

COUNCIL OF THE COUNTY OF MAUI
PLANNING AND SUSTAINABLE LAND
USE COMMITTEE

December 16, 2022

Committee
Report No. _____

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

Chair and Members:

Your Planning and Sustainable Land Use Committee, having met on November 17, 2022, makes reference to the following:

1. County Communication 19-67, from the Planning Director, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE RELATING TO RENEWALS FOR CONDITIONAL, BED AND BREAKFAST HOME, SHORT-TERM RENTAL HOME, AND SPECIAL USE PERMITS."

The purpose of the proposed bill is to amend Section 19.40.090, Maui County Code, to allow for a grace period that would temporarily extend a permit while an application for the permit's renewal is being processed, unless the applicant fails to provide requested information to the Department of Planning within 60 days.

2. Correspondence dated October 7, 2019, from the Deputy County Clerk, transmitting Planning and Sustainable Land Use Committee Report 19-120, which was recommitted by the Council at its meeting of October 4, 2019.

Your Committee notes the Maui and Lānaʻi Planning Commissions met on June 26, 2018, and June 20, 2018, respectively, and recommended passage of the proposed bill with revisions.

Your Committee notes the Maui and Lānaʻi Planning Commissions recommended that the proposed bill be amended to allow for grace periods of up to six months, or up to 12 months if Council action is required.

COUNCIL OF THE COUNTY OF MAUI
PLANNING AND SUSTAINABLE LAND
USE COMMITTEE

Page 2

Committee
Report No. _____

Your Committee notes the Molokai Planning Commission met on July 11, 2018 and recommended disapproval of the proposed bill, but to exclude Molokai if the bill is passed.

By correspondence dated December 12, 2019, your Committee Chair transmitted a proposed bill entitled "A BILL FOR AN ORDINANCE RELATING TO EXTENSIONS FOR CONDITIONAL PERMITS."

The purpose of the proposed bill is to amend Section 19.40.090, Maui County Code, to conditionally allow for a grace period that would temporarily extend a Conditional Permit while an application for the permit's extension is being processed.

Your Committee notes that the Council's Planning and Sustainable Land Use Committee (2019-2021 Council term) previously met on this matter on September 18, 2019, October 16, 2019, December 18, 2019, and December 3, 2020.

Your Committee further notes it previously reported on this matter through Committee Report 19-133, which recommended a proposed bill entitled "A BILL FOR AN ORDINANCE RELATING TO RENEWALS FOR BED AND BREAKFAST HOME AND SHORT-TERM RENTAL HOME PERMITS," be passed on first reading and ordered to print. At its meeting of November 8, 2019, the Council adopted the recommendations in Committee Report 19-133 (Ordinance 5011 (2019)).

Your Committee noted Ordinance 5011 conditionally allows for a grace period to extend Bed and Breakfast Home and Short-Term Rental Home Permits while an application for the permit's renewal is being processed; however, there is no grace period for Conditional Permits.

The Planning Director said the proposed bill relating to extensions for Conditional Permits attempts to codify the Department's long-standing practice of permit renewals.

COUNCIL OF THE COUNTY OF MAUI
PLANNING AND SUSTAINABLE LAND
USE COMMITTEE

Page 3

Committee
Report No. _____

Your Committee agreed to amend the proposed bill by:

- 1) Adding a grace period for Conditional Permit applications;
- 2) Deleting Sections 3 and 4 relating to grace periods for Bed and Breakfast Home and Short-Term Rental Home Permits as a result of Ordinance 5011; and
- 3) Clarifying that only completed applications are accepted for Conditional Permit extensions provided certain criteria are met under Section 19.40.090(C).

Your Committee discussed clarifying the process for Council approval and revised the bill accordingly. New criteria was added that allows the Planning Director to approve an application for time extension if the Council, by resolution adopted at least 90 days prior to the extension, requests review of the time extension application.

Your Committee expressed concern with enforcement, but noted Conditional Permits would be complaint-driven similar to other types of permit enforcement.

