

## APPENDIX MAUI-43

### County Special Use Permit (CUP) - Molokai County of Maui Department of Planning Molokai Planning Commission

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#### **Permit Packet Includes:**

1. Process Overview
2. Molokai Planning Commission County Special Use Permit Application Packet & instructions
3. Molokai Planning Commission Rules

#### **Resources:**

- Maui County Code, Title 19
- Maui County Code, Chapter 19.510
- Maui County Code, Chapter 19.510.070

**Approval or Permit Required:** To regulate certain special uses within the various zoning districts.

#### **Contact Information:**

Department of Planning  
Current Planning Division  
2200 Main Street  
One Main Plaza Bldg, Suite 610  
Wailuku, HI 96793  
Phone: 808-270-7735

#### **Website:**

<http://www.co.maui.hi.us/index.aspx?NID=1313>

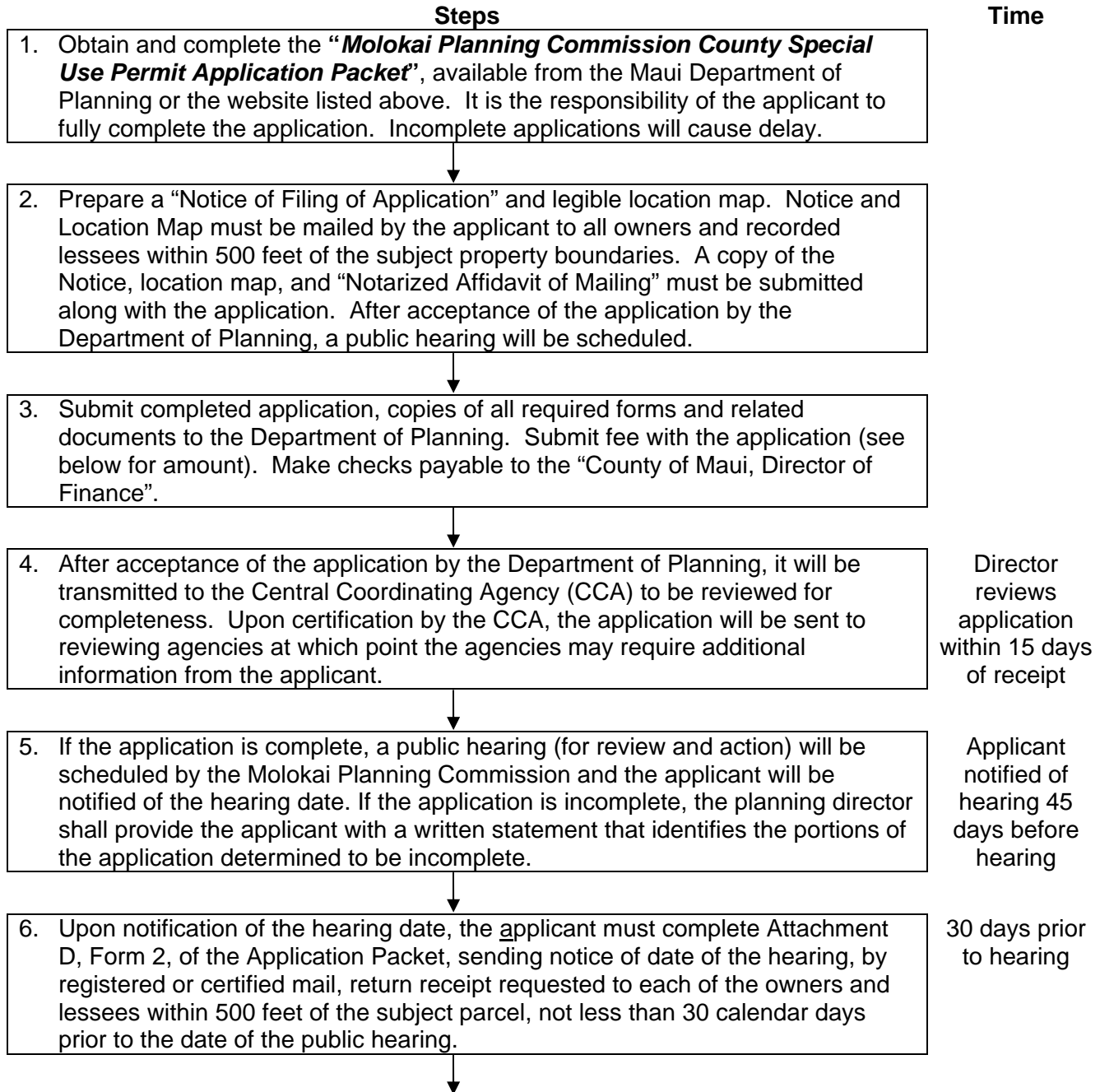
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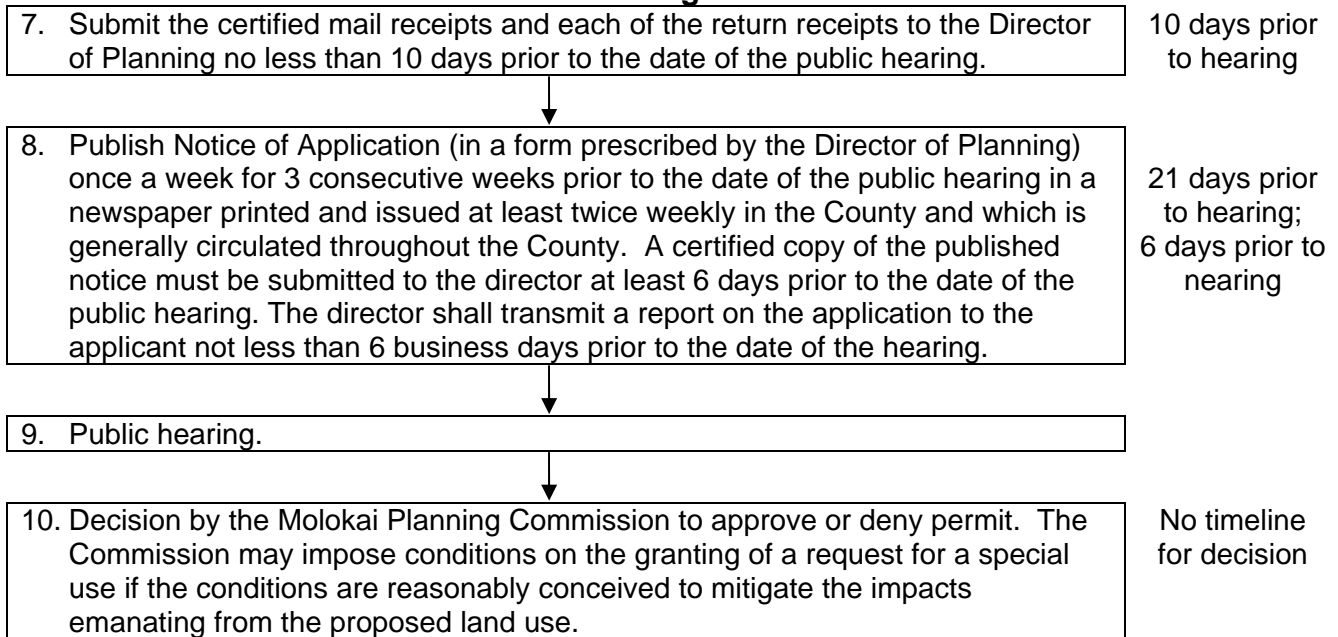
**NOTE:**

