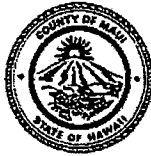


DANNY A. MATEO
County Clerk



JOSIAH K. NISHITA
Deputy County Clerk

OFFICE OF THE COUNTY CLERK
COUNTY OF MAUI
200 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.mauicounty.gov/county/clerk

2017 OCT 30 PM 3:16
OFFICE OF THE
COUNTY COUNCIL

RECEIVED

October 9, 2017

Honorable Robert Carroll, Chair
Land Use Committee
Council of the County of Maui
Wailuku, Hawaii 96793

Dear Chair Carroll:

By letter dated September 21, 2017 (County Communication No. 17-396), Councilmember Don S. Guzman transmitted a proposed resolution entitled "REFERRING TO THE LANAI, MAUI, AND MOLOKAI PLANNING COMMISSIONS A PROPOSED BILL TO AMEND THE COMPREHENSIVE ZONING ORDINANCE RELATING TO RESOURCE EXTRACTION OR PROCESSING".

At the October 6, 2017 Council meeting, the proposed resolution was adopted and County Communication No. 17-396 was filed; however, the matter relating to resource extraction or processing was referred to your Committee. Attached for your information is a copy of Resolution No. 17-140.

Respectfully,

A handwritten signature in black ink that reads "Danny A. Mateo".

DANNY A. MATEO
County Clerk

/lka

Enclosure

cc: Director of Council Services

Resolution

No. 17-140

REFERRING TO THE LANAI, MAUI, AND
MOLOKAI PLANNING COMMISSIONS A
PROPOSED BILL TO AMEND THE
COMPREHENSIVE ZONING ORDINANCE
RELATING TO
RESOURCE EXTRACTION OR PROCESSING

WHEREAS, the Council is considering a proposed bill to revise the definition of resource extraction to preserve, protect, and regulate the use of the County's finite natural resources by clarifying the definition of "resource extraction"; and

WHEREAS, Sections 8-8.4 and 8-8.6 of the Revised Charter of the County of Maui (1983), as amended, require that the appropriate planning commission review proposed land use ordinances and amendments thereto, and provide findings and recommendations to the Council; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That it hereby refers the proposed bill, entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 19, MAUI COUNTY CODE, RELATING TO RESOURCE EXTRACTION OR PROCESSING," a copy of which is attached hereto as Exhibit "1" and made a part hereof, to the Maui, Lanai, and Molokai Planning Commissions for appropriate action, pursuant to Sections 8-8.4 and 8-8.6 of the Revised Charter of the County of Maui (1983), as amended; and
2. That it respectfully requests that the Lanai, Maui, and Molokai Planning Commissions transmit their findings and recommendations to the Council as expeditiously as possible; and

3. That certified copies of this resolution be transmitted to the Mayor; the Planning Director; and the Lanai, Maui, and Molokai Planning Commissions.

APPROVED AS TO FORM
AND LEGALITY:



Richelle Thomson
Deputy Corporation Counsel
County of Maui
LF 2017-1137

ORDINANCE NO. _____

BILL NO. _____ (2017)

A BILL FOR AN ORDINANCE AMENDING TITLE 19, MAUI COUNTY CODE,
RELATING TO RESOURCE EXTRACTION OR PROCESSING

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

SECTION 1. The purpose of this ordinance is to preserve, protect, and regulate the use of the County's finite natural resources by clarifying the definition of "resource extraction."

SECTION 2. Section 19.04.040, Maui County Code, is amended by amending the definition of "resource extraction" to read as follows:

"Resource extraction or processing" means: [activities engaged in the exploration, mining and processing of natural deposits of rock, gravel, sand and topsoil.]

1. Activities related to the mining or extraction of minerals, ores, soils, and other solid matter, including rock, gravel, sand, and topsoil from their natural subsurface location primarily for purposes other than those directly related to preparation of the land for on-site construction;

2. Processing, preparation, cleaning, or other treatment of minerals, ores, or other solid matter, including rock, gravel, sand, and topsoil, in excess of 100,000 cubic yards for a duration of more than 18 months so as to make such material suitable for commercial, industrial, or construction use; or

3. Uses of land subject to the Federal Mine Safety and Health Act, 30 U.S.C.A. §802(h)."

SECTION 3. Section 19.07.030 is amended to read as follows:

"19.07.030 Permitted uses. The following uses shall be permitted within the open space districts subject to the "special conditions":

(Note: "X" means a permitted use in the category. An empty cell indicates that the use is not permitted in that category.)

