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**COUNTY COUNCIL**  
COUNTY OF MAUI  
200 S. HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
[www.MauiCounty.us](http://www.MauiCounty.us)

November 10, 2021

Director of Council Services  
Traci N. T. Fujita, Esq.  
RECEIVED  
Deputy Director of Council Services  
David M. Raatz, Jr., Esq.

2021 NOV 12 AM 8:51

OFFICE OF THE  
COUNTY CLERK

The Honorable Alice L. Lee  
Council Chair  
County of Maui  
Wailuku, Hawaii 96793

Dear Chair Lee:

SUBJECT: **CULTURAL OVERLAY DISTRICTS** (PAF 21-109)

May I request the attached proposed resolution, entitled "REFERRING TO THE LĀNA'I, MAUI, AND MOLOKA'I PLANNING COMMISSIONS AND THE MAUI COUNTY CULTURAL RESOURCES COMMISSION PROPOSED BILLS RELATING TO CULTURAL OVERLAY DISTRICTS," be placed on the next Council meeting agenda.

Sincerely,

A handwritten signature in black ink, appearing to read "Shane M. Sinenci", is written over a horizontal line.

SHANE M. SINENCI  
Councilmember

paf:jbf:21-109k

Enclosure

COUNTY COMMUNICATION NO. 21-534

# Resolution

No. \_\_\_\_\_

REFERRING TO THE LĀNA‘I, MAUI, AND  
MOLOKA‘I PLANNING COMMISSIONS AND THE  
MAUI COUNTY CULTURAL RESOURCES  
COMMISSION PROPOSED BILLS RELATING TO  
CULTURAL OVERLAY DISTRICTS

WHEREAS, the Council is considering proposed bills to create cultural overlay district zoning and to establish the Hana Cultural Overlay District; and

WHEREAS, Sections 8-8.4 and 8-8.6 of the Revised Charter of the County of Maui (1983), as amended, require that the appropriate planning commissions must review proposed land use ordinances and amendments and provide findings and recommendations to the Council; and

WHEREAS, the Maui County Cultural Resources Commission maintains a system for the survey and inventory of archaeological sites within the County and implements a countywide historic preservation planning process; now, therefore,

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

1. That it refers the proposed bill, entitled “A BILL FOR AN ORDINANCE AMENDING TITLE 19, MAUI COUNTY CODE, TO ESTABLISH CULTURAL OVERLAY DISTRICT ZONING,” a copy of which is attached as Exhibit “1,” to the Lāna‘i Planning Commission, the Maui Planning Commission, and the Moloka‘i Planning Commission for appropriate action under Sections 8-8.4 and 8-8.6 of the Revised Charter of the County of Maui (1983), as amended, and to the Maui County Cultural Resources Commission for review and comment;
2. That it refers the proposed bill, entitled “A BILL FOR AN ORDINANCE AMENDING TITLE 19, MAUI COUNTY CODE, TO ESTABLISH THE HANA CULTURAL OVERLAY DISTRICT,” a copy of which is attached as Exhibit “2,” to the Lāna‘i Planning Commission, the Maui Planning Commission, and the Moloka‘i Planning Commission for appropriate action under

**Resolution No. \_\_\_\_\_**

Sections 8-8.4 and 8-8.6 of the Revised Charter of the County of Maui (1983), as amended, and to the Maui County Cultural Resources Commission for review and comment;

3. That it respectfully requests that the Lānaʻi, Maui, and Molokaʻi Planning Commissions transmit their findings and recommendations to the Council as expeditiously as possible; and
4. That certified copies of this resolution be transmitted to the Mayor, the Planning Director, the Lānaʻi Planning Commission, Maui Planning Commission, and Molokaʻi Planning Commission.

