the Director] <u>7 days</u>

Schedule for correction of violations for titles 12 and 20

<u>TYPE OF VIOLATION</u>	<u>TIME FOR CORRECTION</u>
<u>Not complying with stop work order</u>	<u>Immediately</u>
<u>Permit conditions</u>	<u>1 day</u>
<u>Failure to follow approved plans</u>	<u>1 day</u>
<u>Grading without a grading permit</u>	<u>30 days</u>
<u>Work in the County right-of-way without a WTP permit</u>	<u>7 days</u>
<u>Failure to repair damage in County right-of-way</u>	<u>7 days</u>
<u>Construction of driveway without a driveway permit</u>	<u>7 days</u>
<u>Failure to comply with order to maintain sidewalk</u>	<u>21 days</u>
<u>Failure to comply with order to maintain drainage ways</u>	<u>14 days</u>

<u>TYPE OF VIOLATION</u>	<u>TIME FOR CORRECTION</u>
<u>Failure to comply with order to maintain hedges at intersections</u>	<u>21 days</u>
<u>Other violations of titles 12 and 20 not specifically listed above</u>	<u>7 days</u>

Schedule for correction of violations for title 14

<u>TYPE OF VIOLATION</u>	<u>TIME FOR CORRECTION</u>
<u>Improper maintenance or maintenance documentation of a grease trap</u>	<u>2 days</u>
<u>Improper cleaning and maintenance of a private collection system</u>	<u>Immediately</u>
<u>Failure to install a grease trap</u>	<u>30 days</u>
<u>Illegal discharge (substance)</u>	<u>Immediately</u>
<u>Use of non-approved grease trap additives</u>	<u>Immediately</u>
<u>Discharging into a non-approved wastewater manhole</u>	<u>Immediately</u>
<u>Illegal fixtures plumbed to grease interceptor/trap</u>	<u>30 days</u>

<u>Failure to comply with any compliance schedules established by the department to correct deficiencies of chapter 14 of the Maui County Code</u>	<u>1 day</u>
<u>Other violations of title 14 not specifically listed above</u>	<u>1 day</u>

(b) The above schedule may be extended upon payment of the initial fine and presenting a written request to the [Director] director within the time to correct. Before approving a time extension the [Director] 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. 12/28/97] (Auth: HRS §46-1.5(24), §46-4) (Imp: HRS §46-1.5(24), §46-4, MCC §19.530.030)

§15-2-9 [Other legal remedies.] 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] civil monetary fines
for Titles 16, 18 and 19

TYPE OF VIOLATION	AMT. INITIAL FINE	AMT. DAILY FINES
Development [Standard] <u>standard, i.e., set-back, height limits, lot size, lot width, floor area, lot coverage, etc.</u>	\$1,000	\$100
Misrepresentations	\$1,000	\$100
Permit [Conditions] <u>conditions</u>	\$1,000	\$100

TYPE OF VIOLATION	AMT. INITIAL FINE	AMT. DAILY FINES
Permits		
1.		
a. Building [w/o] <u>without</u> a building permit	[\$200] <u>\$500</u>	[\$50] <u>\$100</u>
b. Occupying a building without a certificate of occupancy	[\$50] <u>\$500</u>	[\$50] <u>\$100</u>
c. Demolition [w/o] <u>without</u> a building permit	[\$50] <u>\$100</u>	\$50
d. Electrical and/or plumbing work without a permit	\$200	\$200
e. Relocation of a building [w/o] <u>without</u> a building permit i.e., reposting)	[\$50] <u>\$100</u>	\$50
2. Not complying with stop work order	\$1,000	\$100
3. Change in use of the building or space [w/o] <u>without</u> a building permit and/or certificate of occupancy	[\$50] <u>\$1,000</u>	[\$50] <u>\$100</u>
4. [Construction not following] <u>Failure to follow approved plans</u>	[\$200] <u>\$1,000</u>	[\$50] <u>\$100</u>

