

# Resolution

No. 26-68

REFERRING TO THE LĀNAʻI, MAUI, AND  
MOLOKAI PLANNING COMMISSIONS A  
PROPOSED BILL TO AMEND THE  
COMPREHENSIVE ZONING ORDINANCE ON  
NOTICE FOR AGRICULTURAL SUBDIVISIONS

WHEREAS, the Council is considering a proposed bill to amend Section 19.30A.040, Maui County Code, to require the subdivider of an agricultural lot to provide notice to lessees of the lot or a portion of the lot of the subdivider's intent to subdivide; and

WHEREAS, Sections 8-8.4 and 8-8.6 of the Revised Charter of the County of Maui (1983), as amended, require that the appropriate planning commissions review proposed zoning and other land use ordinances, and provide findings and recommendations to the Council; now, therefore,

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

1. That it refers the proposed bill, entitled "A BILL FOR AN ORDINANCE AMENDING THE COMPREHENSIVE ZONING ORDINANCE ON NOTICE FOR AGRICULTURAL SUBDIVISIONS," attached as Exhibit "1," to the Lānaʻi, Maui, and Molokai planning commissions for appropriate action under Sections 8-8.4 and 8-8.6 of the Revised Charter of the County of Maui (1983), as amended; and
2. That certified copies of this Resolution be transmitted to the Mayor, Planning Director, Lānaʻi Planning Commission, Maui Planning Commission, and Molokai Planning Commission.

APPROVED AS TO FORM AND LEGALITY:

/s/ Michael J. Hopper

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Department of the Corporation Counsel  
County of Maui

paf:cmn:26-075b

INTRODUCED BY:

*Tamara A.M. Paltin*

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TAMARA PALTIN

EXHIBIT "1"

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

BILL NO. \_\_\_\_\_ (2026)

A BILL FOR AN ORDINANCE AMENDING THE COMPREHENSIVE ZONING  
ORDINANCE ON NOTICE FOR AGRICULTURAL SUBDIVISIONS

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

SECTION 1. This Ordinance's purpose is to require the subdivider of an agricultural lot to provide notice to lessees of the lot or a portion of the lot of the subdivider's intent to subdivide. The Council seeks to further the following General Plan policies:

- "Enable greater public participation in the review of subdivisions."  
(Countywide Policy Plan, page 75.)
- "Consider requirements for public notification and review of the subdivision of agricultural land into four or more lots." (Maui Island Plan, page 7-8).

SECTION 2. Section 19.30A.040, Maui County Code, is amended to read as follows:

**"19.30A.040 Limitations on resubdivision.** A. At the time of subdivision, the director of public works [shall] must determine the maximum number of lots that can be created based [upon] on the provisions and standards [set forth] in section 19.30A.030.

B. The subdivider [shall] must allocate the maximum number of lots that can be created between the original lot and any new lot created [as a result of] by the subdivision.

C. At least 10 business days before the subdivision application is submitted to the County, the subdivider must:

1. Provide lessees of the lot or a portion of the lot to be subdivided with notice by mail of the subdivider's intent to subdivide.

2. Cause notice of the subdivision to be publicized to nearby residents through reasonable means such as through a press release or newspaper advertisement.

[C.]D. The allocation of lots [shall] must be recorded with the bureau of conveyances.

[D.]E. No lot[,] or portion [thereof, which] of a lot that is in the agricultural district [shall] may be further subdivided beyond the maximum number of lots permitted [pursuant to] under this chapter and as recorded with the bureau of conveyances, except as [provided] permitted by subsection [19.30A.040.C.] G.

[E.]F. The following subdivisions [shall] must not reduce the gross "area of lot" or the "maximum number of permitted lots" as provided by subsection [19.030A.030.G:] 19.30A.030(G):

1. Any subdivision requested by a public agency or public utility company for a public purpose;

2. Any consolidation and resubdivision in which no additional developable lots, as defined by section 18.04.123 [of this code], are created, [so long as this] if the consolidation and resubdivision would not result in the potential to create any additional lots than could have been created [prior to] before the consolidation and resubdivision;

3. Any subdivision [for purposes of providing an] to provide:

a. An easement exclusively for the protection of sites of cultural and historic significance; [greenways; protection]

b. Greenways;

c. Protection of sensitive environmental areas such as wetlands, streams, and endangered species habitat; and [easements]

d. Easements for public access to shoreline and mountain areas; or

4. [Any] A subdivision for purposes of providing a roadway easement, roadway lot, or restricted use lot.

[F.]G. If the original lot has been subdivided into the maximum number of lots permitted [pursuant to] under this chapter, additional lots may be created for family members as described in subsections [18.20.280 B.1] 18.20.280(B)(1) and [18.20.280 B.2 of this code,] 18.20.280(B)(2), whether or not a deferral of improvements is intended, with the [approval of the council; the] council's approval. The application for [such] additional lots [shall] must be processed in the same manner as

applications for conditional permits[, as provided by] under chapter 19.40[ of this title].

[G.]H. No deed, lease, agreement of sale, mortgage, or other instrument of conveyance [shall] may contain any covenant or clause [which] that restricts[, directly]~~—directly~~ or indirectly[, the]~~—~~ the operation of agricultural activities on lands within the agricultural district. This subsection [shall] does not apply to any covenant or clause existing [prior to the effective date of the ordinance codified in this chapter.] as of December 31, 1998.”

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:

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Department of the Corporation Counsel  
County of Maui

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INTRODUCED BY:

*Tamara A.M. Paltin*

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