

**COUNCIL OF THE COUNTY OF MAUI**  
**WATER AND INFRASTRUCTURE**  
**COMMITTEE**

August 23, 2019

**Committee**  
**Report No. 19-100**

Honorable Chair and Members  
of the County Council  
County of Maui  
Wailuku, Maui, Hawaii

Chair and Members:

Your Water and Infrastructure Committee, having met on August 5, 2019, makes reference to County Communication 19-228, from Councilmember Paltin, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 18.20.040, MAUI COUNTY CODE, RELATING TO EXISTING STREETS."

The purpose of the proposed bill is to reverse Code changes made in 2015 and require improvements to existing streets for a subdivision creating two developable lots.

At the request of the Chair of your Committee, the Department of the Corporation Counsel transmitted a revised proposed bill, approved as to form and legality, entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 18.20.040, MAUI COUNTY CODE, RELATING TO IMPROVEMENTS UPON EXISTING STREETS." The revised proposed bill incorporated: a purpose clause, an exemption from the requirement to improve existing streets for an applicant on the priority list for the Upcountry water system who qualifies for the exemption from fire protection mainline infrastructure improvements, a revised condition under which a subdivider with prior approval would be exempted from the changes, and other amendments, including nonsubstantive revisions.

Your Committee notes the 2015 Code changes relating to improvements to existing streets were enacted as part of Ordinance 4255, entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 14.13 AND SECTION 18.20.040, MAUI COUNTY CODE, RELATING TO WATER METER ISSUANCE PROVISIONS FOR THE UPCOUNTRY WATER

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SYSTEM.” Ordinance 4255 states: “It is the council’s desire to eliminate obstacles for upcountry residents to receive water service.”

The Deputy Corporation Counsel explained Ordinance 4255 provided an exemption from fire protection mainline improvements, which applies to an applicant on the Upcountry water service priority list who meets certain criteria, including a two-lot subdivision or a single water service request.

The Deputy Corporation Counsel further explained when a water service request is made, the Department of Water Supply calculates the required size for the water main serving the property. For an applicant who meets the criteria in Section 14.13.065, Maui County Code, if the water main has the capacity to provide adequate water supply for the additional domestic and irrigation uses, but not fire protection, the Department of Fire and Public Safety will review the development application and specify fire protection measures in lieu of infrastructure mainline improvements.

The Deputy Corporation Counsel further explained Ordinance 4255 included a countywide exemption for all two-lot subdivisions from improvements to existing streets, such as curbs, gutters, and sidewalks.

The Chair of your Committee stated the revised proposed bill would remove the countywide exemption and only allow an exemption for an applicant on the priority list for the Upcountry water system who qualifies for the exemption from fire protection mainline infrastructure improvements. Your Committee notes this will align the Code with Ordinance 4255’s stated purpose.

The Deputy Corporation Counsel highlighted Section 4 of the revised proposed bill, which states “a valid subdivision with construction plans approved by the Department of Public Works that is valid on the effective date of this ordinance” would be governed by the current ordinance, not the revised proposed bill, if enacted.

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Your Committee stated it supported the legislation, which would fulfill the Water Resources Committee's original intent.

Your Committee voted 6-1 to recommend passage of the revised proposed bill on first reading and filing of the communication. Committee Chair Lee, Vice-Chair Paltin, and members Kama, Molina, Rawlins-Fernandez, and Sinenci voted "aye." Committee member Hokama voted "no."

Your Water and Infrastructure Committee RECOMMENDS the following:

1. That Bill \_\_\_\_\_ (2019), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 18.20.040, MAUI COUNTY CODE, RELATING TO IMPROVEMENTS UPON EXISTING STREETS," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 19-228 be FILED.

This report is submitted in accordance with Rule 8 of the Rules of the Council.



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ALICE L. LEE, Chair

ORDINANCE NO. \_\_\_\_\_

BILL NO. \_\_\_\_\_ (2019)

A BILL FOR AN ORDINANCE AMENDING SECTION 18.20.040, MAUI COUNTY CODE, RELATING TO IMPROVEMENTS UPON EXISTING STREETS

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

SECTION 1. This ordinance's purpose is to amend a current exemption, and thus require improvements to existing streets for a subdivision creating two developable lots, except for an applicant on the priority list for the upcountry water system who qualifies for the exemption from fire protection mainline infrastructure improvements under Section 14.13.065, Maui County Code.

SECTION 2. Section 18.20.040, Maui County Code, is amended by amending subsection A to read as follows:

"A. No improvements shall be required upon existing streets for the following:

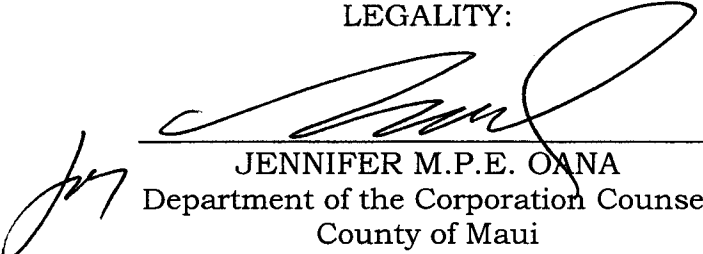
1. [a] A consolidation of lots[;].
2. [for a] A subdivision creating only road widening lots[;].
3. [for a] A consolidation of three developable lots or less [which] that is resubdivided without creating additional developable lots[;].
4. [for a] A subdivision [into] creating only two developable lots for an applicant on the priority list for the upcountry water system, as defined in section 14.13.030, if the subdivision meets the requirements to qualify for the exemption from fire protection mainline infrastructure improvements under section 14.13.065, subject to the following:
  - a. If warranted by public safety, the director may require the improvements as specified in this chapter.

- b. If a lot is further subdivided after receiving an exemption under this subsection as part of a two-lot subdivision, any new lot is not eligible for an exemption.
5. [or for a] A subdivided parcel used for a church[.], provided, however, that [Churches] churches shall dedicate land necessary for road widening purposes to comply with the requirements of this chapter. [Parcels that have undergone a subdivision into two developable lots under this subsection shall not qualify for this exemption with respect to any subsequent resubdivision of any of the parcel which creates additional developable lots.]”

SECTION 3. Material to be repealed is bracketed. New material is underscored. In printing this bill, the County Clerk need not include the brackets, the bracketed material, or the underscoring.

SECTION 4. This ordinance shall take effect upon its approval, except that the version of Section 18.20.040, Maui County Code, in effect prior to this ordinance's enactment shall apply to a valid subdivision with construction plans approved by the Department of Public Works that is valid on the effective date of this ordinance.

APPROVED AS TO FORM AND  
LEGALITY:



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JENNIFER M.P.E. OANA  
Department of the Corporation Counsel  
County of Maui  
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