

COUNCIL OF THE COUNTY OF MAUI

**POLICY, ECONOMIC DEVELOPMENT,
AND AGRICULTURE COMMITTEE**

July 6, 2018

**Committee
Report No. _____**

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

Chair and Members:

Your Policy, Economic Development, and Agriculture Committee, having met on June 5, 2018, makes reference to County Communication 17-11, from Council Chair Mike White, relating to proposed amendments to the Revised Charter of the County of Maui (1983), as amended ("Charter").

By correspondence dated April 27, 2018, the Council Chair transmitted a proposed resolution entitled "PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), AS AMENDED, RELATING TO PENALTIES." The purpose of the proposed resolution is to place on the next General Election ballot the question of whether Section 13-10 of the Charter shall be amended to increase the penalty for the operation of a transient accommodation without a necessary permit from the current \$1,000 amount to a civil fine of up to \$20,000 plus \$10,000 per day for each day the unlawful operation persists, unless a higher fine is authorized by State law, and to clarify that the current limit of a \$1,000 fine for the violation of an ordinance is a limit of \$1,000 per day the violation persists.

Your Committee notes Article 14 of the Charter sets forth procedures related to amending the Charter. The Council, by resolution adopted after two readings on separate days and passed by a vote of six or more members, may place a Charter amendment question on the ballot at the next General Election.

Your Committee discussed the challenges of addressing illegal transient accommodations. Your Committee felt increasing the penalty amount from \$1,000 to \$20,000 plus \$10,000 per day for each day the

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unlawful operation persists, would be an additional tool to help curb violations.

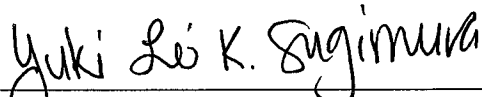
The Planning Director is in full support of the proposed resolution.

Your Committee discussed the possibility of increasing the fine amount to \$20,000 plus \$10,000 per day for each day the violation persists irrespective of the type of violation. However, your Committee agreed the current penalty amount for illegal transient accommodations is ineffective and increasing the penalty for this violation will provide a strong deterrent.

Your Committee voted 7-0 to recommend passage of the proposed resolution on first reading. Committee Chair Sugimura, Vice-Chair Crivello, and members Carroll, Cochran, Guzman, King, and White voted "aye." Committee members Atay and Hokama were excused.

Your Policy, Economic Development, and Agriculture Committee RECOMMENDS that Resolution _____, attached hereto, entitled "PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), AS AMENDED, RELATING TO PENALTIES," 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.



YUKI LEI K. SUGIMURA, Chair

Resolution

No. _____

PROPOSING AN AMENDMENT TO THE
REVISED CHARTER OF THE COUNTY OF MAUI
(1983), AS AMENDED, RELATING TO
PENALTIES

WHEREAS, Section 13-10 of the Revised Charter of the County of Maui (1983), as amended (“Charter”), states that the Council shall, by ordinance, provide for the punishment of violations of the Charter, and may provide for the punishment of violations of ordinances and rules having the force and effect of law; and

WHEREAS, Section 13-10 of the Charter further states that no penalty shall exceed the amount of \$1,000, or one year’s imprisonment, or both; and

WHEREAS, authorizing a higher penalty for the unlawful operation of a transient accommodation will provide a strong deterrent against such violations of the County’s comprehensive zoning ordinance; and

WHEREAS, at the same time a higher penalty for the unlawful operation of a transient accommodation is authorized, the penalties provision for other violations should be amended to clarify that each day a violation persists constitutes a separate violation subject to the \$1,000 maximum penalty, as the provision is currently implemented; now, therefore,

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

1. That, pursuant to Section 14-1(1) of the Charter, it hereby proposes that Section 13-10 of the Charter, pertaining to penalties, be amended to read as follows:

“The council shall, by ordinance, provide for the punishment of violations of any provisions of this charter and may provide

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for punishment of violations of ordinances and rules having the force and effect of law, but no penalty shall exceed the amount of ~~[\$1,000.00,]~~ \$1,000 per day for each day the violation persists, or one (1) year's imprisonment, or both[.]; except that the penalty for the operation of a transient accommodation without a necessary permit shall not exceed a civil fine of \$20,000 plus \$10,000 per day for each day the unlawful operation persists, unless a higher fine is authorized by State law. For purposes of this section, "transient accommodation" includes transient vacation rentals, bed and breakfast homes, short-term rental homes, and other categories of transient accommodation established by ordinance."; and

2. That material to be repealed is bracketed and new material is underscored; and

3. That, pursuant to Section 14-2(1) of the Charter, this resolution be submitted to the voters of the County of Maui at the next general election; and

4. That the County Clerk prepare the necessary ballot for presentation to the voters at the next general election; and

5. That, pursuant to Section 14-1(1) of the Charter, it hereby proposes that the following question be placed on the next general election ballot:

"Shall the Charter be amended, effective January 2, 2019, to increase the penalty for the operation of a transient accommodation without a necessary permit from the current \$1,000 amount to a civil fine of up to \$20,000 plus \$10,000 per day for each day the unlawful operation persists, unless a higher fine is authorized by State law, and to clarify that the current limit of a \$1,000 fine for the violation of an ordinance is a limit of \$1,000 per day the violation persists?"; and

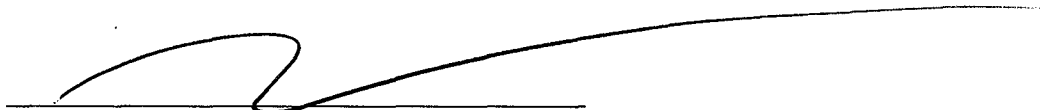
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6. That, pursuant to Section 14-2(2) of the Charter, the County Clerk shall publish the proposed amendment as set forth in this resolution in its entirety in a newspaper of general circulation; and

7. That, upon approval by the majority of the voters voting on the proposed amendment, the amendment proposed herein shall take effect as of January 2, 2019; and

8. That certified copies of this resolution be transmitted to the Mayor, the Planning Director, and the Corporation Counsel.

APPROVED AS TO FORM AND
LEGALITY



MICHAEL J. HOPPER
Deputy Corporation Counsel
County of Maui
2018-0442
2018-04-25 Resolution