TYPE OF VIOLATION	AMT. INITIAL FINE	AMT. DAILY FINES
5. <u>Safety hazards, i.e., [Hazardous] hazardous</u> occupancies, fire alarm, fire sprinkler, standpipe system, protection of pedestrians during construction or demolition, safety glazing, barb wire, swimming pool enclosure, etc.	\$1,000	[\$100] \$200
6. Erecting temporary structures without a building permit, i.e., tents, temporary booths	[\$100] \$200	[\$50] \$100
7. Unsafe buildings	\$1,000	\$100
8. Building code violations with a building permit:	[\$200]	[\$50]
Sign	\$200	\$50
Use	\$1,000	\$100
9. <u>Other violations of titles 16, 18, and 19 not specifically listed above</u>	\$200	\$100

Schedule of civil monetary fines for titles 12 and 20

<u>TYPE OF VIOLATION</u>	<u>AMT. INITIAL FINE</u>	<u>AMT. DAILY FINES</u>
<u>Not complying with stop work order</u>	<u>\$1,000</u>	<u>\$100</u>
<u>Permit conditions</u>	<u>\$200</u>	<u>\$100</u>
<u>Failure to follow approved plans</u>	<u>\$200</u>	<u>\$100</u>
<u>Grading without a grading permit</u>	<u>\$200</u>	<u>\$100</u>
<u>Work in the County right-of-way without a WTP permit</u>	<u>\$200</u>	<u>\$100</u>
<u>Failure to repair damage in County right-of-way</u>	<u>\$200</u>	<u>\$100</u>
<u>Construction of driveway without a driveway permit</u>	<u>\$50</u>	<u>\$50</u>
<u>Failure to comply with order to maintain sidewalk</u>	<u>\$50</u>	<u>\$50</u>
<u>Failure to comply with order to maintain drainage ways</u>	<u>\$50</u>	<u>\$50</u>
<u>Failure to comply with order to maintain hedges at intersections</u>	<u>\$50</u>	<u>\$50</u>
<u>Other violations of titles 12 and 20 not specifically listed above</u>	<u>\$150</u>	<u>\$50</u>

Schedule for civil monetary fines for title 14

<u>TYPE OF VIOLATION</u>	<u>AMT. INITIAL FINE</u>	<u>AMT. DAILY FINES</u>
<u>Improper maintenance or maintenance documentation of a grease trap</u>	<u>\$1,000</u>	<u>\$100</u>
<u>Improper cleaning and maintenance of a private collection system</u>	<u>\$1,000</u>	<u>\$100</u>
<u>Failure to install a grease trap</u>	<u>\$1,000</u>	<u>\$100</u>
<u>Illegal discharge (substance)</u>	<u>\$1,000</u>	<u>\$100</u>
<u>Use of non-approved grease trap additives</u>	<u>\$100</u>	<u>\$100</u>
<u>Discharging into a non-approved wastewater manhole</u>	<u>\$500</u>	<u>\$100</u>
<u>Illegal fixtures plumbed to grease interceptor/trap</u>	<u>\$500</u>	<u>\$100</u>
<u>Failure to comply with any compliance schedules established by the department to correct deficiencies of chapter 14 of the Maui County Code</u>	<u>\$500</u>	<u>\$100</u>
<u>Other violations of title 14 not specifically listed above</u>	<u>\$500</u>	<u>\$100</u>

(b) For other violations not specifically listed above, the [Director] director shall assess initial

finer 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] director within the time to correct. In waiving these daily fines the [Director] 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.

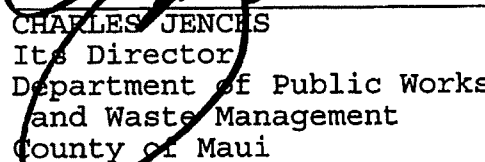
(g) In the case of a repeat violation as defined herein the initial daily fine shall be double the amount allowed in the schedule. [Eff. 12/28/97] (Auth: HRS §46-1.5(24), §46-4) (Imp: HRS §46-1.5(24), §46-4, MCC §19.530.030)

§15-2-10 [Severability] 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 [he] the director may choose. [Eff. 12/28/97] (Auth:

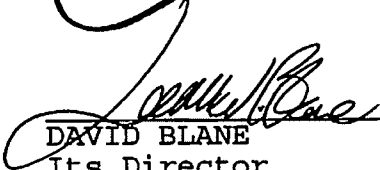
HRS §46-1.5(24), §46-4) (Imp: HRS §46-1.5(24), §46-4,
MCC §19.530.030)

§15-2-11 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. 12/28/97] (Auth: HRS §46-1.5(24), §46-4) (Imp: HRS §46-1.5(24), §46-4, MCC §19.530.030)

ADOPTED THIS 14 DAY OF December, 1997,
by the Director of Public Works and Waste Management
and the Director of Planning, County of Maui, State of
Hawaii.

