

COUNCIL OF THE COUNTY OF MAUI
PLANNING COMMITTEE

March 19, 2010

Committee
Report No. _____

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, 2010, makes reference to County Communication No. 10-11, from Council Vice-Chair Michael J. Molina, transmitting a draft resolution entitled "REFERRING TO THE LANAI, MAUI AND MOLOKAI PLANNING COMMISSIONS A DRAFT BILL AMENDING CHAPTER 19, MAUI COUNTY CODE, RELATING TO SMALL WIND ENERGY SYSTEMS".

The purpose of the draft resolution is to refer to the planning commissions a draft bill entitled "A BILL FOR AN ORDINANCE AMENDING TITLE 19, MAUI COUNTY CODE, RELATING TO SMALL WIND ENERGY SYSTEMS".

The purpose of the draft bill is to establish small wind energy systems as permitted uses in all zoning districts, subject to various standards.

Your Committee expressed its support for facilitating renewable energy production in Maui County, including through the appropriate use of small wind energy systems.

Your Committee voted 6-0 to recommend adoption of the draft resolution. Committee Chair Kaho`ohalahala, Vice-Chair Johnson, and members Baisa, Medeiros, Molina, and Nishiki voted "aye". Committee member Victorino was excused.

Your Committee is in receipt of a revised proposed resolution, entitled "REFERRING TO THE LANAI, MAUI, AND MOLOKAI PLANNING COMMISSIONS A DRAFT BILL AMENDING TITLE 19, MAUI COUNTY CODE, RELATING TO SMALL WIND ENERGY SYSTEMS", approved as to form and legality by the Department of the Corporation Counsel, incorporating nonsubstantive revisions.

Your Planning Committee RECOMMENDS that Resolution No. _____, as revised herein and attached hereto, entitled "REFERRING TO THE LANAI, MAUI,

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AND MOLOKAI PLANNING COMMISSIONS A DRAFT BILL AMENDING TITLE 19, MAUI COUNTY CODE, RELATING TO SMALL WIND ENERGY SYSTEMS”, be ADOPTED.

This report is submitted in accordance with Rule 7 of the Rules of the Council.



SOL P. KAHO`OHALAHALA, Chair

pc:cr:10019aa:dmr

Resolution

No. _____

REFERRING TO THE LANAI, MAUI, AND MOLOKAI
PLANNING COMMISSIONS A DRAFT BILL AMENDING
TITLE 19, MAUI COUNTY CODE, RELATING
TO SMALL WIND ENERGY SYSTEMS

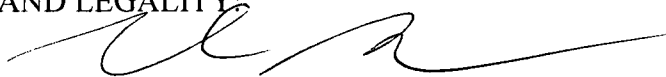
WHEREAS, the Council is considering a draft bill to establish small wind energy systems as permitted uses in all zoning districts, subject to various standards; and

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 review and transmit recommendations to the Council on proposed land use ordinances; now, therefore,

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

1. That it hereby refers the draft bill entitled "A BILL FOR AN ORDINANCE AMENDING TITLE 19, MAUI COUNTY CODE, RELATING TO SMALL WIND ENERGY SYSTEMS", a copy of which is attached hereto as Exhibit "A" and made a part hereof, to the Lanai Planning Commission, the Maui Planning Commission, and the Molokai Planning Commission, for review pursuant to Sections 8-8.4 and 8-8.6 of the Revised Charter of the County of Maui (1983), as amended; and
2. That it respectfully requests that the Lanai Planning Commission, Maui Planning Commission, and Molokai Planning Commission transmit their respective findings and recommendations to the Council as expeditiously as possible; and
3. That certified copies of this resolution be transmitted to the Mayor, the Planning Director, the Lanai Planning Commission, the Maui Planning Commission, and the Molokai Planning Commission.

APPROVED AS TO FORM
AND LEGALITY:



MICHAEL J. HOPPER
Deputy Corporation Counsel
County of Maui

ORDINANCE NO. _____

BILL NO. _____ (2010)

A BILL FOR AN ORDINANCE AMENDING TITLE 19,
MAUI COUNTY CODE, RELATING TO SMALL WIND ENERGY SYSTEMS

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

SECTION 1. Section 19.04.040, Maui County Code, is amended by adding new definitions to be appropriately inserted and to read as follows:

"Guy wire" means a wire or cable used with tension to secure a small wind energy system to the ground to support the tower or structure.

"On-grid" means a small wind energy system that is connected to the public utility grid, where power in excess of the customer's demand flows to the utility grid.

"Small wind energy system" means a small-scale energy system as defined in this section, and also consisting of a blade or wind turbine, tower, ladder, associated controls, and conversion electronics.

"Small wind energy system tower" means the vertical component of a small wind energy system upon which the wind turbine or blades are mounted.

"Wind turbine" means a rotating machine as part of a small wind energy system which converts the kinetic energy in wind into mechanical energy."