ORDINANCE NO. \_\_\_\_\_

BILL NO. \_\_\_\_\_ (2021)

A BILL FOR AN ORDINANCE AMENDING TITLE 19, MAUI COUNTY CODE, TO  
ESTABLISH CULTURAL OVERLAY DISTRICT ZONING

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

SECTION 1. Article II, Title 19, Maui County Code, is amended by adding  
a new chapter to be appropriately designated and to read as follows:

**“Chapter 19.46**

**CULTURAL OVERLAY DISTRICT**

Sections:

- 19.46.010 Title and purpose.
- 19.46.020 Establishment
- 19.46.030 Requirements for cultural sensitivity level.
- 19.46.040 Designation level updates.
- 19.46.050 Appeals.
- 19.46.060 Regulations based on cultural sensitivity designation.
- 19.46.070 Administrative rules.

**19.46.010. Title and purpose.** The ordinance codified in this chapter is known and may be cited as the “Maui County Cultural Overlay District Ordinance.” As stated in the countywide policy plan, County government has a responsibility and is mandated to protect cultural resources. Certain geographically definable areas contain a great density of cultural and archaeological remains to the extent that development in these areas is likely to disturb archaeological and burial sites. Many of these sites are significant and require special consideration and careful planning to ensure that the past is not erased but is preserved for the benefit of generations to come.

The establishment of cultural districts in culturally sensitive areas will alert developers, property owners, and nearby residents that special consideration may be needed to protect cultural assets

and lay out an efficient review process. Cultural overlay districts also provide an educational opportunity for residents and visitors alike. Designated districts areas can be beneficial in the process of obtaining grant funding for cultural arts, motifs, statues, plaques, and walking educational tours that can serve to strengthen our unique history.

Districts can aid in the educational and strengthening process through the use of proper placenames and the encouragement of cultural design in quasi-public and other buildings.

**19.46.020 Establishment.** A. Cultural overlay district designations are in addition to zoning and do not change the underlying zoning designation of a property.

B. Any person or agency may nominate an area for cultural overlay district designation.

C. The County principal archeologist must provide a nomination application form that must include the following:

1. Applicant name and contact information.
2. Overlay district map.
3. Regional map.
4. Photos of the area.
5. Information on the area's fulfillment of the criteria listed in subsection H.
6. Other relevant information.

D. Nomination applications must be submitted to the principal archeologist after an initial consultation has been completed to determine eligibility.

E. There is no fee for nomination applications.

F. Complete applications meeting the criteria established in subsection H must be processed by the principal archeologist. A bill for an ordinance must be created by the principal archeologist, and a cultural overlay district map must be created by County geographic information systems (GIS) staff within ninety days of submittal of a complete application. The bill and map must be submitted to the council chair, who must process the bill in accordance with subsection I.

G. A cultural landscape approach and GIS technology must be used to display information spatially.

H. A cultural overlay district must be a geographically definable area that is culturally significant and must include two or more of the following criteria:

1. Demonstrate a pattern of or complex of sites that exhibit integrity and have the potential to reveal further information about County history.
2. Be associated with historic events that made contributions to broad patterns of County history.

3. Be associated with an important person from the County's past.
4. Be an example of a particular type, period, or method of construction or have high artistic value.
5. Have potential to reveal further information about the County's history (pre- or post-contact).
6. Have important value to Native Hawaiian people or to another ethnic group because of associations with cultural practices or because of associations with traditional beliefs, events, or oral accounts that are important to the group's history and cultural identity.
7. Have religious value in the established traditions of Hawaiian culture or another ethnic group.
8. Retain components of a traditional lifestyle that is widely recognized as important in maintaining the cultural identity of the community.
9. Contains, or is in proximity to, a known burial site or burial ground.

I. The council may designate overlay districts by ordinance after providing each of the following one hundred twenty days to provide recommendations: the applicable planning commission, the cultural resources commission, the applicable island burial council, the office of Hawaiian affairs, and the State historic preservation division, department of land and natural resources. Failure to provide recommendations or comments has no effect on the council's authority to act on the bill.

**19.46.030. Requirements for cultural sensitivity level.**

A. The principal archaeologist, working with County GIS staff, must establish and update cultural overlay district maps within thirty days of a new or updated district ordinance.

B. In a cultural sensitivity level, the principal archaeologist must determine which of the criteria listed in subsection 19.46.020(H) exist on the property and display each criteria on the cultural overlay map.