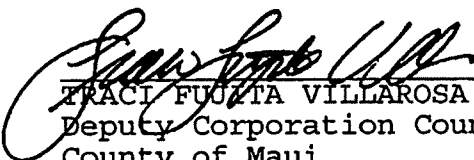


CHARLES JENCIS
Its Director
Department of Public Works
and Waste Management
County of Maui



DAVID BLANE
Its Director
Department of Planning
County of Maui


APPROVED AS TO FORM AND LEGALITY:



TRACI FUOZTA VILLAROSA
Deputy Corporation Counsel
County of Maui

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APPROVED this 17 day of
December, 1997.

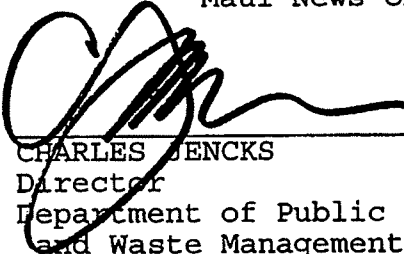


LINDA LINGLE
Mayor
County of Maui

CERTIFICATION

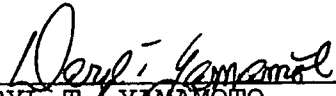
I, CHARLES JENCKS, in my capacity as Director of Public Works and Waste Management, County of Maui, do hereby certify:

1. That the foregoing is a full, true and correct copy of the amended Rules for Administrative Procedures and Civil Fines for Violations of Titles 12, 14, 16, 18, 19, and 20 of the Maui County Code.
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 10/12/97, 1997.



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

Received this 18th day of
December, 1997.




DARYL T. YAMAMOTO
County Clerk

CERTIFICATION

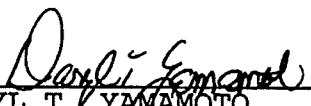
I, DAVID BLANE, in my capacity as Director of Planning, County of Maui, do hereby certify:

1. That the foregoing is a full, true and correct copy of the amended Rules for Administrative Procedures and Civil Fines for Violations of Titles 12, 14, 16, 18, 19, and 20 of the Maui County Code.
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 10/12/97, 1997.



DAVID BLANE
Director
Department of Planning
County of Maui

Received this 18th day of
December, 1997.



DARYL T. YAMAMOTO
County Clerk

"TITLE MC-15

DEPARTMENT OF PUBLIC WORKS AND WASTE MANAGEMENT

SUBTITLE 01

DIRECTOR OF PUBLIC WORKS AND WASTE MANAGEMENT

CHAPTER 2

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

Subchapter 1. General Provisions

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

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

- §15-2-6 Issuance of order
- §15-2-7 Time period for compliance
- §15-2-8 Administrative fines
- §15-2-9 Other legal remedies
- §15-2-10 Severability

SUBCHAPTER 1

GENERAL PROVISIONS

§15-2-1 Title. The rules of this Article shall be known as the "Rules for Administrative Procedures and Civil Fines for Violations of Titles 16, 18 and 19 of the Maui County Code". [Eff. 9/3/93] (Auth: HRS §46-1.5(24), §46-4) (Imp: HRS §46-1.5(24), §46-4, MCC §19.530.030)

§15-2-2 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] (Auth: HRS §46-1.5(24), §46-4) (Imp: HRS §46-1.5(24), §46-4, MCC §19.530.030)

§15-2-3 Purpose. These rules shall govern the administrative enforcement of violations of Titles 16, 18 and 19 of the Maui County Code. [Eff. 9/3/93] (Auth: HRS §46-1.5(24), §46-4) (Imp: HRS §46-1.5(24), §46-4, MCC §19.530.030)

§15-2-4 Construction. These rules shall be construed to secure the just and efficient determination of violations of Titles 16, 18 and 19 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] (Auth: HRS §46-1.5(24), §46-4) (Imp: HRS §46-1.5(24), §46-4, MCC §19.530.030)

§15-2-5 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" shall mean any violation which continues beyond the time for correction as set forth in any order of the Director.