- If applicable to the requirements of the subject district, the applicant must provide a project master plan and development plan.
- Applications requiring final action by the City Council will be transmitted to the Council upon completion of all necessary documents.



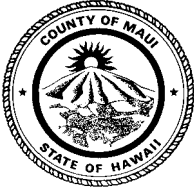
**APPENDIX MAUI-43**

**County Special Use Permit (CUP) - Molokai  
County of Maui  
Department of Planning  
Molokai Planning Commission**



**Total Time Period: TBD**

<b>Fees</b>	<b>Amount</b>	<b>Maximum</b>
Fees dependent on cost of project. Please refer to Fee Schedule, Table A for complete listing.	\$550	
Public Hearing is required. *Applicant is responsible for all fees for notice requirements, including all publication and mail fees.	~	
Total Fees:	\$550 (minimum)	No maximum



COUNTY OF MAUI  
DEPARTMENT OF PLANNING  
250 SOUTH HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
TELEPHONE: (808) 270-7735 FAX: (808) 270-7634

**MOLOKAI PLANNING COMMISSION  
COUNTY SPECIAL USE PERMIT APPLICATION**

SOURCE OF LEGAL AUTHORITY: Title 19, Maui County Code, 1980, as amended.

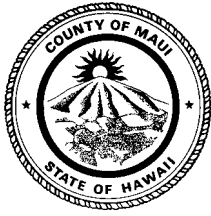
COUNTY SPECIAL USE PERMITS: Maui County Code, Chapter 19.510 Application and Procedures, Section 19.510.040 Special Use Permits

INFORMATIONAL SHEET

Within the various zoning districts, certain special uses are permitted upon review and approval of the Planning Commission, provided that each of the following criteria have been met:

1. The proposed request meets the intent of the General Plan and the objectives and policies of the applicable community plan of the County;
2. The proposed request is consistent with the applicable community plan land use map of the County;
3. The proposed request meets the intent and purpose of the applicable district;
4. The proposed development will not adversely affect or interfere with public or private schools, parks, playgrounds, water systems, sewage and solid waste disposal, drainage, roadway and transportation systems, or other public requirements, conveniences and improvements;
5. The proposed development will not adversely impact the social, cultural, economic, environmental and ecological character and quality of the surrounding area;
6. That the public shall be protected from the deleterious effects of the proposed use;
7. That the need for public service demands created by the proposed use shall be fulfilled; and
8. If the use is located in the State Agricultural and Rural Districts, the Molokai Planning Commission shall review whether the use complies with the guidelines established in Section 15-15-95 of the Rules of the Land Use Commission of the State of Hawaii.

NOTE: If applicable to the requirements of the district, the applicant shall provide a project master plan and development plan.



COUNTY OF MAUI  
DEPARTMENT OF PLANNING  
250 SOUTH HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
TELEPHONE: (808) 270-7735 FAX: (808) 270-7634