Uses	OS-1	OS-2	Special conditions
A. Principal uses			
1. Agriculture		X	No processing of products on premises.
2. Native Hawaiian traditional and customary uses	X	X	Customary and traditionally exercised subsistence, cultural, and religious uses in accordance with article XII, section 7, of the Hawaii State Constitution, and Hawaii case law.
3. Outdoor recreation		X	Limited to hiking; fishing; hunting; noncommercial tent camping; picnicking; equestrian activities; walking, jogging, and bicycling; and playfields with non-permanent seating. Uses not listed are not allowed as a principal use.
4. Park	X	X	OS-1 category: Limited to recreation, passive. OS-2 category: Not including golf courses. Not including commercial uses except when under the supervision of a government agency in charge of parks and playgrounds.
5. Passive land use	X	X	
6. Recreation, passive	X	X	

Uses	OS-1	OS-2	Special conditions
7. Restoration of cultural sites	X	X	Includes retention, restoration, or rehabilitation of buildings, sites, or cultural landscapes of historical or archeological significance.
B. Accessory uses.			
1. Assembly area		X	Includes only unenclosed and typically uncovered seating area in association with a park or outdoor recreation.
C. Special uses. The following uses and structures shall be permitted in the open space districts if a special use permit has been obtained pursuant to section 19.510.070 of this [code] title.			
1. Agriculture	X	X	Agriculture within the OS-1 district and processing of agricultural products in the OS-2 district.
2. Cemetery		X	
3. Outdoor recreation	X	X	Outdoor recreation within the OS-1 district. Commercial tent camping, motorized recreational vehicles and playing fields with permanent seating are not permitted in the OS-1 district and a special use permit is required for these uses in the OS-2 district.
4. Park	X		Uses not permitted as a principal use; but not including

Uses	OS-1	OS-2	Special conditions
			golf courses, and not including commercial uses except when under the supervision of a government agency in charge of parks and playgrounds.
5. Resource extraction or processing		X	Limited to the Island of Lanai only; and limited to the extraction of natural material only; no processing permitted on site.
6. Structure	X	X	Facilities associated with a principal use or approved special use, such as restrooms, information kiosks, required off-street parking, solar systems, and equipment sheds. Subject to the plan conditions of section 19.07.060.

”

SECTION 4. Section 19.25.020 is amended to read as follows:

“**19.25.020 Permitted uses.** Within the M-3 restricted industrial district, no building, structure, or premises shall be used, and no building or structure hereafter erected, structurally altered, replaced, or enlarged except for one or more of the following uses:

Uses	Notes and exceptions
Acetylene gas manufacture or bulk storage	
Acid manufacture	
Alcohol manufacture	
Ammonia, bleaching powder, or chlorine manufacture	

Uses	Notes and exceptions
Asphalt manufacture of refueling and asphaltic concrete plant	
Automobile wrecking	
Blast furnace or coke oven	
Boiler and steel works	
Brick, tile, or terra cotta manufacture	
Canneries	
Cement, lime, gypsum, or plaster of paris manufacture	
Chemical manufacture	
Concrete or cement products manufacture	
Crematories, morgues	
Energy systems, power plants, substations, and utility facilities, major	
Explosives manufacture or storage	
Factories	
Fertilizer manufacture	
Fish canneries	
Foundries	
Freight classification yard (railroad)	
Garbage, offal, or dead animals reduction or dumping	
Gas manufacture	
Glue manufacture	
Heavy equipment storage, servicing, and sales	
Junk establishment used for storing, depositing, keeping junk or similar goods for business purposes	
Landfill, solid waste processing, and disposal	
Lime kilns	
Lumber yard and wood treatment facilities	
Machine shops	
Oilcloth or linoleum manufacture	
Oil storage plants	