"Days" mean calendar days unless otherwise specified.

"Department" means the Department of Public Works and Waste Management.

"Director" means the director of the department of public works and waste management or the director's designated representatives.

"Law" means titles 16, 18 and 19 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 §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" shall mean 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:

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

(2) 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

(3) 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] (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 16, 18 AND 19 OF THE MAUI COUNTY CODE

- §15-2-6 Issuance of order
- §15-2-7 Time period for compliance
- §15-2-8 Administrative fines
- §15-2-9 Joint and several liability
- §15-2-10 Other legal remedies

§15-2-6 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] (Auth: HRS §46-1.5(24), §46-4) (Imp: HRS §46-1.5(24), §46-4, MCC §19.530.030)

§15-2.7 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] (Auth: HRS §46-1.5(24), §46-4) (Imp: HRS §46-1.5(24), §46-4, MCC §19.530.030)

§15-2-8 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 schedule:

Schedule for Correction of Violations

TYPE OF VIOLATION	TIME FOR CORRECTION
Development Standard, i.e., set-back, height limits, lot size, lot width, floor area, lot coverage, etc	30 days
Permit Conditions	30 days
Permits	30 days
1. a. Building w/o a building permit	30 days
b. Occupying the building w/o a certificate of occupancy	30 days
c. Demolition w/o a building permit	30 days
d. Electrical and/or plumbing work without a permit	7 days
e. Relocation of a building w/o a permit (i.e. reposting)	30 days
2. Not complying with stop work order	Immediately
3. Change in use of the building or space w/o a building permit and/or certificate of occupancy	7 days
4. Failure to follow approved plans	30 days

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. Unsafe buildings.	30 days.
7. Building code violations with a building permit:	30 days
Sign	7 days
Use	Immediately
Other violations not specifically listed above	As determined by the Director

(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] (Auth: HRS §46-1.5(24), §46-4) (Imp: HRS §46-1.5(24), §46-4, MCC §19.530.030)

§15-2-9 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

TYPE OF VIOLATION	AMT. INITIAL FINE	AMT. DAILY FINES
Development Standard	\$1,000	\$100
Misrepresentations	\$1,000	\$100
Permit Conditions	\$1,000	\$100
Permits		
1.	\$ 200	\$ 50
a. Building w/o a building permit		
b. Occupying a building without a certificate of occupancy	\$ 50	\$ 50
c. Demolition w/o a building permit	\$ 50	\$ 50
d. Electrical and/or plumbing work without a permit	\$ 200	\$200
e. Relocation of a building w/o a building permit (i.e. reposting)	\$ 50	\$ 50
2. Not complying with stop work order	\$1,000	\$100
3. Change in use of the building or space w/o a building permit and/or certificate of occupancy	\$ 50	\$ 50
4. Construction not following approved plans	\$ 200	\$ 50

TYPE OF VIOLATION	AMT. INITIAL FINE	AMT. DAILY FINES
5. 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	\$100
6. Erecting temporary structures without a building permit, i.e., tents, temporary booths	\$ 100	\$ 50
7. Unsafe buildings.	\$1,000	\$100
8. Building code violations with a building permit:	\$ 200	\$ 50
Sign	\$ 200	\$ 50
Use	\$1,000	\$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 fines 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.

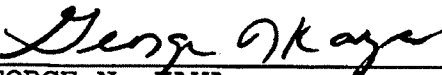
(f) In the case of continuing violation the daily fine shall be doubled on the first day of each thirty day period after the end of the time to take corrective action, up to a maximum amount of \$1000 per day.

(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] (Auth: HRS §46-1.5(24), §46-4) (Imp: HRS §46-1.5(24), §46-4, MCC §19.530.030)

§15-2-10 Joint and several liability. 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 he may choose. [Eff. 9/3/93] (Auth: HRS §46-1.5(24), §46-4) (Imp: HRS §46-1.5(24), §46-4, MCC §19.530.030)


§15-2-11 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] (Auth: HRS §46-1.5(24), §46-4) (Imp: HRS §46-1.5(24), §46-4, MCC §19.530.030) "

ADOPTED THIS 23rd DAY OF August, 1993, by the
Director of Public Works, County of Maui, State of Hawaii.