**APPLICATION TYPE:** COUNTY SPECIAL USE PERMIT

**DATE:** \_\_\_\_\_

**PROJECT NAME:** \_\_\_\_\_

**PROPOSED DEVELOPMENT:** \_\_\_\_\_

**TAX MAP KEY NO.:** \_\_\_\_\_ **CPR/HPR NO.:** \_\_\_\_\_ **LOT SIZE:** \_\_\_\_\_

**PROPERTY ADDRESS:** \_\_\_\_\_

**OWNER:** \_\_\_\_\_ **PHONE: (B)** \_\_\_\_\_ **(H)** \_\_\_\_\_

**ADDRESS:** \_\_\_\_\_

**CITY:** \_\_\_\_\_ **STATE:** \_\_\_\_\_ **ZIP CODE:** \_\_\_\_\_

**OWNER SIGNATURE:** \_\_\_\_\_

**APPLICANT:** \_\_\_\_\_

**ADDRESS:** \_\_\_\_\_

**CITY:** \_\_\_\_\_ **STATE:** \_\_\_\_\_ **ZIP CODE:** \_\_\_\_\_

**PHONE (B):** \_\_\_\_\_ **(H):** \_\_\_\_\_ **FAX:** \_\_\_\_\_

**APPLICANT SIGNATURE:** \_\_\_\_\_

**AGENT NAME:** \_\_\_\_\_

**ADDRESS:** \_\_\_\_\_

**CITY:** \_\_\_\_\_ **STATE:** \_\_\_\_\_ **ZIP CODE:** \_\_\_\_\_

**PHONE (B):** \_\_\_\_\_ **(H):** \_\_\_\_\_ **FAX:** \_\_\_\_\_

**EXISTING USE OF PROPERTY:** \_\_\_\_\_

**CURRENT STATE LAND USE DISTRICT BOUNDARY DESIGNATION:** \_\_\_\_\_

**COMMUNITY PLAN DESIGNATION:** \_\_\_\_\_ **ZONING DESIGNATION:** \_\_\_\_\_

**OTHER SPECIAL DESIGNATIONS:** \_\_\_\_\_

## GENERAL SUBMITTAL REQUIREMENTS

- \_\_\_ 1. Application Form (Original + 1 copy).
- \_\_\_ 2. Documents which identify the owner of the subject parcel of land.
- \_\_\_ 3. If the applicant is not the owner of the subject parcel, then a notarized written authorization for the application by the owner shall be included. Said authorization shall include the owner's name, address and telephone numbers.
- \_\_\_ 4. Agent's name, address, and telephone numbers, if applicable.
- \_\_\_ 5. Location Map identifying the site, adjacent roadways and identifying landmarks (8 1/2" x 11" format).
- \_\_\_ 6. List of owners and lessees of record of real property located within a 500-foot radius of the subject parcel. The list shall be compiled from the most current list available at the Real Property Tax Division of the Department of Finance at the time of filing of the application with the Director of Planning.

This list shall include the names and addresses of each owner and recorded lessees by tax map key. A map drawn to scale which clearly identifies the 500-foot boundary surrounding the subject parcel and the parcels within the boundary shall be included.

- \_\_\_ 7. A report addressing the following (Original + 1 copy):
  - a. Policies and objectives of the General Plan; the provisions of the community plan applicable to the application; the provisions of the applicable district; and an analysis of the extent to which the application, if granted, conforms to these policies, objectives and provisions.
  - b. Detailed land use history of the parcel which includes, but is not limited to former and existing State and County land use designations, violations and uses.
  - c. Preliminary archaeological and historical data and comments from the Department of Land and Natural Resources and the Office of Hawaiian Affairs of the State of Hawaii. If applicable, a preservation/mitigation plan which has been reviewed and approved by the Department of Land and Natural Resources and the Office of Hawaiian Affairs.
  - d. Analysis of the secondary impacts of the proposed use on surrounding uses which includes, but is not limited to increases in property value, population, housing, community services and facility needs, secondary jobs and employment generated and compatibility with surrounding uses. If applicable, affordable housing program and comments from the Department of Housing and Human Concerns of the County and other mitigation plans and comments from the respective governmental and community services agencies.

- e. Traffic impact analysis and, if applicable, a traffic master plan which includes, but is not limited to, comments from the Department of Transportation of the State of Hawaii and the Department of Public Works and Environmental Management of the County.
- f. If applicable, an assessment of the impact which the proposed use may have on agricultural use of the parcel which includes, but is not limited to, a feasibility analysis of potential agricultural uses suited to the site and written comments from the Department of Agriculture of the State of Hawaii and the U.S. Soil Conservation Service.
- g. Water source, supply and distribution system analysis which includes, but is not limited to, methods of irrigation existing on the parcel and proposed for the application, location and use of groundwater and nonpotable water sources. If applicable, a water master plan which includes, but is not limited to, comments from the Department of Land and Natural Resources of the State of Hawaii and the Departments of Public Works and Environmental Management and Water Supply of the County.
- h. Sewage disposal analysis, a description of a proposed method of sewage disposal and comments, if applicable, from the Departments of Health and Land and Natural Resources of the State of Hawaii and the Departments of Public Works and Environmental Management and Water Supply of the County.
- i. Solid waste disposal analysis, a description of a proposed method of solid waste disposal and comments, if applicable, from the Departments of Health and Land and Natural Resources of the State of Hawaii and the Departments of Public Works and Environmental Management and Water Supply of the County.
- j. Identification of environmentally sensitive areas, habitat and botanical features which include, but are not limited to, wetlands, streams, rock outcroppings, endangered plants and animals and exceptional trees. If applicable, baseline study and preservation/mitigation plan and comments, if applicable, from the Department of Land and Natural Resources of the State of Hawaii, the U.S. Fish and Wildlife Service and the U.S. Army Corps of Engineers.
- k. Identification of the topographical and drainage patterns existing on the subject parcel and any proposed alterations to these patterns.
- l. Identification of all meetings held between the applicant and any community or residential group which may be impacted by the applicant's request, the issues raised by these meetings and any measures proposed by the applicant to deal with or to mitigate these issues.
- m. Development Schedule.

