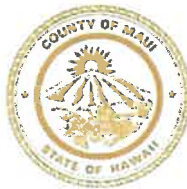


MICHAEL P. VICTORINO
Mayor
MICHELE CHOUTEAU MCLEAN, AICP
Director
JACKY TAKAKURA
Deputy Director



DEPARTMENT OF PLANNING
COUNTY OF MAUI
ONE MAIN PLAZA
2200 MAIN STREET, SUITE 315
WAILUKU, MAUI, HAWAII 96793

August 26, 2022

Honorable Michael P. Victorino
Mayor, County of Maui
200 South High Street
Wailuku, Hawaii 96793

APPROVED FOR TRANSMITTAL

Michael P. Victorino
Mayor

8/29/22
Date

For Transmittal to:

Honorable Kelly King, Chair
Climate Action, Resilience and Environment Committee
Maui County Council
200 South High Street
Wailuku, Hawaii 96793

Dear Committee Chair King:

**SUBJECT: BILL 21, CD1, FD1 (2022) SEABIRD AND BIODIVERSITY
PROTECTION (CARE-74)**

On August 24, 2022, the Department of Planning (Department) received a request for comments on the above-mentioned bill, with deadlines of August 23 for amendments and August 29 for comments. This is a very short turn-around time for meaningful comments, but we provide you with the following:

- HRS §205A-71 already includes restrictions on artificial light on shoreline and ocean waters; please ensure the county bill is consistent with state regulations. Conflicts will make the ordinance difficult to administer and enforce, and difficult for the public to comply.
- Outside the Special Management Area (SMA), this is generally not a matter that involves the Department. However, within the SMA (and potentially for properties subject to entitlement conditions), the wording of existing permit conditions and the bill's lack of grace period for conversion may be an issue that the Department will have to address.
- Given the restrictions being proposed on ocean-front residential properties, as well as all businesses and hotels along the shoreline, this bill should be reviewed by stakeholders such as

the Maui Hotel and Lodging Association and the Realtors Association of Maui, in addition to public outreach efforts.

- This bill will affect state and county facilities which are subject to resources established by the budget cycle.
- A prudent approach for all county facilities would be to fund an assessment to determine the steps needed for compliance before adopting this legislation, which appears to put the county and other landowners in immediate violation.
- Section 20.35.060.E(1) – To require all structures and buildings, with the exception of non-oceanfront private residences, to modify or relocate lights that reflect from polished or glass surface, and/or to repaint structures and buildings with “matte” paint is burdensome and unrealistic. The County will also be challenged to enforce this requirement.
- Section 20.35.070(4) –This section should be amended to include non-sporting events being held on these properties (i.e. high school graduation or music concert held at War Memorial Stadium; a fundraising campaign like the Charity Walk that may start early in the morning; the Maui Fair; a private fundraiser or event on a private school campus). This section should also consider various events on private property, such as private sporting facilities like Maui Lani Dunes Golf Course or other golf courses that offer evening hours, or Maui Golf & Sports Park.
- Section 20.35.080.B – Emergency lighting should be exempt indefinitely, similar to the lighting ordinance for the County of Hawaii after which this bill professes to be modeled. The Maui Police Department, along with other emergency services, expressed serious and significant concerns about this section, not only with the supposed “extension” deadline but also with the type of light requirement(s). Emergency services personnel, construction personnel, and residents should not be subjected to lighting that can jeopardize their physical safety. This is likely why the County of Hawaii exempted, with absolutely no caveats, emergency lighting required for public safety.
- Removal of existing language in Section 20.35.080.G – This bill eliminates outdoor lighting fixtures on a motion sensor timed to turn off within a five-minute time limit. There are countless residential and business properties that use (unshielded) motion sensor lights not only for security purposes (to deter criminal activity) but for health and safety purposes as well. The lights are used to assist navigating the home or business where lighting is only needed for a short period of time (dark halls, car ports, driveways, porches, decks, backyards) and without the need for a publically accessible power switch. Not only does this type of lighting ensure navigating challenging spaces in the dark, it reduces injury and reduces energy consumption, which ultimately reduces electrical costs for our residents. The elimination of this exemption is in clear contradiction to part of the bill’s purpose to decrease energy consumption, decrease fossil fuel resources, and to calm global climate change.

Honorable Michael P. Victorino
For Transmittal to:
Honorable Kelly King
August 26, 2022
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- Section 20.35.090 – The bill eliminates partially shielded light in all categories which will be costly for property owners with existing lighting that has to be modified to come into compliance, including lighting used for security and safety purposes. The bill or background documents should provide evidence that continuing with partially shielded light – which only allows 10% of light to be projected above the horizontal plain – is more detrimental to wildlife than it is to humans in regards to life and safety.
- There is no provision for commercial signs which are regulated in Chapter 16.13 of the Maui County Code. The bill should address business signs that can be illuminated, including drive-through menu boards.

The Department supports seabird and biodiversity protection, but this bill will have County-wide implications for virtually all residents and property and business owners, and it goes beyond the scope of simply addressing lighting along the shoreline and wildlife. Thank you for the opportunity to provide comments.

Sincerely,



Jacky Takakura
Deputy Director of Planning

C: Michele C. McLean, AICP, Director of Planning
Planning Department Division Chiefs

**DEPARTMENT COVER SHEET
FOR DOCUMENTS TO MAYOR** RECEIVED

CONTACT PERSON: Jacky Takakura x7743

'22 **AUG 26** P 3 :35
DATE: August 26, 2022

DEPARTMENT: Planning

OFFICE OF THE MAYOR

SUBJECT/BRIEF DESCRIPTION: CARE Committee request for comments on seabird and biodiversity
outdoor lighting bill Bill 21 CD1 FD1 (CARE-74)

DATE ACTION REQUIRED BY: by 8/31/22 if possible

ACTION REQUIRED BY MAYOR:



SIGNATURE



NOTARY



APPROVAL



REVIEW/COMMENT



OTHER

Transmittal to CARE Committee Chair Kelly King

REASONS FOR REQUESTED ACTION:

Please copy Jacky Takakura (jacky.takakura@mauicounty.gov) on transmittal. Thank you!

MAYOR'S OFFICE – WHEN COMPLETED, RETURN:



BACK TO THE DEPARTMENT



OTHER

Transmittal to CARE Chair King

CARE Committee

From: Michelle Santos <Michelle.Santos@co.maui.hi.us>
Sent: Monday, August 29, 2022 12:52 PM
To: CARE Committee
Cc: Avis Teshima-Wong; Jordan Hart; Josiah Nishita; Kayla Ueshiro; Michele McLean; Sandy Baz; Stacy Takahashi; Tyson Miyake; Zeke Kalua
Subject: MT#9854 Bill 21,CD1,FD1 Seabird and Biodiversity Protection
Attachments: MT#9854-CARE Committee.pdf

NOTE: PLEASE DO NOT FORWARD MY EMAIL TO ANYONE OUTSIDE OF THE COUNTY OF MAUI. YOU MAY CLICK ON THE ATTACHMENT ITSELF AND CREATE YOUR OWN EMAIL TO FORWARD THE DOCUMENT TO ANOTHER PERSON OUTSIDE OF THE COUNTY.

Michelle L. Santos

Office Operations Assistant

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fax: (808) 270-7870