GEORGE N. KAYA
Its Director
Department of Public Works
County of Maui

APPROVED AS TO FORM
AND LEGALITY:



ofc HOWARD M. FUKUSHIMA
Deputy Corporation Counsel
County of Maui
c:\wp51\rules\violatin.luc

APPROVED this 23rd day of
August, 1993.




LINDA CROCKETT LINGLE
Mayor
County of Maui

CERTIFICATION

I, GEORGE N. KAYA, in my capacity as Director of Public Works, County of Maui, do hereby certify:

1. That the foregoing is a full, true and correct copy of the Rules of the Department of Public Works Relating to the Rules for Administrative Procedures and Civil Fines for Violations of Titles 16, 18 and 19 of the Maui County Code.
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 8, 9, 1993.



GEORGE N. KAYA
Director
Department of Public Works
County of Maui

Received this 24th day of
August, 1993.



DARYL T. YAMAMOTO
County Clerk

Amendment to Title 15, Chapter 2
 Rules for Administrative Procedures and
 Civil Fines for Violations of Titles 12, 14, 16,
 18, 19, and 20 of the Maui County Code

1. Section 15-2-8, Rules for Administrative Procedures and Civil Fines for Violations of Titles 16, 18, and 19 of the Maui County Code, is amended to read as follows:

"§15-2-8 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
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

TYPE OF VIOLATION	TIME FOR CORRECTION
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
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

TYPE OF VIOLATION	TIME FOR CORRECTION
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
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

TYPE OF VIOLATION	TIME FOR CORRECTION
<u>Failure to comply with rules for glass recycling for licensed liquor establishments or chapter 20.22 of the Maui County Code</u>	<u>7 days</u>
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

TYPE OF VIOLATION	TIME FOR CORRECTION
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
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

TYPE OF VIOLATION	TIME FOR CORRECTION
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
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 12/28/97, am 3/27/99] (Auth: HRS §46-1.5(24), §46-4) (Imp: HRS §46-1.5(24), §46-4, MCC §19.530.030)

2. Section 15-2-9, Rules for Administrative Procedures and Civil Fines for Violations of Titles 12, 14, 16, 18, 19, and 20 of the Maui County Code, is amended by amending subsection (a) to read as follows:

"(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

TYPE OF VIOLATION	AMT. INITIAL FINE	AMT. DAILY FINES
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
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

TYPE OF VIOLATION	AMT. INITIAL FINE	AMT. DAILY FINES
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
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

TYPE OF VIOLATION	AMT. INITIAL FINE	AMT. DAILY FINES
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
Failure to comply with order to maintain hedges at intersections	\$50	\$50
<u>Failure to comply with rules for glass recycling for licensed liquor establishments or chapter 20.22 of the Maui County Code</u>	<u>\$1000</u>	<u>\$50</u>
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

TYPE OF VIOLATION	AMT. INITIAL FINE	AMT. DAILY FINES
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
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

TYPE OF VIOLATION	AMT. INITIAL FINE	AMT. DAILY FINES
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
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

TYPE OF VIOLATION	AMT. INITIAL FINE	AMT. DAILY FINES
Other violations of title 14 not specifically listed above	\$500	\$100"

[Eff 12/28/97, am 3/27/99, am 12/10/01 am] (Auth: HRS §46-1.5(24), §46-4) (Imp: HRS §46-1.5(24), §46-4, MCC §19.530.030)

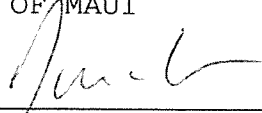
2. New material is underscored.

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

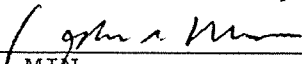
4. These amendments to title 15, chapter 201, Rules for Administrative Procedures and Civil Fines for Violations of Titles 12, 14, 16, 18, 19, and 20 of the Maui County Code, shall take effect ten days after filing with the Office of the County Clerk.

