

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

December 15, 2023

**Committee**  
**Report No. \_\_\_\_\_**

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 November 13, 2023, and November 27, 2023, makes reference to Bill 42 (2023), entitled “A BILL FOR AN ORDINANCE AMENDING THE SUBDIVISION ORDINANCE RELATING TO HISTORIC PROPERTY.”

Bill 42’s purpose is to amend Chapter 18.04, Maui County Code, to enable the creation of separate lots within a subdivision for the preservation of historic properties.

Your Committee notes that a revised proposed version of Bill 42 was drafted in collaboration with the Departments of Planning and Public Works, and the County Principal Archaeologist. Further, the Departments of Environmental Management, Fire and Public Safety, and Water Supply provided input and support for the revised proposed bill.

Your Committee agreed to further amend Bill 42 by: 1) revising the bill’s title, 2) clarifying that a land trust organization accredited by the Land Trust Accreditation Commission must be the conveyee of the historic preservation lot, 3) clarifying the requirements for lands eligible for inclusion in the historic preservation lot, and 4) clarifying that amenities and improvements may be allowed rather than required.

Your Committee finds that providing developers and community groups the option to create separate historic preservation lots within a subdivision furthers the protection of historic properties. Your Committee further finds that historic preservation lots must be conveyed to either an accredited land trust organization or a government agency.

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The Director of Public Works and the Principal Archaeologist expressed concerns about the financial obligations for maintaining historic preservation lots in perpetuity. Without proper financial health, historic preservation lots may be abandoned once created because of a defunct ownership entity, resulting in an additional burden and liability to the County.

Additionally, Internal Revenue Code section 501(c)(3) requires assets to be transferred to another organization with a similar purpose or objective if an organization dissolves.

The Director noted that the Land Trust Accreditation Commission requires periodic financial reports from land trust organizations to meet accreditation requirements.

Your Committee finds that the creation of historic preservation lots would help to further the following Maui County General Plan objectives and policies:

- Preserve and restore significant historic architecture, structures, cultural sites, cultural districts, and cultural landscapes. (Countywide Policy Plan, page 51)
- A more effective and efficient planning and review process that incorporates the best available cultural resources inventory, protection techniques, and preservation strategies. (Maui Island Plan, page 2-11)
- Enhance the island's historic, archaeological, and cultural resources. (Maui Island Plan, page 2-12)
- Identify, preserve, protect, and restore significant historical and cultural sites. (Kihei-Makena Community Plan, page 28)

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- Responsible stewardship of resources, culture, and character.  
(West Maui Community Plan, page 41)

Your Committee voted 8-1 to recommend passage of Bill 42, CD1 (2023) on first reading. Committee Chair Cook, Vice-Chair Sugimura, and members Johnson, Kama, Lee, Paltin, Sinenci, and U‘u-Hodgins voted “aye.” Committee member Rawlins-Fernandez voted “no.”

Your Committee is in receipt of Bill 42, CD1 (2023), entitled “A BILL FOR AN ORDINANCE AMENDING CHAPTER 18.04, MAUI COUNTY CODE, RELATING TO GENERAL PROVISIONS FOR SUBDIVISIONS AND HISTORIC PROPERTIES,” incorporating your Committee’s recommended revisions and nonsubstantive revisions.

Your Water and Infrastructure Committee RECOMMENDS that Bill 42, CD1 (2023), as revised herein and attached hereto, entitled “A BILL FOR AN ORDINANCE AMENDING CHAPTER 18.04, MAUI COUNTY CODE, RELATING TO GENERAL PROVISIONS FOR SUBDIVISIONS AND HISTORIC PROPERTIES,” be PASSED ON FIRST READING and be ORDERED TO PRINT.

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



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TOM COOK, Chair

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

BILL NO. 42, CD1 (2023)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 18.04,  
MAUI COUNTY CODE, RELATING TO GENERAL PROVISIONS  
FOR SUBDIVISIONS AND HISTORIC PROPERTIES

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

SECTION 1. This Ordinance's purpose is to enable the creation of separate lots within a subdivision for the preservation of historic properties as defined by chapter 6E, Hawai'i Revised Statutes.

SECTION 2. Section 18.04.020, Maui County Code, is amended to read as follows:

**“18.04.020 Authority and scope.** A. [Pursuant to] Under section 8-5.3 of the revised charter of the County of Maui (1983), as amended, all subdivisions and consolidations, and all streets or ways within the County created for the purposes of subdividing land, [shall] must be approved by the director [in accordance with this title].

