

COUNCIL OF THE COUNTY OF MAUI
PLANNING COMMITTEE

March 24, 2017

Committee
Report No. 17-43

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

Chair and Members:

Your Planning Committee, having met on February 16, 2017, and March 9, 2017, makes reference to County Communication 17-76, from Councilmember Kelly King, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 2.28, MAUI COUNTY CODE, RELATING TO PLANNING COMMISSION AND HANA ADVISORY MEMBERSHIP REQUIREMENTS."

The purpose of the proposed bill is to require at least one member of each planning commission and the Hana Advisory Committee to have certain qualifications in conservation and natural resources, and native Hawaiian traditional and customary practices.

Your Committee notes the Council's Policy and Intergovernmental Affairs Committee (2015-2017 Council term) previously reported on this matter through Committee Report 16-192, which recommended adoption of a revised proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 2.28, MAUI COUNTY CODE, RELATING TO PLANNING COMMISSION AND HANA ADVISORY COMMITTEE TRAINING REQUIREMENTS" and filing the related County Communication 16-173.

Your Committee further notes the Council adopted the recommendations in Committee Report 16-192 on December 2, 2016, and Bill 119 (2016) was approved as Ordinance 4386 on December 20, 2016. Ordinance 4386 requires all members of the planning commissions and Hana Advisory Committee to participate in a native Hawaii law training course taught by the Ka Huli Ao Center for Excellence in Native Hawaiian Law. The ordinance did not include a requirement that one member from each planning commission and the Hana Advisory Committee have experience in native Hawaiian traditional and customary practices.

COUNCIL OF THE COUNTY OF MAUI
PLANNING COMMITTEE

Page 2

Committee
Report No. 17-43

At the request of your Committee, the Chair of your Committee transmitted a revised proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 2.28, MAUI COUNTY CODE, RELATING TO PLANNING COMMISSION AND HANA ADVISORY COMMITTEE MEMBERSHIP REQUIREMENTS," which removes the requirement for planning commission and Hana Advisory Committee members to have at least one member qualified in conservation and natural resources, and adds the words "Hana advisory committee" to Section 2.28.070.

Your Committee noted the importance of at least one member from each planning commission and Hana Advisory Committee having experience in native Hawaiian traditional and customary practices when reviewing land use proposals and applications.

Your Committee voted 5-0 to recommend passage of the revised proposed bill on first reading and filing of the communication. Committee Chair King, Vice-Chair Sugimura, and members Cochran, Guzman, and White voted "aye." Committee members Crivello and Hokama were excused.

Your Committee is in receipt of a further revised proposed bill, approved as to form and legality by the Department of the Corporation Counsel, incorporating your Committee's recommended revisions and nonsubstantive revisions.

Your Planning Committee RECOMMENDS the following:

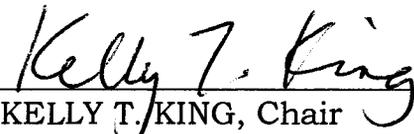
1. That Bill 40 (2017), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 2.28, MAUI COUNTY CODE, RELATING TO PLANNING COMMISSION AND HANA ADVISORY COMMITTEE MEMBERSHIP REQUIREMENTS," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 17-76 be FILED.

COUNCIL OF THE COUNTY OF MAUI
PLANNING COMMITTEE

Page 3

Committee
Report No. 17-43

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



KELLY T. KING, Chair

pc:cr:17006aa:kcw

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.

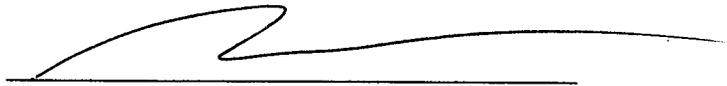
3. Substantial experience as a native Hawaiian traditional and customary practitioner.

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 series of loops and a long horizontal stroke, positioned above a solid horizontal line.

Department of the Corporation Counsel
County of Maui

pc:misc:006abill03