C. The level of cultural sensitivity may be high, medium, or low based on the quantity of culturally sensitive criteria as defined in subsection 19.46.020(H); areas that meet criterion for subsections 19.46.020(H)(5) or 19.46.020(H)(9) have a high level of sensitivity.

D. Prior to the issuance of any of the following approvals for property located within a cultural district overlay district, the principal archaeologist must establish a cultural sensitivity designation:

1. Change in zoning under section 19.510.040.

2. Community plan amendment under section 2.80B.110.
  3. Conditional zoning under section 19.510.050.
  4. District boundary amendment under chapter 19.68.
  5. Grading or grubbing permit under chapter 20.08.
  6. Special use permit under section 19.510.070.
  7. Subdivision approval under section 18.08.100.
  8. On or adjacent to a property with a high level of sensitivity, building permits that involve ground-altering activities under title 16.
- E. Proper placenames must be used for areas within the district.
- F. Cultural motifs, art, informational plaques, and building designs honoring Hawaiian or other ethnic group culture are encouraged.
- G. A separate permit fee is required for applications listed in subsection D and located in a cultural overlay district.

**19.46.040 Designation level updates.** A. Cultural sensitivity levels may change as new information is discovered and recorded.

B. As new information is received by the principal archeologist, the information must be placed onto a draft updated map by County GIS staff. A bill for an ordinance adopting the updated map must be created by the principal archeologist at least every six months. The bill and updated map must be submitted to the council chair, who must process the bill in accordance with subsection 19.46.020(I).

C. Any person or agency may request the principal archeologist provide a draft property sensitivity designation update, if new information has been submitted about the subject property or properties located within a designated radius based upon the archaeological, ethnographic, and scientific data, including soil and drainage, as provided in administrative rules. A bill for an ordinance to update property sensitivity designation based upon a request by a person or agency must be submitted to the council within thirty days of the request.

D. The council must act on a bill proposing a cultural district overlay map update within ninety days.

**19.46.050 Appeals.** Appeals of a designation or designation update can be made by a property owner or a lineal descendent to the council within forty-five days from the date of determination. The council can set a new designation by ordinance.

**19.46.060 Regulations based on cultural sensitivity designation.** A. For land within a cultural overlay district, if historic property is identified, activities granted by the permit must stop until approval to proceed is granted by the State historic preservation division and the principal archaeologist.

B. For land within a cultural overlay district, onsite monitoring by a professional approved by the State historic preservation division is required, and the principal archaeologist must be provided during ground-altering activities.

C. For land within a cultural overlay district, the principal archaeologist can impose conditions on the permit triggering the review to mitigate potential impacts, including site avoidance.

D. For land within the cultural overlay district with a medium or high cultural sensitivity designation, the principal archaeologist may transmit permit and project information to the following for comments to assist in establishing permit conditions: the State historic preservation division, the cultural resources commission, the applicable island burial council, the applicable aha moku council, the Office of Hawaiian Affairs, and the department of Hawaiian home lands.

E. For land within the cultural overlay district with a high cultural sensitivity designation, development must not be initiated until a cultural site avoidance plan is reviewed and approved by the principal archaeologist, the applicable island burial council, and cultural resources commission.

**19.46.070 Administrative rules.** The principal archaeologist must adopt administrative rules to implement this chapter's provisions."

SECTION 2. Section 18.08.100, Maui County Code, is amended to read as follows:

**"18.08.100 Approval.** A. Director's review period.

1. Within thirty days after submission of the preliminary plat of a subdivision to be processed as an affordable housing project, the director [shall] must review the plan and may give approval of the preliminary plat as submitted, or as it may be modified, or may disapprove the [same] preliminary plat and [shall] must express the disapproval and the reasons [therefor] for disapproval in writing.

2. Within forty-five days after submission of the preliminary plat of a subdivision for a long-term residential development [which] that is not to be processed as an



affordable housing project or after submission of the preliminary plat of a subdivision [which] that is outside of the scope of subsection [18.08.100.A.1] 18.08.100(A)(1), the director shall review the plan and may give approval of the preliminary plat as submitted, or as it may be modified, or may disapprove the [same] preliminary plat and [shall] must express the disapproval and the reasons [therefor] for disapproval in writing.