Uses	Notes and exceptions
Paint, oil (including linseed), shellac, turpentine, lacquer, or varnish manufacture	
Petroleum or biofuel product manufacturing or wholesale storage of petroleum or biofuels	
Petroleum refinery	
Planing mill	
Plastic manufacture	
Quarry or stone mill	
Railroad repair shops	
Recycling processing facilities or material recycling and recovery facilities	
[Rock, sand, gravel, or earth excavation, crushing or distribution] <u>Resource extraction or processing</u>	
Rolling mills	
Saw mill	
Ship works	
Slaughter of animals	
Soap manufacture	
Stock yard or feeding pens	
Sugar mills and refineries	
Tannery or the curing or storage of raw hides	
Telecommunication towers, antenna, and equipment	
Utility facilities, major	
Wood treatment plants	
In general, those uses [which] <u>that may be obnoxious or offensive by reason of emission of odor, dust, smoke, gas, noise, vibration and the like, and not allowed in any other district</u>	Provided, however, that any use not specified in this section shall not be permitted unless approved by the planning director as conforming to the intent of this [title] <u>chapter</u>

”

SECTION 5. Section 19.26.040 is amended to read as follows:

“19.26.040 Special uses. The following uses and structures shall be permitted in the M-2 heavy industrial district provided a County special use permit, pursuant to section 19.510.070[, Maui County Code,] of this title has first been obtained.

Special uses
Acetylene gas manufacture or bulk storage
Acid manufacture
Ammonia, bleaching powder or chlorine manufacture
Asphalt manufacture of refueling and asphaltic concrete plant
Blast furnace or coke oven
Cement, lime, gypsum, or plaster of paris manufacture
Crematories
Creosote treatment plants
Explosives manufacture or storage
Fertilizer manufacture
Fish canneries
Garbage, offal, or dead animals reduction or dumping
Gas manufacture
Glue manufacture
Petroleum refinery
Quarry or stone mill
[Rock, sand, gravel, or earth excavation, crushing or distribution] <u>Resource extraction or processing</u>
Saw mill
Slaughter of animals
Stock yard or [deeding] <u>feeding pens</u>
Tannery or the curing or storage of raw hides

SECTION 6. Section 19.30A.060 is amended by amending subsection (A)

to read as follows:

“A. The following uses and structures are permitted in the agricultural district if a special use permit, as provided in section 19.510.070 of this title, is obtained; except that if a use described in this section also requires a special permit as provided in chapter 205, Hawaii Revised Statutes, and if the land area of the subject parcel is fifteen acres or less, the State special permit shall fulfill the requirements of this section:

1. Additional farm dwellings beyond those permitted by subsection 19.30A.050(B)(1).

2. Farm labor dwellings that do not meet the criteria of subsection 19.30A.050(B)(2).
3. Commercial agricultural structures that do not meet the standards and restrictions of this chapter.
4. Public and quasi-public institutions that are necessary for agricultural practices.
5. Major utility facilities as defined in section 19.04.040 of this title.
6. Telecommunications and broadcasting antenna.
7. Open land recreation uses, structures, or facilities that do not meet the criteria of subsection 19.30A.050(B)(10), including commercial camping, gun or firing ranges, archery ranges, skeet shooting, paint ball, bungee jumping, skateboarding, rollerblading, playing fields, and accessory buildings and structures. Certain open land recreation uses or structures may also be required to obtain a special permit as provided in section 205-6, Hawaii Revised Statutes. The following uses or structures are prohibited: airports, heliports, drive-in theaters, country clubs, drag strips, motor sports facilities, golf courses, and golf driving ranges.
8. Cemeteries, crematories, and mausoleums.
9. Churches and religious institutions.
10. [Mining and resource] Resource extraction or processing.
11. Landfills.
12. Solar energy facilities that are greater than fifteen acres.”

SECTION 7. 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 8. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM AND LEGALITY:



RICHELLE M. THOMSON
Deputy Corporation Counsel
LF 2017-1137

COUNCIL OF THE COUNTY OF MAUI

WAILUKU, HAWAII 96793

CERTIFICATION OF ADOPTION

It is **HEREBY CERTIFIED** that **RESOLUTION NO. 17-140** was adopted by the Council of the County of Maui, State of Hawaii, on the 6th day of October, 2017, by the following vote:

MEMBERS	Michael B. WHITE Chair	Robert CARROLL Vice-Chair	Alfka ATAY	Eleanora COCHRAN	S. Stacy CRIVELLO	Donald S. GUZMAN	G. Riki HOKAMA	Kelly T. KING	Yuki Lei K. SUGIMURA
ROLL CALL	Aye	Aye	Aye	Aye	Aye	Aye	Aye	Aye	Aye



COUNTY CLERK