

**COUNCIL OF THE COUNTY OF MAUI**  
**PLANNING COMMITTEE**

March 6, 2009

**Committee  
Report No.**

09-15

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

Chair and Members:

Your Planning Committee, having met on February 9, 2009, makes reference to County Communication No. 09-28, from the Planning Director, transmitting comments and recommendations on a draft bill entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 19.530.030, MAUI COUNTY CODE, PERTAINING TO ADMINISTRATIVE ENFORCEMENT", pursuant to Resolution No. 08-55.

The purpose of the draft bill is to establish the administrative enforcement authority of the Director of Environmental Management and the Planning Director for violations of Titles 12, 14, 16, 18, 19, and 20 of the Maui County Code. Currently, Section 19.530.030 of the Maui County Code grants administrative enforcement authority for violations of those titles only to the Director of Public Works. Some of these Maui County Code titles regulate conduct that extends beyond the current jurisdiction of the Department of Public Works in the Charter of the County of Maui (1983), as amended.

The planning commissions all recommended that the draft bill be revised to establish the Director of Environmental Management's enforcement authority for ordinances relating to refuse collection and landfills, which are located in Title 8 of the Maui County Code. This revision was requested by the Director of Environmental Management.

In addition, the Lanai Planning Commission recommended that the draft bill be revised to add the Director of Water Supply to the list of officials with administrative enforcement authority, noting that the County Water Code is contained within Title 14 of the Maui County Code. This revision was requested by the Director of Water Supply.

Your Committee noted the importance of providing County officials with appropriate administrative enforcement authority, consistent with their respective Charter-established jurisdiction.

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Your Committee revised the draft bill to add Title 8 to the list of Maui County Code provisions and to add the Director of Water Supply to the list of County officials with administrative enforcement authority.

Your Committee voted 6-0 to recommend passage of the draft bill, as revised, and filing of the communication. Committee Chair Kaho`ohalahala, Vice-Chair Johnson, and members Baisa, Molina, Nishiki, and Victorino voted "aye". Committee member Medeiros was excused.

Your Committee expressed its legislative intent that this grant of administrative enforcement authority to the Director of Water Supply is not inconsistent with Chapter 14.11, Maui County Code, entitled "APPEALS TO THE BOARD OF WATER SUPPLY". Appeals of the Director of Water Supply's decisions and orders shall continue to be made to the Board of Water Supply, as established in Chapter 14.11. Appeals of the Director of Water Supply's enforcement actions that may be taken pursuant to the newly established authority in Section 19.530.030 shall be made to the Board of Variances and Appeals.

Your Committee is in receipt of a proposed bill, approved as to form and legality by the Department of the Corporation Counsel, entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 19.530.030, MAUI COUNTY CODE, PERTAINING TO ADMINISTRATIVE ENFORCEMENT", incorporating its revisions.

Your Planning Committee RECOMMENDS the following:

1. That Bill No. \_\_\_\_\_ (2009), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 19.530.030, MAUI COUNTY CODE, PERTAINING TO ADMINISTRATIVE ENFORCEMENT", be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication No. 09-28 be FILED.

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Adoption of this report is respectfully requested.

  
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SOL P. KAHO'OHALAHALA, Chair

pc:cr:09005aa:dmr

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

BILL NO. \_\_\_\_\_ (2009)

A BILL FOR AN ORDINANCE AMENDING SECTION 19.530.030, MAUI COUNTY CODE, PERTAINING TO ADMINISTRATIVE ENFORCEMENT

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

SECTION 1. Section 19.530.030, Maui County Code, is amended to read as follows:

**“19.530.030 Administrative enforcement.** In lieu of, or in addition to, enforcement by criminal prosecution, if the director of public works, the director of environmental management, the director of water supply, or the planning director determines that any persons are violating any provision of titles 8, 12, 14, 16, 18, 19 and 20 of this code, any rules adopted thereunder, or any permit issued thereto, the director may have the person served, by mail or personal delivery, with a notice of violation and order pursuant to this chapter and such administrative rules as the director may adopt.

A. Contents of the notice of violation. The notice shall include at least the following information:

1. Date of the notice;
2. The name and address of the person noticed;
3. The section number of the provision or rule, or the number of the permit which has been violated;
4. The nature of the violation; and
5. The location and time of the violation.

B. Contents of the order.

1. The order may require the person to do any or all of the following:
  - a. Cease and desist from the violation;
  - b. Correct the violation at the person's own expense before a date specified in the order[.];
  - c. Pay a civil fine not to exceed \$1,000 in the manner, at the place, and before the date specified in the order[.];
  - d. Pay a civil fine not to exceed \$1,000 per day for each day in which the violation persists, in the manner and at the time and place specified in the order[.]; and
  - e. Pay a civil fine not to exceed one percent of the project cost as provided in section 20.08.260.E.2 of this code.
2. The order shall advise the person that the order shall become final thirty days after the date of its mailing or delivery. The order shall also advise that the director's action may be appealed to the board of variances and appeals.

C. Effects of order; right to appeal. The provisions of the order issued by the director of public works, the director of environmental management, the director of water supply, or the planning director under this section shall become final thirty days after the date of the mailing or delivery of the order. The person may appeal the order to the board of variances and appeals as provided for in this article. However, an appeal to the board of variances and appeals shall not stay any provision of the order.

D. Collection of unpaid civil fines. In addition to any other procedures for the collection of civil fines available to the County by law or rules of the court, the County may add unpaid civil fines as herein defined to any County taxes, fees or charges except for residential water or sewer charges.

E. Judicial enforcement of order. The director of public works, the director of environmental management, the director of water supply, or the planning director may institute a civil action in any court of competent jurisdiction for the enforcement of any order issued pursuant to this section. Where the civil action has been instituted to enforce the civil fine imposed by said order, the director or agency need only show that the notice of violation and order were served, that a civil fine was imposed, the amount of the civil fine imposed, and that the fine imposed has not been appealed in a timely manner nor paid.”

SECTION 2. Material to be repealed is bracketed. New material is underscored. In printing this bill, the County Clerk need not include the brackets, bracketed material, or the underscoring.

SECTION 3. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM AND  
LEGALITY:



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DAVID A. GALAZIN

Department of the Corporation Counsel  
County of Maui

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