B. The director may also defer consideration of the preliminary plat pending receipt of additional information, in which case the running of time is suspended.

C. Approval of the preliminary plat [shall] must indicate the director's directive to prepare detailed drawings on the plat submitted, [provided] as long as there is no change in the plan of subdivision as shown on the preliminary plat and there is full compliance with all requirements of this chapter. The action of the director with reference to any attached documents describing any conditions [shall] must be noted on two copies of the preliminary plat. One copy [shall] must be returned to the subdivider and the other retained by the director. At such time, the director [shall] must stamp the two preliminary plats[;] as follows:

1. "Subdivider authorized to prepare detailed drawings on plat as submitted including corrections noted;"

2. "Recordation with the Bureau of Conveyances, State of Hawaii, or State Department of Taxation, not authorized until approved for recordation at a later date."

D. If no action (approval, disapproval, modification or deferral) is taken by the director within the review period identified in subsection [18.08.100.A] 18.08.100(A), or [such] a longer period as may have been agreed upon in writing, the preliminary plat [shall] must be deemed approved, and [it shall be the duty of] the director [to endorse his] must express approval [of] on the preliminary plat [upon the face thereof]. [Such approval by the director shall] The director's approval does not exempt the subdivider from compliance with the mandatory requirements of this ordinance.

E. In a cultural overlay district, the principal archaeologist must establish a cultural sensitivity designation and can establish permit conditions to mitigate any potential impacts before approval.

SECTION 3. Section 19.04.040, Maui County Code, is amended by adding new definitions to be appropriately inserted and to read as follows:

"Cultural landscape approach" means a holistic effort to reveal and sustain the great diversity of the interactions between

humans and their environment, to protect living traditional cultures and to preserve the traces of those that have disappeared.

““Historic property” means any building, structure, object, district, area, or site, including heiau and underwater site, that is over fifty years old.”

““Overlay district” means the same as in section 2.80B.020.”

SECTION 4. Chapter 19.06, Maui County Code, is amended by adding a new section to be appropriately designated and to read as follows:

**“19.06.011 Overlay districts designated.** The County has the following overlay districts in addition to the use zone districts provided in section 19.06.010: cultural overlay districts.”

SECTION 5. Section 19.68.040, Maui County Code, is amended to read as follows:

**“19.68.040 Action by the county council.** A. Upon receipt of the appropriate planning commission’s report and recommendations, the county council [shall] must consider the application and may adopt the findings and recommendations, in whole or in part, or otherwise act upon the report and transcript or summary, and, in the council’s discretion, hold further hearings and take further evidence and testimony [in connection therewith,] before taking final action.

Final action approving an application [shall] must be by the adoption of an ordinance; [provided, however,] except that lands identified by the [state] State as important agricultural lands needed to fulfill the purposes of conserving and protecting agricultural lands, promoting diversified agriculture, increasing agricultural self-sufficiency, and assuring the availability of agriculturally suitable lands[, shall] must not be reclassified without meeting the standards and criteria established by the legislature and enactment of an ordinance approving the reclassification of [such] the lands by an affirmative vote of at least two-thirds of the council’s membership rather than the usual majority.

B. Prior to the enactment of an ordinance effecting any [reclassification/boundary] reclassification or boundary change, the council may impose conditions upon the applicant’s use of the property, with fulfillment of [such] the conditions to be prerequisite to the adoption of [such] the ordinance [or applicable part thereof]. [Such] The conditions [shall] must have already been performed prior to council action on the [reclassification/change] reclassification or change of boundary or be enforceable by the

county after council action. Conditions [shall] must be fulfilled within the time limitation established by the council, or, if no time limitation is established, within a reasonable time. [Such] The conditions, if any, [shall] run with the land and must be recorded in the bureau of conveyances or filed with the assistant registrar of the land court. Conditions [shall] must be imposed only if the council finds [such to be] them necessary to prevent adverse effects upon public health, safety, and welfare, and [shall be] reasonably conceived to fulfill needs arising directly out of proposed land use in the following respects:

1. Protection of the public from the potentially deleterious effects of the proposed use; or
2. Fulfillment of the need for public service demands created by the proposed use.

