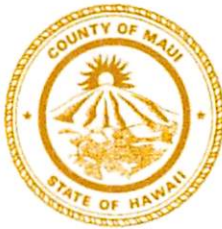


MICHAEL P. VICTORINO
Mayor
MICHELE CHOUTEAU MCLEAN, AICP
Director
JORDAN E. HART
Deputy Director



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

June 21, 2019

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

For Transmittal to:

Honorable Kelly King, Chair and Members of the Maui County Council
200 South High Street
Wailuku, Hawaii 96793

Dear Council Chair and Councilmembers:

SUBJECT: UNRESOLVED LAND USE VIOLATIONS

By practice, the Department of Planning does not grant new permits for uses on property for which there are unresolved land use violations. The Department recommends this practice be codified in the Maui County Code.

Therefore, pursuant to Sections 8-8.3(6) and 8-8.4 of the Revised Charter of the County of Maui (1983), as amended, I respectfully propose the Council's consideration and passage of the attached proposed bill, "A BILL FOR AN ORDINANCE RELATING TO UNRESOLVED LAND USE VIOLATIONS."

The bill states:

"The purpose of this ordinance is to prohibit or suspend the processing of an application for land use on a lot that is the subject of a pending enforcement action by the Planning Department."

The Molokai Planning Commission, Lanai Planning Commission, and Maui Planning Commission have all recommended that the Council pass the legislation, with the Maui Planning Commission recommending technical revisions that have been incorporated into the attached bill.

COUNTY COMMUNICATION NO. 19-290

RECEIVED
2019 JUN 24 AM 9:49
OFFICE OF THE MAYOR

RECEIVED
2019 JUN 25 AM 11:37
OFFICE OF THE
COUNTY CLERK

APPROVED FOR TRANSMITTAL

Michael P Victorino
Mayor Date

Honorable Michael P. Victorino, Mayor
For Transmittal to: Honorable Kelly King, Chair and Members of the Maui County Council
June 21, 2019
Page 2 of 3

Here is a summary of the planning commissions' recommendations:

<u>Planning Commission</u>	<u>Date of Vote</u>	<u>Recommendations</u>	<u>Vote Count</u>
Maui	June 26, 2018	Pass the bill with minor revisions.	6-0
Lanai	June 20, 2018	Pass the bill as presented.	7-0
Molokai	July 11, 2018	Pass the bill as presented.	9-0

Please see the referenced minutes of the meetings on the bill:

- Maui Planning Commission, June 26, 2018:
<https://www.mauicounty.gov/ArchiveCenter/ViewFile/Item/24982>
- Lanai Planning Commission, June 20, 2018:
<https://www.mauicounty.gov/ArchiveCenter/ViewFile/Item/25039>
- Molokai Planning Commission, July 11, 2018:
<https://www.mauicounty.gov/ArchiveCenter/ViewFile/Item/25154>

The Department believes this legislation would establish a greater degree of fairness in the County's land use processes and encourage the resolution of violations.

Passage of this bill would further a number of General Plan policies, goals, and objectives, including the following components of the Countywide Policy Plan (Ordinance 3732):

- "Improve enforcement activities relating to the natural environment." (page 48)
- "Improve the efficiency, reliability, and transparency of County government's internal processes and decision making." (page 79)
- "Strengthen the enforcement of County, State, and Federal land use laws." (page 80)

Honorable Michael P. Victorino, Mayor
For Transmittal to: Honorable Kelly King, Chair and Members of the Maui County Council
June 21, 2019
Page 3 of 3

Thank you for your attention and consideration. Should further clarification be necessary,
please feel free to contact me.

Sincerely,



MICHELE CHOUTEAU MCLEAN, AICP
Planning Director

Attachment
xc: Danny Dias, Planning Program Administrator TA (PDF)
MCM:JMCT:ckk
S:\ALL\APO\ineligibility\counciltransmittal.docx

ORDINANCE NO. _____

BILL NO. _____ (2019)

A BILL FOR AN ORDINANCE AMENDING SECTION 19.510.010,
MAUI COUNTY CODE, RELATING TO UNRESOLVED LAND USE VIOLATIONS

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

SECTION 1. The purpose of this ordinance is to prohibit or suspend the processing of an application for land use on a lot that is the subject of a pending enforcement action by the Planning Department.

SECTION 2. Section 19.510.010, Maui County Code, is amended by amending subsection C to read as follows:

“C. Application [Completeness Review.] completeness review. 1. Review of [Applications] applications for [Completeness] completeness by the [Planning Director.] planning director. All applications required by this title shall be submitted to the planning director. Not more than fifteen business days from the date upon which an application is received, the planning director shall review the application to determine if the application is complete or incomplete. If the application is complete, the planning director shall continue processing the application. If the application is incomplete, the planning director shall provide the applicant with a written statement that identifies the portions of the application determined to be incomplete. An application shall be incomplete, at any stage of the application process, if it is for or relates to land use on a lot or on a unit in a condominium property regime that is the subject of an unresolved enforcement action by the department, provided that the department has sent a notice of warning or notice of violation for such action. An application shall not be considered incomplete if payment of fines as required by the planning director and approval of the application would resolve the enforcement action. An enforcement action shall be unresolved until all fines as determined by the planning director have been paid.

2. For all community plan amendment and change in zoning applications deemed complete, the planning director shall prepare a report that shall include an assessment and detailed explanation for each requirement set forth in [section] subsection 19.510.010(D). The report shall include all relevant data, studies, agency reports, and any other information relied upon by the planning director in finding that an application is complete.

3. The planning director shall transmit the report to the council and the appropriate planning commission as a part of the report that is required by [section] subsection 19.510.020(A)(5) or 19.510.040(A)(3).

4. The planning director shall prepare an updated report for each amendment made to the application and transmit the updated report to the council and appropriate planning commission.”

SECTION 3. New material is underscored. In printing this bill, the County Clerk need not include the underscoring.

SECTION 4. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM AND LEGALITY:



MICHAEL J. HOPPER
Department of the Corporation Counsel
County of Maui
2019-0709
2019-06-17 Ordinance