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OFFICE OF THE
COUNTY COUNCIL

MEMO TO: PEA-10 File

F R O M: Mike White
Council Chair



SUBJECT: **TRANSMITTAL OF LEGISLATIVE PROPOSAL RELATING TO
PROPOSED CHARTER AMENDMENTS** (PEA-10)

The attached legislative proposal pertains to Item 10 on your committee's agenda.

paf:ske:18-076c

Attachment

Resolution

No. _____

PROPOSING AN AMENDMENT TO THE
REVISED CHARTER OF THE COUNTY OF MAUI
(1983), AS AMENDED, RELATING TO
PENALTIES

WHEREAS, Section 13-10 of the Revised Charter of the County of Maui (1983), as amended (“Charter”), states that the Council shall, by ordinance, provide for the punishment of violations of the Charter, and may provide for the punishment of violations of ordinances and rules having the force and effect of law; and

WHEREAS, Section 13-10 of the Charter further states that no penalty shall exceed the amount of \$1,000, or one year’s imprisonment, or both; and

WHEREAS, authorizing a higher penalty for the unlawful operation of a transient accommodation will provide a strong deterrent against such violations of the County’s comprehensive zoning ordinance; and

WHEREAS, at the same time a higher penalty for the unlawful operation of a transient accommodation is authorized, the penalties provision for other violations should be amended to clarify that each day a violation persists constitutes a separate violation subject to the \$1,000 maximum penalty, as the provision is currently implemented; now, therefore,

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

1. That, pursuant to Section 14-1(1) of the Charter, it hereby proposes that Section 13-10 of the Charter, pertaining to penalties, be amended to read as follows:

“The council shall, by ordinance, provide for the punishment of violations of any provisions of this charter and may provide

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for punishment of violations of ordinances and rules having the force and effect of law, but no penalty shall exceed the amount of [~~\$1,000.00,~~] \$1,000 per day for each day the violation persists, or one (1) year's imprisonment, or both[.]; except that the penalty for the operation of a transient accommodation without a necessary permit shall not exceed a civil fine of \$20,000 plus \$10,000 per day for each day the unlawful operation persists, unless a higher fine is authorized by State law. For purposes of this section, "transient accommodation" includes transient vacation rentals, bed and breakfast homes, short-term rental homes, and other categories of transient accommodation established by ordinance."; and

2. That material to be repealed is bracketed and new material is underscored; and

3. That, pursuant to Section 14-2(1) of the Charter, this resolution be submitted to the voters of the County of Maui at the next general election; and

4. That the County Clerk prepare the necessary ballot for presentation to the voters at the next general election; and

5. That, pursuant to Section 14-1(1) of the Charter, it hereby proposes that the following question be placed on the next general election ballot:

"Shall the Charter be amended, effective January 2, 2019, to increase the penalty for the operation of a transient accommodation without a necessary permit from the current \$1,000 amount to a civil fine of up to \$20,000 plus \$10,000 per day for each day the unlawful operation persists, unless a higher fine is authorized by State law, and to clarify that the current limit of a \$1,000 fine for the violation of an ordinance is a limit of \$1,000 per day the violation persists?"; and

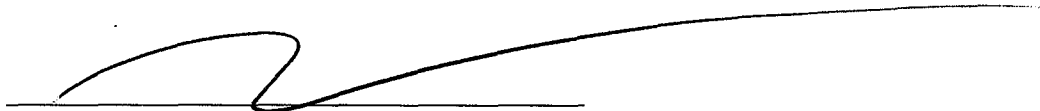
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6. That, pursuant to Section 14-2(2) of the Charter, the County Clerk shall publish the proposed amendment as set forth in this resolution in its entirety in a newspaper of general circulation; and

7. That, upon approval by the majority of the voters voting on the proposed amendment, the amendment proposed herein shall take effect as of January 2, 2019; and

8. That certified copies of this resolution be transmitted to the Mayor, the Planning Director, and the Corporation Counsel.

APPROVED AS TO FORM AND
LEGALITY



MICHAEL J. HOPPER
Deputy Corporation Counsel
County of Maui
2018-0442
2018-04-25 Resolution