B. Any person desiring to subdivide or consolidate land [shall] must submit plans and documents for approval [as provided by this title]. No subdivision plat may be filed with the bureau of conveyances or land court or state department of taxation until submitted to and approved by the director. Land [shall] must not be offered for sale in any subdivision, nor [shall] options or agreements for the sale of land in any subdivision be made, until approval for recordation of the final plat is granted by the director [as provided in this title], unless [such] the offer, option, or agreement expressly provides in writing that [such] the sale of land in the subdivision [shall] may not occur nor become effective unless and until all applicable agreements and bonds are executed in accordance with section 18.20.190, and approval for recordation of the final plat is granted by the director [as provided in this title].

C. The requirements of this title [shall] do not apply to a consolidation/resubdivision of two or more developable lots

resulting in the same or fewer number of developable lots that existed before the consolidation/resubdivision action or to the establishment of easements for ingress and egress where no new developable lots are created together with the establishment of the easement subject to the following conditions:

1. Compliance with title 19 [of this code], or chapter 205, Hawaii Revised Statutes, or both[;].
2. Compliance with chapter 18.08 [of this title], except for section 18.08.090[;].
3. Compliance with chapter 18.12 [of this title], except for section 18.12.070[;].
4. Compliance with chapter 18.24 [of this title].

D. Parcels that have undergone consolidation/resubdivision under this subsection [shall] do not qualify for this exception with respect to any subsequent consolidation/resubdivision of any of the parcels.

E. If the director finds that the subdivision will have a significant or substantial impact [upon] on public facilities or infrastructure, the director may impose [those] requirements in title 18 that are appropriate.

F. Except for family subdivisions as described in section 18.20.280 [of this code], a consolidation and a concurrent resubdivision that does not create additional developable lots, road widening lots, utility lots, and easements for access or utility purposes, the director [shall] must not approve any subdivision unless the subdivider provides written verification of a long term, reliable supply of water issued by the director of [the department of] water supply as [set forth] established in section 14.12.040 [of this code].

G. The requirements of this title [shall] do not apply to subdivisions initiated or co-sponsored by the department, solely, and for no other purpose than the acquisition of property for road widening lots, roadway extension lots, roadway improvement projects, roadway realignment projects, drainage lots, utility lots, park lots, and easements for access or utility purposes, [provided that such] if the subdivisions [shall] comply with sections 18.12.020, 18.12.030, 18.12.060, and 18.12.080 [of this title]. All applicable provisions of this code [shall] still apply to the subsequent development of the remainder [lot(s)] lots. Further, this provision [shall] does not extinguish pre-existing agreements or conditions imposed by shoreline management area permits, building permits, or land entitlement agreements required as conditions of subdivision applications and approvals. All pre-existing conditions and roadway improvement obligations and agreements [shall] remain in effect and will be enforced solely by the director authorized to administer the subject agreements. "Notices of Intent to Collect"

[shall] must be sent to property owners with outstanding obligations at the commencement of project funding, followed by collection notices to property owners at the time of right-of-way acquisition of County initiated or co-sponsored roadway projects.

H. These requirements do not apply to a subdivision initiated by a landowner solely for the purpose of creating and conveying a historic preservation lot to either a land trust organization accredited by the Land Trust Accreditation Commission or a government agency, subject to the following conditions:

1. Compliance with title 19, chapter 205, Hawaii Revised Statutes, or both.

2. Compliance with chapter 18.08.

3. Compliance with chapter 18.12.

4. Compliance with chapter 18.16.250.

5. Compliance with chapter 18.24.

6. The proposed accredited land trust organization complies with section 501(c) of the Internal Revenue Code and any other federal, state, and county laws regulating the conduct of charitable or nonprofit organizations.

7. The historic preservation lot does not contain areas other than:

a. Preservation areas identified in a preservation plan approved under chapter 6E, Hawaii Revised Statutes, which may include historic sites, buffer zones, or other similar areas in the preservation plan.

b. Areas necessary to provide pedestrian and vehicular access to preservation areas from a public or private street, an access easement from an adjacent parcel, or parking that may be limited or controlled for cultural and environmental resource protection and public safety to the historic sites.

c. Areas surrounding the preservation areas that are proposed for preservation by the landowner.

8. The historic preservation lot must be encumbered by a restrictive covenant limiting its use to purposes related to the preservation plan, which may include without limitation, the following uses: parking, pedestrian walkways, roadways, utilities, irrigation, landscaping, interpretative signage, walls, protective fencing, and open space.

9. Prior to issuing the final subdivision approval, the subdivider must present the department with a copy of a fully executed deed for the conveyance of the proposed historic preservation lot to an accredited land trust organization or a government agency that will be recorded or filed with the

appropriate entity by the subdivider, at the cost of subdivider, on the issuance of the final subdivision approval.

10. All applicable provisions of this section apply to the subsequent development of the remainder lots and the historic preservation lot.”

SECTION 3. This Ordinance takes effect on approval.

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INTRODUCED BY:

A handwritten signature in blue ink, appearing to read "Tom Cook", is positioned above a horizontal line.

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TOM COOK