

# REQUEST FOR LEGAL SERVICES

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CORPORATION COUNSEL

Date: **March 15, 2017**  
From: **Kelly T. King, Chair**  
**Planning Committee**

2017 MAR 15 AM 10:17

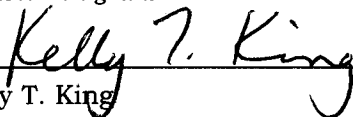
TRANSMITTAL

Memo to: **DEPARTMENT OF THE CORPORATION COUNSEL**  
**Attention: Michael Hopper, Esq.**

Subject: **PLANNING COMMISSION AND HANA ADVISORY COMMITTEE MEMBERSHIP REQUIREMENTS** (PC-6)

Background Data: Revised proposed bill relating to Planning Commission and Hana Advisory Committee membership requirements. In your response, please provide an original, signed hard copy.

Work Requested:  FOR APPROVAL AS TO FORM AND LEGALITY  
 OTHER:

Requestor's signature  Kelly T. King	Contact Person  Kimberley Willenbrink (Telephone Extension: 7761)
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RECEIVED  
OFFICE OF THE  
COUNCIL CLERK  
2017 MAR 15 PM 1:57

- ROUTINE (WITHIN 15 WORKING DAYS)
- PRIORITY (WITHIN 10 WORKING DAYS)
- RUSH (WITHIN 5 WORKING DAYS)
- URGENT (WITHIN 3 WORKING DAYS)

SPECIFY DUE DATE (IF IMPOSED BY SPECIFIC CIRCUMSTANCES): 3/16/17 at 4:30 p.m.  
REASON: For posting on the 3/24/2017 Council meeting agenda.

### FOR CORPORATION COUNSEL'S RESPONSE

ASSIGNED TO: <u>MJH</u>	ASSIGNMENT NO. <u>2017-0096</u>	BY: <u>TKM</u>
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TO REQUESTOR:  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 3/15/17

By MICHAEL J. HOPPER

(Rev. 7/03)

pc:ltr:006acc03:kew

Attachment

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

BILL NO. \_\_\_\_\_ (2017)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 2.28, MAUI COUNTY CODE, RELATING TO PLANNING COMMISSION AND HANA ADVISORY COMMITTEE MEMBERSHIP REQUIREMENTS

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

SECTION 1. Chapter 2.28, Maui County Code, is amended to read as follows:

**“Chapter 2.28**

**PLANNING COMMISSIONS**

**Sections:**

- 2.28.010 Maui planning commission—establishment.**
- 2.28.020 Molokai planning commission—establishment.**
- 2.28.025 Lanai planning commission-establishment.**
- 2.28.030 General plan and community plans.**
- 2.28.040 Zoning regulations.**
- 2.28.060 Hana advisory committee.**
- 2.28.070 [Planning commission and advisory committee training requirements.] Planning Commission and advisory committee membership requirements.**
- 2.28.080 Planning commission and advisory committee training requirements.**

**2.28.010 Maui planning commission—establishment.**  
The Maui planning commission is established pursuant to section 8-8.4 of the revised charter of the County of Maui (1983), as amended.

**2.28.020 Molokai planning commission-establishment.**  
The Molokai planning commission is established pursuant to

section 8-8.4 of the revised charter of the County of Maui (1983), as amended.

**2.28.025 Lanai planning commission—establishment.**

The Lanai planning commission is established pursuant to section 8-8.4 of the revised charter of the County of Maui (1983), as amended.

**2.28.030 General plan and community plans.** Any revision or amendment to any community plan shall be reviewed by the appropriate planning commission pursuant to chapter 2.80B of this code.

**2.28.040 Zoning regulations.** A. The appropriate planning commission shall also have the power to prepare and submit to the council appropriate zoning regulations regulating and limiting the height and bulk of buildings; determining the area of yards, courts and other open spaces; or regulating and restricting the location of trades and industries and the location of buildings designed for specific uses, including the establishment of building zones; or creating districts for any such purpose. After the submission of such regulations to the council, it may adopt the same, either in the form as submitted by the appropriate planning commission, or with such amendments as may be deemed requisite by the council.

B. The council may also require the appropriate planning commission to perform such other duties as it may hereafter, from time to time, prescribe.

**2.28.060 Hana advisory committee.** A. Establishment—members. There is established a Hana advisory committee to the Maui planning commission which shall consist of seven members appointed by the mayor with the approval of the council. Each member shall be a resident of the Hana district.

B. Member—residency requirement. To be eligible for appointment as a member of the Hana advisory committee, a person shall be a resident of the Hana district for a period of at least ninety consecutive days immediately preceding the person's appointment by the mayor. For the purposes of this section, the Hana district shall be delimited by section 4-1 of the Hawaii Revised Statutes. If a committee member ceases to be a resident of the Hana district, the committee member shall immediately forfeit office and the office shall thereupon be deemed vacant.

C. Terms and operation. Section 13-2 of the revised charter of the County of Maui (1983), as amended, shall apply to the Hana advisory committee in the same manner as said provisions

apply to boards and commissions recognized by the revised charter of the County of Maui (1983), as amended.

D. Powers, duties, and functions. The Hana advisory committee shall advise the Maui planning commission on matters within its jurisdiction and shall carry out such duties as may be delegated to it by the Maui planning commission.

**2.28.070 [Planning commission and advisory committee training requirements.] Planning commission and advisory committee membership requirements.** At least one member of each planning commission and Hana advisory committee shall have demonstrated expertise in native Hawaiian traditional and customary practices, as evidenced by one or more of the following credentials:

1. A college degree in a relevant field, such as Hawaiian studies, native Hawaiian law, native Hawaiian traditional and customary practices, including traditional environmental practices, or related subject area.

2. Work history that demonstrates an appropriate level of knowledge in native Hawaiian traditional and customary practices, including traditional environmental practices.

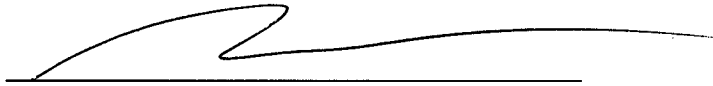
3. Substantial experience as a native Hawaiian traditional and customary practitioner.

**2.28.080 Planning commission and advisory committee training requirements.** In addition to any other training offered to members, each planning commission member and Hana advisory committee member shall participate in the Native Hawaiian Law Training Course for Boards, Commissions, Councils and Lawmakers, given by the Ka Huli Ao Center for Excellence in Native Hawaiian Law, provided funding for the training is available through the Office of Hawaiian Affairs. Participation shall occur within one year of the member's term of appointment, unless the planning director approves an appointee's request for a six-month extension for extenuating circumstances. Remote participation in training, through video and audio connection, shall satisfy this section's requirements."

SECTION 2. 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 3. This ordinance shall take effect upon its approval and shall apply to any subsequent vacancies on the Planning Commissions and Hana Advisory Committee.

APPROVED AS TO FORM AND LEGALITY:

A handwritten signature in black ink, consisting of a large, stylized initial 'R' followed by a long, horizontal, slightly wavy line extending to the right.

Department of the Corporation Counsel  
County of Maui

pc:misc:006abil103