SECTION 2. Title 19, Maui County Code, is amended by adding a new chapter to be appropriately designated and to read as follows:

EXHIBIT " A "

"Chapter 19.67

SMALL WIND ENERGY SYSTEMS

Sections:

- 19.67.010 Purpose.
- 19.67.020 Permitted use.
- 19.67.030 Development standards.
- 19.67.040 Application.
- 19.67.050 Abandonment.

19.67.010 Purpose. A. The Council finds that:

1. Small wind energy is an abundant, renewable, and nonpolluting energy resource which, when converted to electricity, reduces dependence on nonrenewable energy resources and reduces air and water pollution that results from conventional sources; and

2. Small wind energy systems enhance the reliability and power quality of the power grid, reduce peak power demands, increase in-state electricity generation, diversify the County energy supply portfolio, and make the electricity supply market more competitive by promoting a consumer choice.

B. The President of the United States has established a goal of generating twenty-five percent of our energy from renewable sources by 2025, by making unprecedented investments in clean, renewable energy, such as solar, wind, bio-fuels and geothermal power.

C. Accordingly, in a proactive effort to end our addiction to foreign oil and chart a plan to develop new energy by embracing alternative and renewable energy, the Council finds it necessary to permit the use of small wind energy systems within the County.

19.67.020 Permitted use. A. Small wind energy systems shall be permitted in all districts.

B. A special use permit, pursuant to section 19.510.070 of this code, approved by the appropriate planning commission, shall be required for small wind

energy systems that exceed the maximum allowable height limit within a district.

C. Excess electrical power generated by the small wind energy system not necessary for on-site use may be sold provided that at least fifty-one percent of electrical power generated each year is used for on-site consumption.

19.67.030 Development standards. A. Unless indicated otherwise, the following requirements and standards shall apply to small wind energy systems.

1. Setback.

a. The base of the tower shall be set back from all property lines, public rights-of-way and public utility lines a distance equal to the height of the small wind energy system, including any blades or wind turbines as extended.

b. No part of the small wind energy system blade shall extend within twenty feet of the ground, tree, public utility lines, or any other structure.

c. No part of the small wind energy system shall be located within or over drainage, utility, or other established easements. Each system shall be set back from above-ground public communication or electrical line by a distance which is equivalent to the height of the wind turbine.

d. All small wind energy system structures, including guy wire anchors, shall conform to setback requirements set forth in the district in which they are erected.

2. Sound limitations. Sound produced by the small wind energy system shall not exceed sixty decibels as measured at the property line.

3. Signage. At least one sign shall be posted at the base of the tower warning of electrical shock or high voltage. No brand names or advertising on the tower, rotor, generator, or tail vane shall be visible from the ground.

4. Lighting. No illumination of the small wind energy system or tower shall be allowed

unless required by the Federal Aviation Administration. All required lighting shall be shielded from adjacent properties, and no other lights shall be placed upon the tower.

5. Electromagnetic interference. The small wind energy system shall be operated in such a manner that no disruptive electromagnetic interference is caused. If it can be determined that a small wind energy system is causing harmful interference, the operator shall properly mitigate the interference.

6. Rotor safety/speed controls.

a. Each small wind energy system must be equipped with both manual and automatic controls to limit the rotational speed of the blade below the design limits of the rotor.

b. An on-grid small wind energy system shall be designed to shut off within forty-eight hours from the time the on-grid connection is lost and/or the batteries are fully charged.

c. A licensed engineer or architect must certify that the rotor and over speed controls have been designed and fabricated for the proposed use in accordance with good engineering practices.

7. Drawings to scale of the entire small wind energy system structure, including location and elevation of all elements of the proposed small wind energy system, including the tower, base, wind turbine, blade, footing, guy wires, and all other elements of the system.

19.67.040 Application. An application for a special use permit for a small wind energy system when required by section 19.67.020.B shall include the following:

1. Drawings to scale of the entire small wind energy system structure, including the tower, base, wind turbine, blade, footing, guy wires, and all other elements of the system;

2. Location and elevation of all elements of the proposed small wind energy system in

relation to trees, structures, utilities, public rights-of-way, and easements; and

3. Evidence satisfactory to the planning director that the proposed small wind energy system meets the following standards:

a. The small wind energy system generator is certified by a qualified, licensed engineer as meeting the requirements of wind turbines-specific safety and/or performance standards adopted by a national or international standards setting body such as the American Wind Energy Association.

b. The small wind energy system has a manufacturer's warranty with at least five years remaining from the date of the application.

c. Documentation evidencing that the small wind energy system shall be used primarily to reduce onsite consumption of electricity.

d. Where an on-grid system is proposed, the application shall include evidence that the electric utility service provider, which serves the proposed site, has been informed of the intent to install a customer-owned small wind energy system.

19.67.050 Abandonment. A. If a small wind energy system is inoperable for six consecutive months, the owner shall be notified that the system must be restored to operating condition within six months of receiving the notice.

B. If the owner fails to restore the system to operating condition within six months from notification, the owner shall be required, at the owner's expense, to remove the entire small wind energy system.

C. Should the owner of a small wind energy system fail to properly dispose of an inoperable system, the planning director may pursue enforcement as provided in chapter 19.530 of this code."

SECTION 3. 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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