

COUNCIL OF THE COUNTY OF MAUI
PLANNING COMMITTEE

February 17, 2017

Committee
Report No. _____

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

Chair and Members:

Your Planning Committee, having met on February 2, 2017, makes reference to County Communication 17-59, from the Planning Director, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTERS 16.12A AND 16.13, MAUI COUNTY CODE, RELATING TO SIGNS IN THE LAHAINA HISTORIC DISTRICTS."

The purpose of the proposed bill is to provide the Maui County Cultural Resources Commission (CRC) the authority to regulate noncommercial and commercial signs in Maui County Historic Districts 1 and 2 (Lahaina). The proposed bill would also grant authority to the CRC to promulgate rules, including design guidelines such as the "County of Maui Cultural Resources Commission Lahaina Historic Districts Design Guidelines."

The Executive Director of the Lahaina Restoration Foundation testified signs are problematic in the Lahaina historic districts. She stated the Foundation is very supportive of the proposed bill.

Your Committee notes the CRC administers the provisions of the three County historic districts, two in Lahaina and Historic District 3 in Wailuku.

The Cultural Resources Planner from the Department of Planning stated the CRC formed a temporary investigative group in 2014 to review the CRC's design guidelines for Lahaina. Based on the group's research, the Department prepared updates to the guidelines. Once the updates were complete, the Department met with Lahaina merchants and members of the community to discuss them. They forwarded the updates to the CRC who reviewed and recommended approval of the design guidelines in March 2015.

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The Planner further noted the proposed bill would allow the CRC to formally adopt the design guidelines as rules, provide the authority to regulate signs in the Lahaina historic districts, and provide variances as necessary.

The Chair of the CRC stated the proposed bill will help to streamline the permitting and variance processes.

A Department of Planning Zoning Inspector stated in past years, about 30 to 50 written notices of warning were issued per year. However, during the past five years, he has issued only one to two written notices of violation per year. He further stated violators have been fined approximately five times in the past eight years.

Giving the CRC authority to regulate the historic districts will aid the Department's enforcement efforts.

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

Your Planning Committee RECOMMENDS the following:

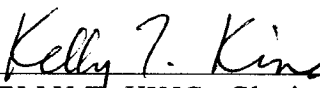
1. That Bill _____ (2017), attached hereto, entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTERS 16.12A AND 16.13, MAUI COUNTY CODE, RELATING TO SIGNS IN THE LAHAINA HISTORIC DISTRICTS," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 17-59 be FILED.

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



KELLY T. KING, Chair

pc:cr:17003aa:kcw

ORDINANCE NO. _____

BILL NO. _____ (2017)

A BILL FOR AN ORDINANCE AMENDING CHAPTERS 16.12A AND 16.13, MAUI COUNTY CODE, RELATING TO SIGNS IN THE LAHAINA HISTORIC DISTRICTS

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

SECTION 1. Purpose and Intent. The purpose of this bill is to amend the regulations for noncommercial and commercial signs as they apply to Maui County Historic District No. 1 and Maui County Historic District No. 2 so that signs in these historic districts are regulated by the Cultural Resources Commission.

SECTION 2. Section 16.12A.040, Maui County Code, is amended to read as follows:

“16.12A.040 Violation and penalty. A. Any signs not specifically permitted by this chapter are prohibited. A person who erects, owns, or uses a sign and who fails to comply with this chapter and the terms of any sign permit shall be guilty of a violation. An owner or lessee of real property who allows a sign to exist, or to be erected or used, on the property, and who fails to comply with this chapter and the terms of any sign permit shall be guilty of a violation.

B. The Maui County cultural resources commission may promulgate rules, including design guidelines, to further regulate signs in historic district no. 1 and historic district no. 2 as established by chapter 19.50 of this code.

[B.] C. A violation shall be punishable by a fine of not less than one hundred dollars and not more than one thousand dollars.

[C.] D. After the director or a law enforcement officer has given a written notice of violation to a person who fails to comply with this chapter, each additional day of noncompliance shall constitute a new violation unless the sign is removed.”

SECTION 3. Section 16.13.010, Maui County Code, is amended to read as follows:

"16.13.010 Purpose and intent. The council finds: A. That the people of Maui County have a primary interest in controlling the erection, location, and maintenance of signs in a manner designed to protect the public health, safety, and morals, and to promote the public welfare while providing a method of effective advertising[;] .

B. That there is a marked increase in the number and size of signs advertising business activities[;] .

C. That the increased number and size of such signs, coupled with the increased use of motor vehicles, make it imperative that the public streets and highways be kept free from signs which distract motorists' attention from driving and which detract from signs promoting traffic safety[;] .

D. That the indiscriminate erection, location, illumination, coloring, and size of signs constitute a significant contributing factor in increasing the number of traffic accidents on the public streets and highways[;] .

E. That the construction, erection, and maintenance of large signs suspended from, or placed on top of buildings, walls, or other structures, constitutes a direct danger to pedestrian traffic below such signs, especially during periods when winds of high velocity are prevalent[;] .

F. That the size and location of such signs may, if uncontrolled, constitute an obstacle to effective fire fighting techniques[;] .

G. That the people of Maui County have a primary interest in preserving the quality of life in the County by retaining the natural beauty of landscape, view, and attractive surroundings of the County[;] .