- n. Operations and management of the proposed use which includes, but is not limited to, number of employees, proposed employee housing plan, hours of operation, fees charged to residents and visitors and provisions for off-site parking.
- o. Identification of traditional beach and mountain access trails and additional trails which may be required for public access to the beaches and mountains and, if applicable, preservation/mitigation plan and comments from the Department of Land and Natural Resources and the Office of Hawaiian Affairs.
- p. Identification and assessment of chemicals and fertilizers used including, but not limited to, detailing effects upon surface, underground and marine water resources and neighboring properties and surrounding flora and fauna. If applicable, a mitigation plan and maintenance program and schedule and comments from the Departments of Health and Land and Natural Resources of the State of Hawaii, the U.S. Fish and Wildlife Service and the U.S. Environmental Protection Agency.

\_\_\_\_\_ 8. Photographs of the subject site, existing structures and surrounding area which are dated.

\_\_\_\_\_ 9. Schematic Site Development Plans, if applicable, drawn to scale, which identify the following (rendered copy and 1 blueprint set):

- a. Property lines and easements with its dimensions and area calculations;
- b. Location, size, spacing, setbacks and dimensions of all existing and proposed buildings, structures, improvements and uses;
- c. Existing and proposed building elevations, sections, floor plans, and site sections which clearly define the character of the development;
- d. Topographic information showing existing features and conditions and proposed grading;
- e. Existing and proposed landscaping which depicts open spaces, plantings and trees;
- f. Existing and proposed roadways and accesses to the project and parking layout with dimensions; and
- g. Shoreline, shoreline setback lines, stream and other setback lines.

NOTE: For Project Master Plan Review, the development plans shall also comply with Maui County Code, Section 19.510.080.C.



- \_\_\_\_\_ 10. One set of high quality and legible transparency vu-graphs (8 1/2" x 11" format) of the schematic site development plans (Item No. 11) shall be submitted as part of the development plans.
- \_\_\_\_\_ 11. Any other information as may be required by the Director of Planning or the appropriate planning commissions of the County.
- \_\_\_\_\_ 12. **Non-refundable filing fee** payable to the *County of Maui, Director of Finance*.
  - a. Change in Zoning (**see Fee Schedule, Table A**)
  - b. County Special Use Permit (**see Fee Schedule, Table A**)
  - c. Project Master Plan Review (**see Fee Schedule, Table A**)
- \_\_\_\_\_ 13. Notice of Filing of Application (Attachment A)
- \_\_\_\_\_ 14. Notarized Affidavit of Mailing of Notice of Application (Attachment B)

An original plus one copy of Items 1-10 shall be submitted for review by the Planning Department for suitability for transmittal to public agencies for review and comment. Upon deeming the application suitable for agency review, the Planning Department will contact the applicant to request the additional number of application packets needed for agency review.

- \_\_\_\_\_ 15. For change in Zoning, the following additional information is required:
  - a. Legal metes and bounds description of the subject parcel;  
and
  - b. Mylar map drawn to scale (8 1/2" x 14" format) of the subject parcel (Attachment C).

ATTACHMENT A

TO:

DATE:

NOTICE OF FILING OF APPLICATION

Check appropriate Line:

- CHANGE IN ZONING (From \_\_\_\_\_ to \_\_\_\_\_)
- COUNTY SPECIAL USE
- PROJECT MASTER PLAN

Please be advised that the undersigned will be applying to the Department of Planning of the County of Maui for the above-referenced application(s) for the following parcel(s):

1. Tax Map Key No.: \_\_\_\_\_  
(NOTE: Please attach an 8 1/2" x 14" location map)
2. Location (Street Address): \_\_\_\_\_  
\_\_\_\_\_
3. Existing Land Use Designations:
  - a. State Land Use District: \_\_\_\_\_
  - b. Community Plan Designation: \_\_\_\_\_
  - c. County Zoning: \_\_\_\_\_
4. Description of the Existing Uses on Property: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
5. Description of the Proposed Uses on Property: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\*\*\*\*\*

By: \_\_\_\_\_  
(Owner/Applicant)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Telephone)

\_\_\_\_\_  
(Agent)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Telephone)

**ATTACHMENT B**  
**NOTARIZED AFFIDAVIT OF MAILING OF**  
**NOTICE OF APPLICATION**

\_\_\_\_\_, being first duly sworn, on oath, deposes and says:

1. Affiant is the applicant for a \_\_\_\_\_ for land situate at \_\_\_\_\_, TMK No.: \_\_\_\_\_.
2. Affiant did on \_\_\_\_\_, \_\_\_\_\_, deposit in the United States mail, postage prepaid, a copy of a Notice of Filing of Application with location map, a copy of which is attached hereto as "Exhibit A" and made a part hereof, addressed to each of the persons identified in the list of recorded owners and lessees identified as "Exhibit B," attached hereto and made a part hereof.

Further, Affiant sayeth naught.

\_\_\_\_\_

Subscribed and sworn to before me  
this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public, State of Hawaii

My commission expires: \_\_\_\_\_

## **GENERAL PROCEDURES**

Prior to submittal of an application, a Notice of Filing of Application (form provided by the Department of Planning) with a location map will be mailed to all owners and recorded lessees within 500 feet of the subject property boundaries. A copy of the Notice, Location Map and Affidavit of Mailing shall be submitted with the application.

Upon submittal of an application to the Department of Planning, it will be transmitted to the Central Coordinating Agency (CCA) for review for completeness. The CCA for the County of Maui is the Department of Public Works and Environmental Management, Development Services Administration (DSA).

Upon certification by the CCA that the application is ready for processing, the application will be transmitted to the Department of Planning. The application will be transmitted to the reviewing agencies provided the information submitted in the application is adequate and additional information is not required. The application will be scheduled with the appropriate planning commission for review and action upon receipt of all agency comments.

## APPLICATION REQUIRING PUBIC HEARINGS

The following applications are subject to these additional requirements:

- a. Change in Zoning;
- b. County Special Use Permits; and
- c. Project Master Plan.

