

COUNCIL OF THE COUNTY OF MAUI

**ECONOMIC DEVELOPMENT, AGRICULTURE,
AND RECREATION COMMITTEE**

June 4, 2010

**Committee
Report No.** _____

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

Chair and Members:

Your Economic Development, Agriculture, and Recreation Committee, having met on March 4, 2010, makes reference to County Communication No. 09-162, from Councilmember Jo Anne Johnson, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING TITLE 20, MAUI COUNTY CODE, TO PROHIBIT AERIAL ADVERTISING".

The purpose of the proposed bill is to prohibit aerial advertising and thereby preserve the visual beauty of coastal and scenic areas, as well as minimize traffic-safety hazards for motorists and pedestrians throughout Maui County.

Your Committee notes that the proposed bill is modeled after a City and County of Honolulu ordinance that was upheld in Federal court in the case of Center for Bio-Ethical Reform, Inc. v. City and County of Honolulu, 455 F.3d 910 (9th Cir.), cert. denied, 549 U.S. 1078 (2006).

Your Committee discussed the preemptive nature of this legislation, noting that the type of aerial advertising being prohibited is not currently occurring in the County. Concerns had been raised previously when aerial banners were towed behind airplanes over beach areas.

The Maui Outdoor Circle provided strong support for the proposed bill, noting that the other three counties in the State have similar legislation.

Your Committee voted 5-0 to recommend passage of the proposed bill on first reading and filing of the communication. Committee Chair Johnson, Vice-Chair Kaho'ohalahala, and members Baisa, Molina, and Pontanilla voted "aye".

Your Committee is in receipt of a revised proposed bill, approved as to form and legality by the Department of the Corporation Counsel, incorporating a nonsubstantive revision.

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Committee
Report No. _____

Your Economic Development, Agriculture, and Recreation Committee
RECOMMENDS the following:

1. That Bill No. _____ (2010), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE AMENDING TITLE 20, MAUI COUNTY CODE, TO PROHIBIT AERIAL ADVERTISING", be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication No. 09-162 be FILED.

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



JO ANNE JOHNSON, Chair

ear:cr:10015aa:scj/skk

ORDINANCE NO. _____

BILL NO. _____ (2010)

A BILL FOR AN ORDINANCE AMENDING TITLE 20, MAUI COUNTY CODE,
TO PROHIBIT AERIAL ADVERTISING

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

SECTION 1. The purposes of this ordinance are to preserve the visual beauty of the coastal and scenic areas of Kahoolawe, Lanai, Maui, and Molokai, and to minimize traffic-safety hazards for motorists and pedestrians throughout Maui County by prohibiting aerial advertising.

SECTION 2. Title 20, Maui County Code, is amended by adding a new chapter to be appropriately designated and to read as follows:

“Chapter 20.01

AERIAL ADVERTISING

Sections:

- 20.01.010 Prohibited--exceptions.
- 20.01.020 Violation--penalty.

20.01.010 Prohibited--exceptions. A. Except as allowed under subsection B, no person shall use any type of aircraft or other self-propelled or buoyant airborne object to display in any manner, or for any purpose whatsoever, any sign or advertising device. For the purpose of this section, a "sign or advertising device" includes, but is not limited to, a poster, banner, writing, picture, painting, light, model, display, emblem, notice, illustration, insignia, symbol, or any other form of advertising sign or device.

B. Exceptions.

1. Nothing in this chapter prohibits the display of an identifying mark, trade name, trade insignia, or trademark on the exterior of an aircraft or self-propelled or buoyant airborne object if the displayed item is under the ownership or registration of the aircraft's or airborne object's owner.

2. Nothing in this chapter prohibits the display of a sign or advertising device placed wholly and visible only within the interior of an aircraft or self-propelled or buoyant airborne object.

3. This chapter shall not apply to the display of a sign or advertising device when placed on or attached to any ground, building, or structure and subject to regulation under title 16 or title 19 of this code. Such a sign or advertising device shall be permitted, prohibited, or otherwise regulated as provided under the applicable title.

20.01.020 Violation--penalty. Any person who violates any provision of this chapter shall, upon conviction, be punished by a fine not less than \$25 nor more than \$500, or by imprisonment not exceeding three months, or by both.”

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

APPROVED AS TO FORM AND LEGALITY:



JEFFREY UEOKA
Department of the Corporation Counsel
County of Maui

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