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

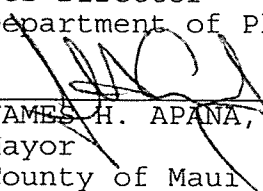
COUNTY OF MAUI



DAVID GOODE
Its Director
Department of Public Works
And Waste Management



JOHN E. MIN
Its Director
Department of Planning



JAMES H. APANA, JR.
Mayor
County of Maui

Approved this 1st day of
November, 2001.

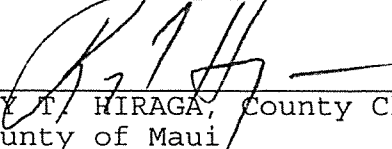
APPROVED AS TO FORM
AND LEGALITY:



TRACI FUJITA VILLAROSA
Deputy Corporation Counsel
County of Maui

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Received this 30th day of
November, 2001.



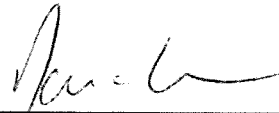
ROY T. HIRAGA, County Clerk
County of Maui

CERTIFICATION

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

1. That the foregoing is a copy of the Amendments to the Rules for Administrative Procedures and Civil Fines for Violations of Titles 12, 14, 16, 18, 19, and 20 of the Maui County Code of the County of Maui, drafted in Ramseyer format pursuant to the requirements of Section 91-4.1, Hawaii Revised Statutes, which were adopted on November 1, 2001, following a public hearing on October 24, 2001 ; and

2. That the notice of public hearing on the foregoing rules was published in The Maui News on the 19 day of September, 2001.



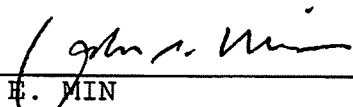
DAVID GOODE
Director
Department of Public Works
and Waste Management

CERTIFICATION

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

1. That the foregoing is a copy of the Amendments to the Rules for Administrative Procedures and Civil Fines for Violations of Titles 12, 14, 16, 18, 19, and 20 of the Maui County Code of the County of Maui, drafted in Ramseyer format pursuant to the requirements of Section 91-4.1, Hawaii Revised Statutes, which were adopted on November 1, 2001, following a public hearing on October 24, 2001 2:30 and

2. That the notice of public hearing on the foregoing rules was published in The Maui News on the 19 day of September, 2001.



JOHN E. MIN
Director
Department of Planning

Amendments to Title 15, Chapter 2
 Rules for Administrative Procedures and Civil
 Fines for Violations of Titles 12, 14, 16, 18, 19,
 and 20 of the Maui County Code

1. Section 15-2-8, Rules for Administrative Procedures and Civil Fines for Violations of Titles 16, 18, and 19 of the Maui County Code, is amended to read as follows:

"§15-2-8 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
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

TYPE OF VIOLATION	TIME FOR CORRECTION
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
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

TYPE OF VIOLATION	TIME FOR CORRECTION
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
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
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
<u>Refusal to install a required backflow prevention device</u>	<u>Immediately</u>
<u>Refusal to test a backflow prevention device</u>	<u>14 days</u>
<u>Refusal to repair or replace a faulty backflow prevention device</u>	<u>7 days</u>

TYPE OF VIOLATION	TIME FOR CORRECTION
<u>Direct or indirect connection between the county's or private potable water system and the reclaimed water system</u>	<u>1 day</u>
<u>Direct or indirect connection between the county's reclaimed water system and a system or equipment containing contaminants</u>	<u>1 day</u>
<u>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</u>	<u>Immediately</u>
<u>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</u>	<u>Immediately</u>

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 12/28/97, am 3/27/99] (Auth: HRS §46-1.5(24), §46-4) (Imp: HRS §46-1.5(24), §46-4, MCC §19.530.030)

2. Section 15-2-9, Rules for Administrative Procedures and Civil Fines for Violations of Titles 16,

18, and 19 of the Maui County Code, is amended to read as follows:

"§15-2-9 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
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
Illegal fixtures plumbed to grease interceptor/trap	\$500	\$100