Upon notification by the Department of Planning of the County of Maui of the scheduled hearing date, the applicant shall:

1. Mail a notice of the date of the public hearing of the application on a form provided by the Department of Planning (Attachment D):
  - a. Maui Planning Commission
    - I. Form 1 (CIZ)
    - II. Form 2 (CUP/PMP)
  - b. Molokai Planning Commission
    - I. Form 3 (CIZ)
    - II. Form 4 (CUP/PMP)

by certified or registered mail, return receipt requested, to each of the owners and lessees within 500 feet of the subject parcel, not less than **THIRTY (30)** calendar days prior to the date of the public hearing;

2. Submit the certified mail receipts and each of the return receipts to the Director of Planning not less than **TEN (10)** business days prior to the date of the public hearing. A Notarized Affidavit of Mailing of Notice of Public Hearing (Attachment E) shall also be submitted as proof of mailing; and
3. Publish the subject matter in a form prescribed by the Director of Planning, once a week for three consecutive weeks prior to the date of the public hearing in a newspaper which is printed and issued at least twice weekly in the County and which is generally circulated throughout the County. A certified copy of the published notice shall be submitted to the Director of Planning at least **SIX (6)** days prior to the date of the public hearing.

Please note that applications requiring final action by the County Council shall be transmitted to the County Council upon completion of all necessary documents (i.e., ordinances, maps, unilateral agreements). The applicant may be required to prepare such documents as amendments to the land use maps and preparation of unilateral agreements. Upon approval of all legal documents by the Department of the Corporation Counsel, the application will be transmitted to the County Council.



ATTACHMENT E

NOTARIZED AFFIDAVIT OF MAILING OF  
NOTICE OF PUBLIC HEARING

\_\_\_\_\_, being first duly sworn, on oath, deposes and  
says:

1. Affiant is the applicant for a \_\_\_\_\_ for  
land situate at \_\_\_\_\_, TMK No.: \_\_\_\_\_.
  
2. Affiant did on \_\_\_\_\_, \_\_\_\_\_, deposit in the United States  
mail, postage prepaid, by certified or registered mail, return receipt  
requested, a copy of a Notice of Hearing with location map, a copy of  
which is attached hereto as "Exhibit A" and made a part hereof,  
addressed to each of the persons identified in the list of recorded owners  
and lessees identified as "Exhibit B," attached hereto and made a part  
hereof.
  
3. Thereafter, there was returned to the office of Affiant, the United States  
Post Office certified or registered mail receipts and return receipts which  
are attached hereto as "Exhibit C" and made a part hereof.

Further, Affiant sayeth naught.

\_\_\_\_\_

\_\_\_\_\_  
Subscribed and sworn to before me  
this \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public, State of Hawaii  
My commission expires: \_\_\_\_\_

COUNTY OF MAUI  
DEPARTMENT OF PLANNING

**ZONING AND FLOOD CONFIRMATION REQUEST FORM**

APPLICANT: \_\_\_\_\_ PHONE NO.: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
PROJECT NAME: \_\_\_\_\_  
ADDRESS AND/OR LOCATION: \_\_\_\_\_  
TMK NUMBER(S): \_\_\_\_\_

**ZONING INFORMATION**

STATE LAND USE \_\_\_\_\_ COMMUNITY PLAN \_\_\_\_\_  
COUNTY ZONING \_\_\_\_\_ SPECIAL DISTRICT \_\_\_\_\_  
OTHER \_\_\_\_\_

**FLOOD INFORMATION**

FLOOD HAZARD AREA\* ZONE \_\_\_\_\_  
BASE FLOOD ELEVATION \_\_\_\_\_ mean sea level, 1929 National  
Geodetic Vertical Datum or for Flood Zone A0, FLOOD DEPTH \_\_\_\_\_ feet.

FLOODWAY [ ] Yes or [ ] No

FLOOD DEVELOPMENT PERMIT IS REQUIRED [ ] Yes or [ ] No

\* For flood hazard area zones B or C; a flood development permit would be required if any work is done in any drainage facility or stream area that would reduce the capacity of the drainage facility, river, or stream, or adversely affect downstream property.

\*\*\*\*\*

**FOR COUNTY USE ONLY**

REMARKS/COMMENTS: \_\_\_\_\_

- Additional information required.
- Information submitted is correct.
- Correction has been made and initialed.

Reviewed and Confirmed by:

\_\_\_\_\_  
Signature  
Zoning Administration and Enforcement Division

\_\_\_\_\_  
Date





**DEPARTMENT OF PLANNING  
APPLICATION REQUIREMENTS CHECKLIST  
In Accordance with Maui County Code, Chapter 19.510**

**Project:** \_\_\_\_\_

Chapter 19.510.010	General Application Procedures Content of Application	√	Location(s) of Document in Application
D1.	Owner identification and signature or written authorization documents.		
D2.	Owner's name, address, and phone number.		
D3.	Agent's name, address, and phone number, if applicable.		
D4.	Tax map key and street address, if available.		
D5.	Locational map identifying the site, adjacent roadways, and landmarks.		
D6.	List of owners and lessees of record within 500 feet.		
D7.	Analysis of ways in which application conforms to policies and objectives of General Plan and applicable Community Plan.		
D8.	Detailed land use history of parcel(s) to include former and existing state and county land use designations, violations and uses.		
D9.	Preliminary archaeological and historical data and comments from DLNR and Office of Hawaiian Affairs (OHA). If applicable, a preservation /mitigation plan approved by DLNR and OHA.		
D10.	Analysis of secondary impacts of the proposed use on surrounding uses.		
D11.	Traffic impact analysis and, if applicable, a traffic master plan with comments from DOT and DPWEM.		
D12.	If applicable, an assessment of the impact the proposed use may have on agricultural use of the property with comments from DOA and USSCS.		
D13.	Water source, supply and distribution analysis, and, if applicable, a water master plan which includes comments from the DLNR, DWS, and DPWEM.		
D14.	Sewage disposal analysis, and comments, if applicable, from DOH, DLNR, DPWEM, and DWS.		
D15.	Solid waste disposal analysis and comments, if applicable, from DOH, DLNR, DPWEM, and DWS.		

