

MOANA M. LUTEY
County Clerk



RICHELLE M. THOMSON
Deputy County Clerk

Enclosure
cc: Director of Council Services

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

August 7, 2023

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COUNTY CLERK

Honorable Keani Rawlins-Fernandez, Chair
Efficiency Solutions and Circular Systems Committee
Council of the County of Maui
Wailuku, Hawaii 96793

Dear Chair Rawlins-Fernandez:

Respectfully transmitted is a copy of Bill No. 75 (2023)"A BILL FOR AN ORDINANCE AMENDING CHAPTER 20.08.031, MAUI COUNTY CODE, RELATING TO CULTURAL RESOURCE PROTECTION"; that was referred to your Committee by the Council of the County of Maui at its meeting of August 4, 2023.

Respectfully,


MOANA M. LUTEY
County Clerk

/lks

Enclosure

cc: Director of Council Services

ORDINANCE NO. _____

BILL NO. 75 (2023)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 20.08.031, MAUI COUNTY CODE, RELATING TO CULTURAL RESOURCE PROTECTION

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

SECTION 1. This Ordinance's purpose is to prevent the destruction of cultural resources. Cultural resources are irreplaceable and inseparable from Hawai'i's culture, providing invaluable benefits to residents and visitors. The Countywide Policy Plan states that the County has a responsibility to preserve, protect, and restore cultural resources. Ground-altering activities, such as grading, grubbing, and subsurface excavation in areas with burials and historic properties, can result in the destruction of cultural resources. The Council finds careful consideration and planning are needed to ensure the past is not erased and that resources are preserved for the benefit of future generations.

This Ordinance's effect is to require permits for grading or grubbing in areas of likely burial sites or historic properties, even when the activity would otherwise be eligible for limited exclusions from permitting requirements.

SECTION 2. Section 20.08.031, Maui County Code, is amended to read as follows:

"20.08.031 Limited exclusions. A. Sections 20.08.040 through 20.08.160 [regarding] on permit applications and requirements do not apply to the following[; however, all other provisions of this chapter, including the provision of minimum bmps as required by section 20.08.035, remain applicable to all work

performed, and the following exclusions do not affect the applicability of section 20.08.040.C relating to cut or fill activity in special management areas]:

[A.] 1. Subsurface excavations and backfill for buildings and other structures authorized by a valid building permit issued by the land use and codes administration or excavations and backfill for cesspools and septic tanks authorized by the state department of health. This exclusion does not affect the applicability of this chapter to the placing of fill materials obtained from the excavations on other premises.

[B.] 2. Excavation, fill, or stockpiling that does not alter the general drainage pattern [with respect to] for abutting properties and that does not exceed one hundred cubic yards of material on any one site and does not exceed four feet in vertical height at its highest point; except that the slope face may not be steeper in slope and be located a minimum distance from neighboring properties as enumerated in sections 20.08.170 through 20.08.210.

[C.] 3. Grubbing that does not alter the general drainage pattern [with respect to] for abutting properties and does not exceed one acre.

[D.] 4. Trenching for underground utilities, involving trenches less than two feet deep and less than fifty cubic yards, [provided] if the trenches are backfilled and the surface restored to its pre-existing grade and ground cover[, except that this exclusion does not apply in an area determined by the County archaeologist as likely to involve a burial site or historic property, as defined by Hawaii Revised Statutes chapter 6E].


B. The exclusions in subsection A do not affect the applicability of section 20.08.040 to cut or fill activity in the special management areas.

C. The exclusions in subsection A do not apply in an area determined by the County archaeologist as likely to include a burial site or a historic property, as defined by section 6E-2, Hawai'i Revised Statutes."

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 takes effect on approval.

APPROVED AS TO FORM AND LEGALITY:



MARIANA LOWY-GERSTMAR
Deputy Corporation Counsel
Department of the Corporation Counsel
County of Maui
LF2023-1076
PAF 23-195 2023-07-26 Ord Amd Ch 20.08
paf:jpp:23-195a

INTRODUCED BY:

A handwritten signature in black ink, appearing to read "Shane M. Sinenci". The signature is written in a cursive style with some stylized flourishes.

SHANE M. SINENCI