

REQUEST FOR LEGAL SERVICES

Date: March 10, 2025
From: Tom Cook, Chair
Water and Infrastructure Committee

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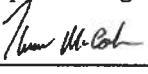
TRANSMITTAL

Memo to: DEPARTMENT OF THE CORPORATION COUNSEL
Attention: Caleb P. Rowe, Esq.

Subject: BILL 90 (2023), UTILITY LINES AND FACILITIES (WAI-12)

Background Data: Please see the proposed CD1 version of Bill 90 (2023). Please submit your response to wai.committee@mauicounty.us with a reference to WAI-12.

Work Requested: ☒ [X] FOR APPROVAL AS TO FORM AND LEGALITY
☐ [] OTHER:

Requestor's signature  Tom Cook, Chair	Contact Person <u>Keone J. Hurdle or Carla M. Nakata</u> (Telephone Extension: 7659 or 5519, respectively)
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☒ [X] ROUTINE (WITHIN 15 WORKING DAYS) ☐ [] RUSH (WITHIN 5 WORKING DAYS)
☐ [] PRIORITY (WITHIN 10 WORKING DAYS) ☐ [] URGENT (WITHIN 3 WORKING DAYS)

☐ [] SPECIFY DUE DATE (IF IMPOSED BY SPECIFIC CIRCUMSTANCES): _____
REASON: _____

FOR CORPORATION COUNSEL'S RESPONSE

ASSIGNED TO: MJH	ASSIGNMENT NO. 2025-0173	BY: jap for maa
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TO REQUESTOR: ☒ [X] APPROVED ☐ [] DISAPPROVED ☐ [] OTHER (SEE COMMENTS BELOW)
☐ [] RETURNING--PLEASE EXPAND AND PROVIDE DETAILS REGARDING ITEMS AS NOTED

COMMENTS (NOTE - THIS SECTION NOT TO BE USED FOR LEGAL ADVICE): _____

DEPARTMENT OF THE CORPORATION COUNSEL

Date 3/20/25

By MJH

(Rev. 7/03)

wai:ltr:012acc01:kjh

Attachment

ORDINANCE NO. _____

BILL NO. 90, CD1 (2023)

A BILL FOR AN ORDINANCE AMENDING SECTION 18.20.140, MAUI COUNTY CODE, RELATING TO UTILITY LINES AND FACILITIES

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

SECTION 1. This Ordinance's purpose is to implement the General Plan's objectives to promote the undergrounding of utility lines.

SECTION 2. Section 18.20.140, Maui County Code, is amended to read as follows:

"18.20.140 Utility lines and facilities. A. Electrical service for all improved lots [shall be] is required and [shall] must be provided for, coincident with other required improvements[; provided, however,], except that the director may waive this requirement for agricultural subdivisions where it can be shown that the specific intended use would not require such service.

B. [Utility] Except as provided in subsection C, utility lines, including [but not limited to] those required for electric, telephone, street lighting, cable television services, internet services, and other related facilities, [shall] must be installed underground in all subdivisions [laid out within the industrial, business, hotel, apartment and duplex areas in accordance with] under the applicable standards and methods employed for [such] underground installation by the public utility companies [involved; provided, however, where a subdivision consists of three lots or less, the].

C. The subdivider may, upon the director's approval, [of the director,] arrange to have [such] utility lines and related facilities installed overhead [in accordance with] under the standards and methods employed for [such] overhead installation by the public utility companies[.], if the director finds at least one of the following:

1. The subdivision consists of three or fewer lots.
2. The subdivision is part of a residential workforce housing project.
3. The subdivision includes cultural or historical areas of significance.

4. The subdivision includes topographic, surface, or subsurface conditions that make underground installations unreasonable or impractical.

[The director may require the installation of underground utilities serving the subdivision in other urban areas in order to assure compatibility with neighboring developments.]

D. The subdivider [shall be responsible for making] must make the necessary arrangements with government agencies and the public utility companies [concerned] for the installation of [such] utility lines and related facilities [in accordance with the requirements of this chapter.], consistent with this chapter's requirements. The subdivider must make a reasonable effort to install utility lines and related facilities under this section so as not to interfere with other underground utilities or proposed locations of other underground utilities.

[C.] E. [The] This section's provisions [of this section shall] do not apply to the following types of utility lines and related facilities:

1. Pedestals used exclusively for police and fire alarm boxes, traffic-control facilities, street lighting, or similar equipment belonging to or operated by [either] the state or the county[;].

2. Overhead lines attached to the exterior surface of a building by means of a bracket or other fixture and extending from one location [of] on the building to another location on the same building or to an adjacent building without crossing [any] a street or alley[;].

3. Electric distribution or transmission [system] systems in excess of [fifteen] 15 kilovolts[;].

4. Electric distribution transformers and related switching and protective equipment mounted on pads[;].

5. Electric distribution circuits of the [twelve kilovolt] 12-kilovolt class supported by metal poles without crossarm[; and].

6. Communication distribution terminals and television cable apparatuses mounted on pads or aboveground pedestals.

[D.] F. Whenever the strict application of [the] this section's requirements [of this section would be] are impractical because of the nature of the surface, subsurface, or topographical conditions of the property to be subdivided, the board of variances and appeals may approve [such] the modification [thereof as is reasonably] as may be necessary when in the public interest [of the public] and not contrary to [the] this chapter's intent and purposes [of this chapter]. Before [making] approving [any such] a modification, the board of variances and appeals [shall] must refer

the request for [any such] modification to the director for a recommendation.”

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, except that Section 2 does not apply to any applications for subdivisions with construction plans submitted on or before the Ordinance’s effective date.

APPROVED AS TO FORM AND LEGALITY:

/s/ Michael J. Hopper

Department of the Corporation Counsel
County of Maui

wai:misc:012abill01:kjh

INTRODUCED BY:

A handwritten signature in black ink, appearing to be 'Gabe Johnson', written above a horizontal line.

GABE JOHNSON