[Such] The County may enforce the conditions [shall be enforceable by the county,] by appropriate action at law or equity, against the parties and their heirs, personal representatives, successors, and assigns, and [shall] the conditions run with the land.

C. Within sixty days of the effective date of enactment of an ordinance amending the [state] State land use district boundaries a certified copy of the ordinance and a description and map of the affected property [shall] must be transmitted to the [state] State land use commission and the [state] State department of [planning and] business, economic development, and tourism by the [county] planning director.

D. In the cultural overlay district, the principal archaeologist must establish a cultural sensitivity level and can establish permit conditions to mitigate any potential impacts before approval."

SECTION 6. Section 19.510.040, Maui County Code, is amended by adding a new subsection to be appropriately inserted and to read as follows:

**"19.510.040 Change of zoning.** A. All applications for change of zoning [shall] must be processed as applications [which that require a public hearing in accordance with the procedures set forth in sections 19.510.010 and 19.510.020 of this code and the following requirements:

1. The appropriate planning commission [shall] must conduct a public hearing on all change of zoning applications;
2. Upon closing the public hearing and upon reviewing the report and recommendation of the planning director and all other applicable information on the

application, the commission [shall] must prepare a report [which] that includes[, but which is not limited to,] the commission's findings of fact, conclusions of law, recommendations, and any recommended condition [which] that the commission determines to be necessary [pursuant to] under the conditional zoning provisions of this chapter;

3. Upon appropriate action by the commission, the director of planning [shall] must transmit the report of the commission to the county council;

4. The county council may grant a change of zoning if all of the following criteria are met:

a. The proposed request meets the intent of the general plan and the objectives and policies of the community plans of the county,

b. The proposed request is consistent with the applicable community plan land use map of the county,

c. The proposed request meets the intent and purpose of the district being requested,

d. The application, if granted, would not adversely affect or interfere with public or private schools, parks, playgrounds, water systems, sewage and solid waste disposal, drainage, roadway and transportation systems, or other public requirements, conveniences and improvements,

e. The application, if granted, would not adversely impact the social, cultural, economic, environmental, and ecological character and quality of the surrounding area, and

f. If the application change in zoning involves the establishment of an agricultural district with a minimum lot size of two acres, an agricultural feasibility study [shall] must be required and reviewed by the department of agriculture and the United States Soil and Conservation Service.

B. Protests. Protests may be filed with the appropriate planning commission prior to or on the public hearing date of the application being protested. In the case in which the owners or lessees of record of [forty] 40 percent or more of the parcels located within a five-hundred-foot distance from the boundaries of the subject parcel have filed written protests, the ordinance that grants the application [shall] must not become effective unless approved by a vote of at least six members of the council. In calculating the percentage of owners or lessees of record who have filed written protests, the following standards shall apply:

1. Protest Area. The total number of parcels that are located within a five-hundred-foot distance from the boundaries of the subject parcel [shall] must include parcels that are situated entirely within five hundred feet and those with only a portion situated within five hundred feet. Each parcel, whether situated entirely or partially within five hundred feet, [shall] must be counted equally toward the percentage calculation. Publicly owned parcels, such as roadways and parks, [shall] must be included in the computation.

2. Protest by less than all owners or lessees of a parcel. A parcel within a five-hundred-foot distance from the boundaries of the subject parcel [shall] must be treated as having filed a protest if any of the parcel's owners or lessees filed a timely protest.

3. Withdrawal of Protest. A protest may be withdrawn in writing, even if the withdrawal is received after the date of the planning commission's public hearing on the application. A protest may not be reinstated after [such] that date. Upon receipt of a written withdrawal of protest, the percentage of owners or lessees of record who have filed written protests [shall] must be recalculated.

4. Change of zoning initiated by planning director or council. Unless the planning director or council otherwise specify in writing at the time the change of zoning is initiated, the protest provisions under this section [shall] do not apply to a change of zoning initiated by the planning director or council.