TYPE OF VIOLATION	AMT. INITIAL FINE	AMT. DAILY FINES
<u>Refusal to install a required backflow prevention device</u>	<u>\$500</u>	<u>\$100</u>
<u>Refusal to test a backflow prevention device</u>	<u>\$100</u>	<u>\$50</u>
<u>Refusal to repair or replace a faulty backflow prevention device</u>	<u>\$500</u>	<u>\$100</u>
<u>Direct or indirect connection between the county's or private potable water system and the reclaimed water system</u>	<u>\$500</u>	<u>\$100</u>
<u>Direct or indirect connection between the county's reclaimed water system and a system or equipment containing contaminants</u>	<u>\$500</u>	<u>\$100</u>
<u>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</u>	<u>\$500</u>	<u>\$100</u>

TYPE OF VIOLATION	AMT. OF INITIAL FINE	AMT. DAILY FINES
<u>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</u>	<u>\$500</u>	<u>\$100</u>
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 fines 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 12/28/97, am 3/27/99] (Auth: HRS §46-1.5(24), §46-4) (Imp: HRS §46-1.5(24), §46-4, MCC §19.530.030)


3. New material is underscored.

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

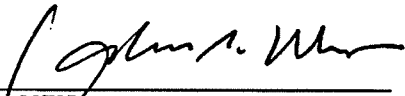
5. These amendments to title 15, chapter 2, Rules, shall take effect ten days after filing with the Office of the County Clerk.

ADOPTED this 25th day of February, 1999, at
Wailuku, Maui, Hawaii.

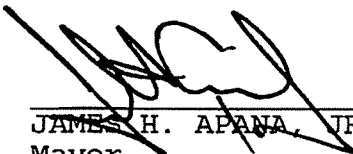
COUNTY OF MAUI



CHARLES JENCKS
Its Director
Department of Public Works
And Waste Management



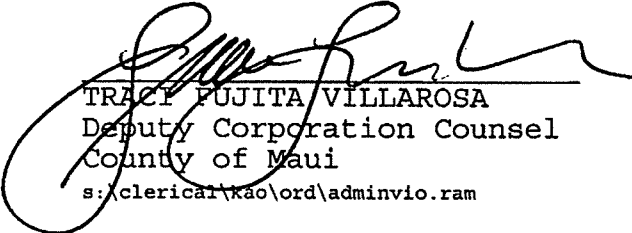
JOHN E. MIN
Its Director
Department of Planning



JAMES H. APANA, JR.
Mayor
County of Maui

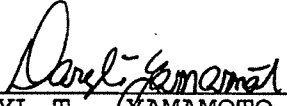
Approved this 17th day of
March, 1999.

APPROVED AS TO FORM AND LEGALITY:



TRACY FUJITA VILLAROSA
Deputy Corporation Counsel
County of Maui
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Received this 17th day of
March, 1999.



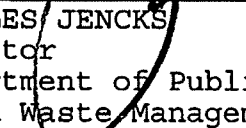
DARYL T. YAMAMOTO
County Clerk
County of Maui

CERTIFICATION

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

1. That the foregoing is a copy of the Amendments to the Rules for Administrative Procedures and Civil Fines for Violations of Titles 16, 18, and 19 of the Maui County Code of the County of Maui, drafted in Ramseyer format pursuant to Section 1.16.060, Maui County Code, which were adopted on February 25, 1999, following a public hearing on February 24, 1999; and

2. That the notice of public hearing on the foregoing rules was published in the Maui News on the 17th day of January, 1999.



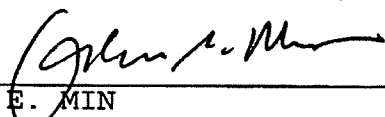
CHARLES JENCKS
Director
Department of Public Works
and Waste Management

CERTIFICATION

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

1. That the foregoing is a copy of the Amendments to the Rules for Administrative Procedures and Civil Fines for Violations of Titles 16, 18, and 19 of the Maui County Code of the County of Maui, drafted in Ramseyer format pursuant to Section 1.16.060, Maui County Code, which were adopted on February 25, 1999 following a public hearing on February 24, 1999; and

2. That the notice of public hearing on the foregoing rules was published in the Maui News on the 17th day of January, 19 99.



JOHN E. MIN
Director
Department of Planning