Chapter 19.510. 010	General Application Procedures Content of Application	√	Location(s) of Document in Application
D16.	Identification of environmentally sensitive areas, habitat and botanical features, such as wetlands, streams, endangered plants, etc., and comments, if applicable, from DLNR, USFWS, and Corps of Engineers		
D17.	Identification of the existing topographical and drainage patterns and any alterations proposed.		
D18.	Identification and summary of all meetings held between applicant and any community group.		
D19.	Dated photographs of site or structure.		
D20.	Development schedule		
D21.	Schematic site development plans, if applicable, drawn to scale.		
D22.	Operations and management of proposed use which may include: # of employees, housing plan, hours of operation, provisions for offsite parking.		
D23.	Identification of traditional beach and mountain access trails and add'l trails which may be required for public access, and, if applicable, a preservation/mitigation plan and comments from DLNR and OHA.		
D24.	Identification and assessment of chemicals and fertilizers used, and, if applicable, a mitigation plan and maintenance program and schedule, and comments from DOH, DLNR, USFWS, and USEPA.		
D25.	Any other information necessary to assess the application.		
E.	Notice filed by the applicant and an affidavit certifying that the notice of application was mailed to all owners/lessees of record within 500 feet from subject parcel. The notice shall include the following:		
E1.	The name, address, and phone number of the owner and owner's authorized agent, if applicable;		
E2.	A brief description of the existing uses and uses proposed by the application;		
E3.	A location map and description of the location of the proposed development which includes the TMK and street address, if applicable, of the subject parcel.		

\_\_\_\_\_  
Name of Applicant (Print)

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
Address

\_\_\_\_\_  
Date

\$2.50

DEPARTMENT OF PLANNING

COUNTY OF MAUI

ADOPTION OF CHAPTER 3  
RULES RELATING TO SPECIAL USES  
IN STATE AGRICULTURAL AND RURAL DISTRICTS  
SEPTEMBER 25, 1989

SUMMARY

Chapter 3, entitled "Rules Relating to Special Uses in State Agricultural and Rural Districts", is hereby adopted.

"TITLE MC-12  
DEPARTMENT OF PLANNING

SUBTITLE 03  
MOLOKAI PLANNING COMMISSION

CHAPTER 3

RULES RELATING TO SPECIAL USES  
IN STATE AGRICULTURAL AND RURAL DISTRICTS

Subchapter 1. General Provisions

- §12-3-1 Jurisdiction
- §12-3-2 Applicability
- §12-3-3 Definitions
- §12-3-4 Application; contents
- §12-3-5 Application; acceptance and review

Subchapter 2. Guidelines

- §12-3-6 Evaluation guidelines
- §12-3-7 Performance guidelines

Subchapter 3. Procedures

- §12-3-8 Decision and order
- §12-3-9 Notice of hearing; review of decision
- §12-3-10 Appeal
- §12-3-11 Severability

## SUBCHAPTER 1

### GENERAL PROVISIONS

§12-3-1 Jurisdiction. These rules govern special use permit procedures for agricultural and rural districts before the authority as authorized by chapter 205, Hawaii Revised Statutes as amended.

The authority shall have jurisdiction over special use permits for parcels of land not more than 15 acres in area, in accordance with chapter 205, Hawaii Revised Statutes, and Section 8-8.4(2) of the Revised Charter, County of Maui. Special permits for parcels of land greater than fifteen acres in area shall be subject to approval by the Land Use Commission. [Eff. October 8, 1989] (Auth: HRS §205-6) (Imp: §HRS §91-2)

§12-3-2 Applicability. (a) Any person desiring to conduct certain unusual and reasonable uses within state agricultural and rural districts in areas within the jurisdiction of the authority other than those permitted by law shall apply to the authority for a special use permit.

(b) Unless otherwise expressly permitted in HRS Chapter 205, any commercial use, public use or facility, public utility facilities, or quasi-public use and facility on lands in the state agricultural or rural districts shall be subject to the requirements, procedures and guidelines herein. [Eff. October 8, 1989] (Auth: HRS §205-6) (Imp: §HRS §91-2)

§12-3-3 Definitions.

(a) Unless it is plainly evident from the context that a different meaning is intended, words and phrases used herein are defined as follows:

"Accessory use" means a use which is conducted on the same lot as the principal use to which it is related whether located in the same building or in an accessory building or structure, or as an accessory use of land, or which is conducted on a contiguous lot whether the same is owned in fee simple or leased by the person(s) engaging in the principal use and is clearly incidental to and/or customarily found in connection with the principal use.

"Agricultural use" means any use which is permitted by the provisions of sections 205-2, 205-4.5, and 205-5, Hawaii Revised Statutes, as amended.

"Authority" means the Molokai Planning Commission.

"Central coordinating committee" means land use and code administration, the department of public works, county of Maui.

"Commercial use" means any activity or business for profit and available to the general public including, but not limited to, the growing, processing, manufacturing, or distribution of products; the rendering of professional, technical or other services; the retail sale or wholesaling of any goods or products; the mining and processing of natural resource materials; commercial riding stables; and commercial open area recreational uses.