C. Project Master Plan and Development Plan. The applicant [shall] must submit a project master plan and development plan, as provided in this title.

D. In a cultural overlay district, the principal archaeologist must establish a cultural sensitivity level and can establish permit conditions to mitigate any potential impacts before approval."

SECTION 7. Section 19.510.050, Maui County Code, is amended to read as follows:

**"19.510.050 Conditional zoning.** A. Prior to the enactment of an ordinance effecting any change in zoning, the county council may impose conditions upon the applicant's proposed use of the property.

B. The conditions [shall] may be imposed if the council finds them necessary to prevent circumstances [which] that may be

[adverse to the public health, safety, convenience, and welfare. The conditions [shall] must be reasonably conceived to mitigate the impacts emanating from the proposed land use and [shall] must meet the following criteria:

1. That the public [shall] must be protected from the potentially deleterious effects of the proposed use; and

2. That the need for public services created by the proposed use [shall] must be fulfilled.

C. The conditions to be imposed must have been performed prior to council action on the rezoning amendment or be enforceable by the [county] County so as to ensure performance after council action. The conditions [shall] must be fulfilled within the time limitation set by the council, or, if no time limitation is set, within a maximum of five years from the date the ordinance is in effect.

D. [Such] The conditions [shall] must be set forth in a unilateral agreement running in favor of the [county] County, acting by and through the [chairman] chair of the county council. No ordinance with conditions [shall] will be effective until [such] the unilateral agreement, properly executed, has been recorded with the bureau of conveyances of the State of Hawaii or the land court of the State, as the case may be, so that the conditions imposed pursuant to such agreement [shall] run with the land and [shall] bind and constitute notice to all subsequent grantees, assignees, mortgagees, lienors, and any other person who claims an interest in [such] the property. The agreement [shall] must be properly executed and delivered to the [county] County prior to council action on the ordinance with conditions; [provided however,] except that the council may grant reasonable extensions in cases of practical difficulty. [Such] The unilateral agreement [shall] must not restrict the power of the council to rezone with or without conditions. The unilateral agreement [shall] must be enforceable by the [county] County, by appropriate action at law or suit in equity, against the parties and their heirs, personal representatives, successors, and assigns.

E. The council may require a bond, in a form acceptable to it, or a cash deposit from the property owner or contract purchaser in such amount as will assure compliance with the conditions imposed [pursuant to] under this section. [Such] The bond [shall] must be posted at the same time the unilateral agreement containing the conditions is recorded [with the bureau of conveyances of the state or the land court of the state, as the case may be].

F. Failure to fulfill any conditions on a zone change within the specified time limitations may be grounds for the enactment of

ordinances to restore the zoning to the previous zoning district or initiate a claim on the bond.

G. Changes or alterations of conditions [shall] must be processed in the same manner as petitions for zone changes.

H. In reviewing and approving permits, certificates, plans, or any other matter [which] that requires the approval of the director of public works, the director of public works [shall] must enforce the provisions of the conditions.

I. In a cultural overlay district, the principal archaeologist must establish a cultural sensitivity level and can establish permit conditions to mitigate any potential impacts before approval."

SECTION 8. 19.510.070, Maui County Code, is amended to read as follows:

**"19.510.070 Special use permits.** A. Compliance Required. A special use permit [shall] must comply with the provisions of this section and with the policies and objectives of the general plan and community plans of the [county] County, the Hawaii Revised Statutes, and the revised charter of the [county] County.

B. Criteria for Permit. Subject to the provisions of this chapter, the appropriate planning commission [shall] must review and, after a public hearing, may approve a request for a special use if the commission finds that each of the following criteria have been met:

1. The proposed request meets the intent of the general plan and the objectives and policies of the applicable community plan of the [county] County;

2. The proposed request is consistent with the applicable community plan land use map of the [county] County;

3. The proposed request meets the intent and purpose of the applicable district;

4. The proposed development will not adversely affect or interfere with public or private schools, parks, playgrounds, water systems, sewage and solid waste disposal, drainage, roadway and transportation systems, or other public requirements, conveniences, and improvements;

5. The proposed development will not adversely impact the social, cultural, economic, environmental, and ecological character and quality of the area;

6. That the public [shall] must be protected from the deleterious effects of the proposed use;

7. That the need for public service demands created by the proposed use [shall] must be fulfilled; and

8. If the use is located in the state agricultural and rural district, the commission shall review whether the use complies with the guidelines established in section 15-15-95 of the rules of the land use commission of the State.