Your Committee voted 6-1 to recommend passage of the revised proposed bill, entitled "A BILL FOR AN ORDINANCE RELATING TO EXTENSIONS FOR CONDITIONAL PERMITS," on first reading and filing of the communication. Committee Chair Paltin and members Johnson, Kama, Molina, Rawlins-Fernandez, and Sinenci voted "aye." Committee member Lee voted "no." Committee Vice-Chair King and member Sugimura were excused.

Your Committee is in receipt of a revised proposed bill, entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 19.40.090, MAUI COUNTY CODE, RELATING TO EXTENSIONS FOR CONDITIONAL PERMITS," approved as to form and legality by the Department of the

COUNCIL OF THE COUNTY OF MAUI
**PLANNING AND SUSTAINABLE LAND
USE COMMITTEE**

Page 4

**Committee
Report No.** _____

Corporation Counsel, incorporating your Committee's recommended revisions and nonsubstantive revisions.

Your Planning and Sustainable Land Use Committee RECOMMENDS the following:

1. That Bill _____ (2022), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 19.40.090, MAUI COUNTY CODE, RELATING TO EXTENSIONS FOR CONDITIONAL PERMITS," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 19-67 be FILED.

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



TAMARA PALTIN, Chair

ORDINANCE NO. _____

BILL NO. _____ (2022)

A BILL FOR AN ORDINANCE AMENDING SECTION 19.40.090,
MAUI COUNTY CODE, RELATING TO
EXTENSIONS FOR CONDITIONAL PERMITS

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

SECTION 1. The purpose of this Ordinance is to allow a grace period to temporarily extend a Conditional Permit while an application for the permit's extension is being processed.

SECTION 2. Section 19.40.090, Maui County Code, is amended to read as follows:

“19.40.090 Extensions. A. ~~[Conditional permits shall]~~ A conditional permit must not be extended unless the terms of the initial issuance ~~[explicitly]~~ expressly provide for ~~[same.]~~ the extension. ~~[In any case, extensions must be applied for]~~ An applicant for an extension must submit a completed application no later than [ninety] sixty days prior to expiration; however, the director may [waive] issue a written waiver of this requirement if the director finds that unusual circumstances prevented an applicant from filing a timely extension request. A copy of the written waiver must be sent to the council at the time of issuance.

B. An applicant for a time extension ~~[shall]~~ must provide by certified mail a notice of application for time extension to the owners and lessees of record located within ~~[five-hundred]~~ five hundred feet of the parcel on which the conditional permit use is located. The notice of application for time extension ~~[shall:]~~ must:

1. Describe the uses permitted by the conditional permit and include a map showing the subject parcel and all other lots within a ~~[five-hundred foot]~~ five-hundred-foot distance[; and].

2. State that owners and lessees of record may file a written protest against the proposed extension with the

[planning] director within forty-five days of the mailing of the notice of application for time extension.

C. The [planning] director may approve the application for time extension [provided] if the following criteria are met:

1. The permit holder is in compliance with the conditions of approval[;].

2. The permitted use has not been substantially changed, and new uses have not been added that may result in significant impacts above what would result from the approved conditional permit[;].

3. [Agencies have not identified new matters of concern that require mitigation; and] The permit holder has addressed any agencies' concerns.

4. No protests have been received from the owners and lessees of record located within five hundred feet of the parcel on which the conditional permit use is located after the notice requirements of subsection B have been met.

D. If the [application for time extension does not qualify for review and approval by the planning director,] criteria of subsection C are not met, or if the council, by resolution adopted at least ninety days prior to expiration, requests review of the time extension application, the application for time extension [shall] must be processed in the same manner as the original application.

E. If a completed application for extension is submitted in accordance with 19.40.090(A), and accepted, the conditional permit remains in effect while the application is being processed for up to six months after the expiration date, or for up to twelve months after the expiration date if council approval of the extension is required, unless the applicant fails to provide requested information to the department within sixty days."

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:



MICHAEL J. HOPPER

Department of the Corporation Counsel
County of Maui

pslu:misc:026abill01:wal

2022-12-06 PSLU-26 Ord Amd 19.40.090