H. That such unique aesthetic qualities of the County also constitute an attraction for visitors and that a major source of income and revenue of the people of the County is derived from the visitor industry[;] .

I. That the indiscriminate erection and maintenance of large signs seriously detract from the enjoyment and pleasure of the natural scenic beauty of the County which in turn has a detrimental effect on the visitor industry and thereby the economic well-being of the County[;] .

J. That it is necessary for the promotion and preservation of the public health, safety, and welfare of the people of the County that the erection, construction, location, and maintenance of signs be regulated and controlled.

K. That signs in historic district no. 1 and historic district no. 2, as established by chapter 19.50 of this code, be regulated by the Maui County cultural resources commission in order to ensure that such signs maintain the historic character and integrity of the districts."

SECTION 4. Section 16.13.020, Maui County Code, is amended to read as follows:

"16.13.020 Applicability and effect. A. This chapter shall apply only to non-governmental signs located on private property.

B. This chapter shall not apply to historic districts created by chapter 19.50 of [the Maui County Code] this code, except for section 16.13.145, which shall apply to historic district no. 1 and historic district no. 2. This chapter shall not apply to lands administered by the department of Hawaiian home lands, [and] or land designated as conservation by the [state.] State.

C. The provisions of this chapter are not exclusive, and more restrictive requirements imposed pursuant to other laws shall apply, such as sign regulations pertaining to business country town districts, Wailuku redevelopment area, or other areas with adopted design guidelines, and prohibitions or restrictions set forth in land use approvals.

D. No sign permit issued under this chapter shall be deemed to constitute permission or authorization to maintain an unlawful sign, nor shall any sign permit constitute a defense to enforcement."

SECTION 5. Section 16.13.030, Maui County Code, is amended by adding a new definition to be appropriately inserted and to read as follows:

"Commission" means the Maui County cultural resources commission."

SECTION 6. Chapter 16.13, Maui County Code, is amended by adding a new section to be appropriately designated and to read as follows:

"16.13.145 Signs. A. Within historic district no. 1 and historic district no. 2, no signs that blink, revolve, or contain lighting from within shall be allowed. Signs parallel to a building or structure shall be no larger than twelve square feet. Signs perpendicular to a building or structure shall be no larger than eight

square feet. All signs shall conform to the architectural style of the district and any design guidelines or other rules that have been adopted by the commission.

B. Signs shall require a permit issued by the department. The commission may promulgate rules to clarify and implement this section, including the permit process, and the type, kind, number, size, placement, and design of signs."

SECTION 7. Section 16.13.170, Maui County Code, is amended to read as follows:

"16.13.170 Variances. A. A lessee or owner of real property upon which a sign is to be erected or an agent thereof with authorization from the owner and lessee, may apply for a variance from the requirements of this chapter. The director shall prescribe forms for this purpose.

B. The variance application shall be submitted to the director, with a non-refundable filing fee as established in the budget ordinance. The director shall review the application for completeness and shall inform the applicant within five working days of any additional information required to complete the application. Within five working days after receiving a completed application, the director shall transmit the application to the board for action. For variances for signs in historic district no. 1 and historic district no. 2, as established by chapter 19.50 of this code, the director shall transmit the application to the commission. The board or commission, as applicable, shall hold a meeting on the application.

C. The board or commission, as applicable, may grant a variance if it finds one of the following:

1. A variance may be granted for a structure or activity which is undertaken by a public agency or by a public utility regulated under [HRS] Hawaii Revised Statutes, chapter 269 or a private facility or improvement which is undertaken by a private entity and is clearly in the public interest; provided that the proposal is the practicable alternative which best conforms to the purpose of this chapter.

2. A variance may be granted for a sign if the following criteria are met:

a. Unique circumstances or special conditions exist which are peculiar to the land, structure, or activity involved[;] .

b. The proposal is the most practicable alternative[; and] .

c. The granting of the variance would not be contrary to the purposes of this chapter.

D. Within sixty days after the public meeting for a variance application, the board or commission, as applicable, shall grant the variance, grant the variance with appropriate conditions, or deny the variance; provided, that if the board or commission does not act within sixty days, the variance application shall be deemed approved. The board or commission shall set forth in writing the specific reasons for actions taken for variance applications.

E. Within two business days after the board or commission, as applicable, makes its final decision, the director shall issue an appropriate sign permit, with or without conditions, to the applicant or transmit a notice to the applicant that the variance application has been denied.

F. The board and commission may adopt rules to implement this section."

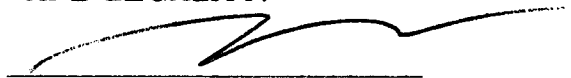
SECTION 8. Section 19.52.030, Maui County Code, is amended to read as follows:

"19.52.030 Signs. [Within] Signs within historic district no. 1 and historic district no. 2, [no signs that blink, revolve, or contain lighting from within shall be allowed. Wall signs shall be no larger than twelve square feet. Marquee or hanging signs shall be no larger than eight square feet. All signs shall be rustic in design.] shall be subject to section 16.13.145 of this code."

SECTION 9. 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 10. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM
AND LEGALITY:



MICHAEL J. HOPPER

Deputy Corporation Counsel

2016-0981

2016-11-29 ORD Amend Chapter 16.12A and 16.13