C. Application Process. All applications for a special use permit [shall] must comply with the application procedures established in sections 19.510.010 and 19.510.020 of this code; [provided,] that if a state special use permit is required, requirements of chapter 205, [shall] Hawaii Revised Statutes also apply.

D. If applicable to the requirements of the district, the applicant [shall] must provide a project master plan and development plan as provided in this article; except, that these plans need not be transmitted to the county council.

E. The planning commission may impose conditions on the granting of a request for a special use if the conditions are reasonably conceived to mitigate the impacts emanating from the proposed land use.

F. In a cultural overlay district, the principal archaeologist must establish a cultural sensitivity level and can establish permit conditions to mitigate any potential impacts before approval."

SECTION 9. Section 20.08.040, Maui County Code, is amended to read as follows:

**"20.08.040 Permit—Required.** Unless otherwise provided in this chapter:

A. No person [shall] may commence or perform any grading or stockpiling without a grading permit[; and].

B. No person [shall] may commence or perform any grubbing without a grubbing permit, except where grubbing concerns land for which a grading permit has been issued.

C. No person [shall] may commence or perform any cut or fill activity on land located within any special management areas, as defined by chapter 205A[.], Hawaii Revised Statutes, [which] that exceeds fifty cubic yards of material on any one site or exceeds two feet in the vertical height at its highest point, including [but not limited to] single-family residential construction, without a grading permit.

D. A permit or exclusion pursuant to this chapter does not obviate the need to obtain other permits or approvals.

E. No person may commence or perform any cut or fill on land located in the cultural overlay district, as defined in chapter 19.46, without a grading permit."



SECTION 10. Section 20.08.080, Maui County Code, is amended to read as follows:

“Drainage, engineering slope hazard report, and erosion control plans [shall] must be submitted to the applicable soil and water conservation [district(s)] district and to the department of land and natural resources’ [state] State historic preservation division for review and comment. Applicants [shall] must provide information sufficient to enable the reviewing agencies to determine that the proposed work will be in conformance with the most current standards on file at the department of public works of the soil and water conservation [district(s)] district and will meet the requirements of chapter 6E, Hawaii Revised Statutes, and related administrative rules. Final approval or disapproval [shall] must be made by the County within ten days after receiving the reviewing agencies’ comments. In a cultural overlay district, the principal archaeologist must establish a cultural sensitivity level and may establish permit conditions to mitigate any potential impacts prior to permit approval.”

SECTION 11. 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 12. This Ordinance takes effect on approval.

paf:jbf:21-109i

ORDINANCE NO. \_\_\_\_\_

BILL NO. \_\_\_\_\_ (2021)

A BILL FOR AN ORDINANCE AMENDING TITLE 19, MAUI COUNTY CODE, TO  
ESTABLISH THE HANA CULTURAL OVERLAY DISTRICT

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

SECTION 1. Article II, Title 19, Maui County Code, is amended by adding  
a new chapter to be appropriately designated and to read as follows:

**“Chapter 19.47**

**HANA CULTURAL OVERLAY DISTRICT**

Sections:

19.47.010 Establishment.

**19.47.010 Establishment.** A. The Hana cultural overlay district is established.

B. The Hana cultural overlay district designation is in addition to zoning and does not change the underlying zoning designation of a property.

C. Data mapping must be completed within thirty days from this chapter's effective date and must use a cultural landscape approach based upon GIS technologies.

D. The Hana cultural overlay district is based upon the boundaries of the Hana moku (exhibit A).

E. The Hana cultural overlay district is culturally sensitive and meets criteria under section 19.46.020(H).”

SECTION 2. This Ordinance takes effect on approval.

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