"Department" means the Department of Planning, County of Maui.

"Director" means the Director of the Department of Planning, County of Maui.

"H.R.S." means Hawaii Revised Statutes.

"Person" means any individual, partnership, corporation, or other legal entity, including government agencies.

"Principal use" means the primary or predominant use of any lot. If more than one lawful use exists on any property, they all shall be considered principal uses for the purpose of evaluating accessory uses.

"Public use and facility" means a use conducted by or a facility or structure owned or managed by the Federal Government, the State of Hawaii, or the County of Maui.

"Public utility facilities" includes telephone, electric, and cable television lines; poles; equipment, and structures; water or gas pipes, mains, valves, or structures; sewer pipes, valves, or structures; pumping stations; telephone exchanges and repeater stations; and all other facilities, equipment, and structures necessary for conducting a service by a government or a public utility.

"Public utility" means a closely regulated private enterprise with an exclusive franchise for providing a public service.

"Quasi-public use and facility" means a use conducted by or a facility or structure owned or operated by a nonprofit, religious, or eleemosynary institution.

"Rural use" means any use which is permitted by the provisions of sections 205-2 and 205-5, Hawaii Revised Statutes, as amended.

(b) To the extent that any of these definitions conflict with definitions relating to zoning in the Maui County Code, the definitions contained within the Code, as amended, shall apply. [Eff. October 8, 1989] (Auth: HRS §205-6) (Imp: HRS §91-2)

§12-3-4 Application; contents. The application, in addition to the requirements outlined in Section 12-1-14, shall include the following:

(a) A non-refundable filing and processing fee of \$250.00.

(b) Identification of the applicant and documentation of ownership or authorization by the owners of land on which the proposed action is to occur.

(c) Tax map key and acreage of the land on which the proposed action is to occur.

(d) A scaled plot plan of the land upon which the proposed action is to occur.

(e) A shoreline survey if the parcel abuts the shoreline and is determined to be necessary by the Planning Director.

(f) A written description of the proposed action, including but not limited to, the use, length, width, height, depth, and materials to be used in the proposed action.

(g) A plan designating the location of the proposed action on the land. Any existing and proposed structures shall be shown by a dimensioned floor plan, sections, elevations, and other physical features.

(h) State land use district boundary description, community plan designation, county zoning designation, if any, and any other special designation.

(i) A brief description of the existing use of the property.

(j) A written assessment of the proposed action, in accordance with Subchapter 2 herein.

(k) Any additional information which may be required by the Planning Department to properly process the application. [Eff. October 8, 1989] (Auth: HRS §205-6) (Imp: HRS §91-2)

#### §12-3-5 Application; acceptance and review.

(a) The applicant shall provide copies of the application as provided in the Rules of Practice and Procedure, Section 12-1-16. The Central Coordinating Agency shall review the application for completeness and may refuse to accept or process any application which is incomplete.

(b) Application; review. Upon a determination of completeness by the Central Coordinating Agency, the application shall be reviewed by the Planning Department and scheduled for hearing and action by the authority as soon as practicable. [Eff. October 8, 1989] (Auth: HRS §205-6) (Imp: HRS §91-2)

## SUBCHAPTER 2

### GUIDELINES

§12-3-6 Evaluation guidelines. In reviewing a special use permit application, the following guidelines are applicable in determining an "unusual and reasonable" use in the state agricultural and rural districts:

(a) The use shall not be contrary to the objectives sought to be accomplished by Chapters 205 and 205A, Hawaii Revised Statutes, as amended, and the rules of the State Land Use Commission.



- (1) The use shall not be contrary to the objectives of chapter 205, Hawaii Revised Statutes, which are to preserve, protect, and encourage the development and preservation of lands in the state for those uses to which they are best suited in the interest of public health and welfare of the people of the state of Hawaii.
- (2) If applicable, the use shall not be contrary to the objectives, policies and guidelines of the Coastal Zone Management Act, pursuant to Chapter 205A, Hawaii Revised Statutes, and the Special Management Area Rules and Regulations, Molokai Planning Commission.
  - (b) The desired use would not adversely affect surrounding property.
  - (c) The use would not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, and school improvements, and police and fire protection.
  - (d) Unusual conditions, trends and needs have arisen since the district boundaries and rules were established. In evaluating the conditions, trends and needs, the following aspects shall be considered, if applicable:
    - (1) The proximity of the use to other properties which are zoned to allow the use in the community plan district;
    - (2) The availability of other properties which are zoned to allow the use in the community plan district as demonstrated by the applicant;
    - (3) The proximity of the use to other properties with comparable uses in the community plan district;
    - (4) The market or public demand for the use as demonstrated by the applicant;
    - (5) The suitability of the site for the intended use;
    - (6) The economic and/or social benefits of the use to the community; and
    - (7) The economic feasibility of the use or project as demonstrated by the applicant.
  - (e) The land upon which the proposed use is sought is unsuited for the uses permitted within the district.  
( [Eff. October 8, 1989] (Auth: HRS §205-6) (Imp: HRS §91-2)

§12-3-7 Performance guidelines.

(a) All special permits in the state agricultural and rural districts shall be subject to the following performance guidelines unless otherwise modified or deleted for good cause by the authority.

