

COUNCIL OF THE COUNTY OF MAUI
PLANNING COMMITTEE

March 6, 2009

Committee
Report No.

09-16

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. 07-284, from Councilmember Gladys C. Baisa, transmitting a draft resolution entitled "REFERRING A DRAFT BILL TO AUTHORIZE HOME OCCUPATIONS IN VARIOUS ZONING DISTRICTS TO THE LANAI, MAUI, AND MOLOKAI PLANNING COMMISSIONS".

The purpose of the draft resolution is to refer to the planning commissions a draft bill entitled "A BILL FOR AN ORDINANCE TO AUTHORIZE HOME OCCUPATIONS IN VARIOUS ZONING DISTRICTS". The purpose of the draft bill is to establish "home occupations" as a permitted use in the Residential, R-0 Zero Lot Line Residential, Apartment, Country Town Business, B-1 Neighborhood Business, B-2 Community Business, and B-3 Central Business zoning districts.

Your Committee notes that the Council's Planning Committee (2007-2009 Council term) revised the draft resolution and recommended that the revised resolution be adopted. At its meeting of January 25, 2008, the Council adopted the proposed resolution (Resolution No. 08-5).

The Planning Director transmitted comments and recommendations from the Lanai Planning Commission, Maui Planning Commission, and Molokai Planning Commission on the draft bill entitled "A BILL FOR AN ORDINANCE TO AUTHORIZE HOME OCCUPATIONS IN VARIOUS ZONING DISTRICTS", attached to Resolution No. 08-5.

The planning commissions and your Committee received testimony requesting that the definition of "home occupation" be broadened to allow for a broader range of business activity in residences or amended in other ways. Your Committee concluded, however, that the debate over the definition of "home occupation" would be more appropriately conducted if and when legislation with the purpose of amending the definition is introduced. The draft bill's specific, limited scope is expanding the list of

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zoning districts in which “home occupation” – as currently defined – shall be a permitted use.

Your Committee concurred with the view expressed in Planning Committee Report No. 08-15 that expanding the list of zoning districts in which “home occupations” would be a permitted use would promote economic development and lessen the need for commuting.

Your Committee voted to revise the draft bill to add the Rural Zoning Districts to the list of districts in which “home occupations” shall be permitted, as recommended by the planning commissions, and to incorporate nonsubstantive revisions.

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 is in receipt of a revised proposed bill, approved as to form and legality by the Department of the Corporation Counsel, entitled “A BILL FOR AN ORDINANCE AMENDING TITLE 19, MAUI COUNTY CODE, TO AUTHORIZE HOME OCCUPATIONS IN VARIOUS ZONING DISTRICTS”, incorporating its revisions.

Your Planning Committee RECOMMENDS the following:

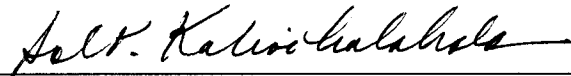
1. That Bill No. _____ (2009), attached hereto, entitled “A BILL FOR AN ORDINANCE AMENDING TITLE 19, MAUI COUNTY CODE, TO AUTHORIZE HOME OCCUPATIONS IN VARIOUS ZONING DISTRICTS”, be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication No. 07-284 be FILED.

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Adoption of this report is respectfully requested.



SOL P. KAHO'OHALAHALA, Chair

pc:cr:09025aa:dmr

ORDINANCE NO. _____

BILL NO. _____ (2009)

A BILL FOR AN ORDINANCE AMENDING TITLE 19, MAUI COUNTY CODE,
TO AUTHORIZE HOME OCCUPATIONS IN VARIOUS ZONING DISTRICTS

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

SECTION 1. Section 19.08.020, Maui County Code, is amended

to read as follows:

"19.08.020 Permitted uses. Within residential districts, the following uses shall be permitted:

- A. Single-family dwellings;
- B. Greenhouses, flower and truck gardens, and nurseries; provided, that there shall be no retailing or transacting of business on the premises;
- C. Parks and playgrounds, noncommercial; certain commercial amusement and refreshment sale activities may be permitted when under supervision of the government agency in charge of the park or playground;
- D. Schools, elementary, intermediate, high, and colleges, publicly or privately owned, which may include on-campus dormitories;
- E. Buildings or premises used by the federal, State, or county governments for public purposes;
- F. Accessory buildings located on the same lot, the use of which is customary, [and] incidental, usual, and necessary to that of the main building or to the use of the land;
- G. An accessory dwelling may be permitted where the area of the lot on which the main house is located is seven thousand five hundred square feet or more. Chapter 19.35 of this article, pertaining to accessory dwellings, shall be applicable to any accessory dwelling;

H. Day care nurseries, kindergartens, nursery schools, child care homes, day care homes, day care centers, nurseries, preschool kindergartens, babysitting services, and other like facilities located in private homes used for child care services. These facilities shall serve six or fewer children at any one time on lot sizes of less than seven thousand five hundred square feet, serving eight or fewer children at any one time on lot sizes of seven thousand five hundred or more square feet but less than ten thousand square feet, or serving twelve or fewer children at any one time on lot sizes of ten thousand or more square feet;

I. Subject to the restrictions and standards of chapter 19.64 of this title, Type 1 bed and breakfast homes shall be permitted on any lot; Type 2 bed and breakfast homes shall be permitted on lots of seven thousand five hundred square feet or greater, and Type 3 bed and breakfast homes shall be permitted on lots of ten thousand square feet or greater[.]; and

J. Home occupations."

SECTION 2. Section 19.09.030, Maui County Code, is amended

to read as follows:

"**19.09.030 Permitted uses.** Within the R-O zero lot line residential district, the following uses shall be permitted:

A. One single-family dwelling unit per lot;

B. Accessory buildings and uses [which] that are subordinate and customarily incidental to the single-family dwelling unit including, but not limited to, private garages, carports, utility storage sheds but not including accessory dwellings as defined in chapter 19.35; [and]

C. Day care nurseries, kindergartens, nursery schools, child care homes, day care homes, day care centers, nurseries, preschool kindergartens, babysitting services, and other like facilities located in dwelling units used for child care services. These facilities shall serve six or fewer children at any one time on lot sizes of less than seven thousand five hundred square feet, serving eight or fewer children at any one time on lot sizes or

seven thousand five hundred or more square feet but less than ten thousand square feet, or serving twelve or fewer children at any one time on lot sizes of ten thousand or more square feet[.]; and

D. Home occupations."

SECTION 3. Section 19.12.020, Maui County Code, is amended to read as follows:

"19.12.020 Permitted uses. Within the A-1 and A-2 districts, the following uses shall be permitted:

A. Any use permitted in the residential and duplex districts;

B. Apartment houses;

C. Boardinghouses, roominghouses, and lodginghouses;

D. Bungalow courts;

E. Apartment courts;

F. Townhouses, under the provisions of conditional permit[.]; and

G. Home occupations."

SECTION 4. Section 19.15.020, Maui County Code, is amended to read as follows:

"19.15.020 Permitted uses. Within the B-CT country town business district, the following uses shall be permitted:

A. Principal Uses:

1. Amusement and recreational activities that are situated within completely enclosed buildings[.];

2. Automobile services[.];

3. Auditoriums and theaters[.];

4. Bakeries[.];

5. Buildings and premises utilized, owned, or operated by government agencies, including community centers[.];

6. Business, financial, and professional offices[.];

7. Commercial retail establishments[.];

8. Eating and drinking establishments[.];

9. Educational, research, trade, and personal skills facilities and learning centers[,]i;
10. Fitness centers and dancing studios[,]i;
11. Hardware, feed, and garden stores; provided, that feed and fertilizer are kept within an enclosed building[,]i;
12. Laundromats[,]i;
13. Music studios[,]i;
14. Parking lots[,]i;
15. Personal service establishments[,]i;
16. Printing establishments that are totally enclosed within a building[,]i;
17. Religious, benevolent, and philanthropic societies, and civic organizations[,]i;
18. Bed and breakfast homes, in lawfully existing single-family dwellings, subject to the restrictions and standards of section 19.64.030 of this title[,]i;
19. Day care facilities, except on Molokai[,]i;
20. Medical facilities and animal hospitals, except on Molokai[,]i;
21. Multifamily dwellings, duplexes, and bungalow courts, except on Molokai[, and]i;
22. Combinations of dwelling units with other permitted principal uses in the same building, except on Molokai; and
23. Home occupations, in lawfully existing single-family dwellings.

B. Accessory uses and structures necessary to facilitate the establishment of permitted principal uses."

SECTION 5. Section 19.16.020, Maui County Code, is amended to read as follows:

"19.16.020 Permitted uses. Within the B-1 district, the following uses shall be permitted:

- A. Barber or beauty shops;
- B. Baker goods stores;
- C. Book, stationery, or gift stores;
- D. Candy stores;

- E. Churches;
- F. Day care centers and nurseries;
- G. Delicatessen stores;
- H. Drugstores;
- I. Florist shops;
- J. Grocery stores and meat markets;
- K. Ice cream or snack counters;
- L. Laundromats;
- M. Liquor stores (package only);
- N. Gasoline retailing, provided it is owned and operated as an adjunct to a neighborhood store; and provided further, that no servicing, repairing, storing, washing, or maintenance of vehicles will be permitted on the premises;
- O. Other similar retail businesses or service establishments [which] that supply commodities or perform services primarily for residents of the surrounding neighborhood; provided, however, such uses shall be approved by the commission as conforming to the intent of this title;
- P. One single-family dwelling per lot, provided the lot is sufficiently large to provide a lot area six thousand square feet for the dwelling after the area for the business, parking, and other accessory areas for the business have been subtracted; or living and sleeping quarters for a single family constructed above the ground floor of the business building;
- Q. Bed and breakfast homes, subject to the restrictions and standards of section 19.64.030 of this title[.]; and
- R. Home occupations in single-family dwellings permitted pursuant to subsection P."

SECTION 6. Section 19.29.030, Maui County Code, is amended by amending subsection A to read as follows:

"A. Principal Uses.

1. One single-family dwelling per one-half acre in the RU-0.5 and County rural districts; and one single-family dwelling per one acre in the RU-1 district;
2. Growing and harvesting of any agricultural or agricultural crop or product,

subject to restrictions set forth in this chapter;

3. Minor utility facilities as defined in section 19.04.040 of this code;

4. Parks for public use; but not including commercial: camping, campgrounds, campsites, overnight camps, and other similar uses; [and]

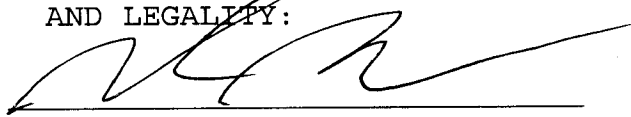
5. Day care nurseries, kindergartens, nursery schools, child care homes, day care homes, adult day care homes, day care centers, nurseries, preschool kindergartens, babysitting services, and other like facilities located in dwelling units used for child care services. These facilities shall serve six or fewer clients at any one time on lot sizes of less than seven thousand five hundred square feet, serving eight or fewer clients at any one time on lot sizes of seven thousand five hundred or more square feet but less than ten thousand square feet, or serving twelve or fewer clients at any one time on lot sizes of ten thousand or more square feet[.]; and

6. Home occupations."

SECTION 7. 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 8. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM
AND LEGALITY:



MICHAEL J. HOPPER
Deputy Corporation Counsel
County of Maui

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