- (1) Final architectural, landscape architectural, and signage plans and exterior color scheme shall be subject to review and approval by the director, prior to the submittal of a building or grading permit or commencement of the use or operation;
  - (2) A time limit shall be placed on special permits for a limited term. The applicant shall be responsible to apply for any time extensions at least forty-five days prior to the expiration date of the special use permit;
  - (3) A special use permit shall be valid only for the use(s) as approved;
  - (4) A special use permit shall not be transferred without the prior written approval of the authority.
  - (5) The use(s) or structure(s) allowable by a special use permit shall not be expanded or increased in size or area or changed to another special use, unless authorized in the permit;
  - (6) The special use will be subject to periodic inspections by the Planning Department or other federal, state, or county agencies for compliance with the terms and conditions of the special use permit;
  - (7) the conditions of the special use permit shall be self enforcing and, accordingly, the permit shall be suspended from and after the time of breach of same. Upon due notice by the Planning Department that such a breach has occurred the applicant/permittee shall be entitled to a hearing on the restoration of the permit, provided that a written request for such hearing is filed with the department within ten days of the date of receipt of said notice of breach. If no appeal is duly filed, the authority shall revoke such permit.
  - (8) The project shall conform to the requirements of other federal, state, and county statutes, ordinances, rules, and regulations or codes;
  - (9) The use may be subject to other terms and conditions, as determined to be necessary by the authority; and
  - (10) In the event any historic, archaeological, or cultural sites; remains; artifacts; or resources are discovered during project construction, work shall stop and the State Historic Office, Department of Land and Natural Resources, and County Planning Department shall be duly notified to advise appropriate action.
  - (11) Hold harmless clause. [Eff. October 8, 1989]
- (Auth: HRS §205-6) (Imp: HRS §91-2)

## SUBCHAPTER 3

### PROCEDURES

#### §12-3-8 Decision and order.

(a) The authority shall have the sole power to approve or deny applications for special use permits for applications involving lands fifteen (15) acres or less or as otherwise authorized by HRS chapter 205.

(b) All final decisions and orders should be issued in writing within forty-five calendar days after the final vote of the authority, unless otherwise extended by vote of the authority for an additional fifteen days.

(c) The authority shall consider the evaluation guidelines herein in reaching its decision.

(d) The authority may place reasonable terms, conditions, and time stipulations upon such permit in accordance with the provisions herein. [Eff. October 8, 1989] (Auth: HRS §205-6) (Imp: HRS §91-2)

#### §12-3-9 Notice of hearing; review of decision.

(a) The authority shall notify the Land Use Commission and such persons and agencies who have requested notice of same and/or may have an interest in the subject matter of the time and place of the hearing.

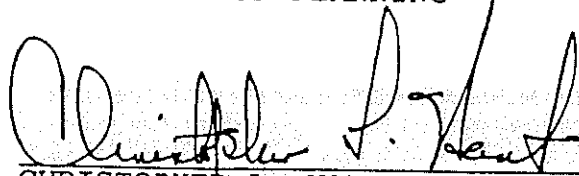
(b) For requests involving land areas greater than fifteen acres, a copy of the decision and a complete record of the proceedings before the authority shall be transmitted to the Land Use Commission within sixty days after the decision is rendered. [Eff. October 8, 1989] (Auth: HRS §205-6) (Imp: HRS §91-2)

§12-3-10 Appeal. A denial of the permit shall be appealable to the circuit court of the circuit in which the land is situated pursuant to Hawaii Revised Statutes Section 91-14. [Eff. October 8, 1989] (Auth: HRS §91-14) (Imp: HRS §91-2)

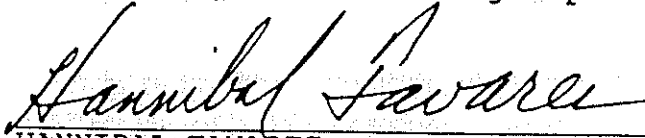
§12-3-11 Severability. If any portion of the foregoing rules or the applicability thereof to any person, property or circumstance is held invalid for any reason, such invalidity shall not affect other provisions or applications which can be given effect without the invalid provision or application, and to this end these rules are declared to be severable. [Eff. October 8, 1989] (Auth: HRS §91-2) (Imp: HRS §91-2)

ADOPTED this 28 day of September, 1989, at Wailuku,  
Maui, Hawaii.

DEPARTMENT OF PLANNING



CHRISTOPHER L. HART  
Director of the Planning Department



HANNIBAL TAVARES  
Mayor, County of Maui

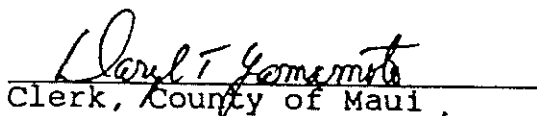
Approved this 28<sup>th</sup> day of  
September, 1989.

APPROVED AS TO FORM  
AND LEGALITY:



GUY A. HAYWOOD  
Deputy Corporation Counsel  
County of Maui 25/rules/lr  
9/25/89

Received this 28th day of  
September, 1989.



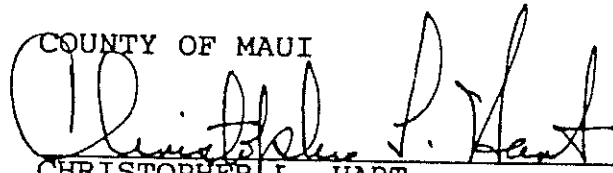
Carol T. Gomez  
Clerk, County of Maui.

CERTIFICATION

I, CHRISTOPHER L. HART, Director of Planning, Department of Planning, County of Maui, do hereby certify:

1. That the foregoing is a full, true, and correct copy of the rules of the Molokai Planning Commission which were adopted by the Molokai Planning Commission on the 26th day of September, 1989, by affirmative vote of the proper majority following a public hearing that closed on September 26, 1989; and

2. That the notice of public hearing on the foregoing rules was published in the Maui News on the 24th day of August, 1989.

COUNTY OF MAUI  
  
CHRISTOPHER L. HART  
Director of Planning