

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

June 6, 2013

**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 May 21, 2013, makes reference to County Communication 10-12, from former Council Chair Danny A. Mateo, transmitting correspondence dated December 11, 2009, from Jim Whitehead, relating to the interpretation and enforcement of the maximum wall height standard in the County's Agricultural District zoning ordinance (Chapter 19.30A, Maui County Code, ("MCC")).

Your Committee notes Section 19.30A.030(F), MCC, restricts the height of walls in the County Agricultural District to not more than four feet within the yard setback area.

Your Committee further notes the Council's Planning Committee (2009-2011 Council term) met on February 9, 2010, and November 29, 2010. Your Committee further notes the Council's Planning Committee (2011-2013 Council term) met on August 15, 2011, and December 3, 2012.

Your Committee heard testimony from individuals who said when they purchased their properties years ago, they had no idea the pedestal walls on which their electric meters were installed exceeded the height limit in the Agricultural District. They requested the Committee to resolve the incompatibility issues between the requirements of Maui Electric Company, Ltd. ("MECo") and the Agricultural District zoning ordinance.

By correspondence dated January 25, 2013, the Planning Director transmitted a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.04, MAUI COUNTY CODE, RELATING TO COMPREHENSIVE ZONING PROVISIONS AND CHAPTER 19.30A, MAUI COUNTY CODE, RELATING TO AGRICULTURAL DISTRICT" and comments from the Maui, Molokai, and Lanai planning commissions.

The purpose of the proposed bill is to amend Section 19.30A.030(F), MCC, to allow one utility pedestal wall per lot up to maximum of seven feet in height and seven feet in width. The proposed bill further amends Section 19.04.040, MCC, to define

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“utility pedestal wall” as a specifically designed and built, free standing wall that supports utility services such as electrical, cable television, and phone service to a property.

According to a representative of the Department of Planning, when Chapter 19.30A, MCC, was adopted, the maximum wall height was set as four feet to preserve the character of agricultural lands. However, MECo required six-foot walls on which to mount its electric meters, causing property owners to be in violation of Section 19.30A.030(F), MCC. The representative advised your Committee that the utility wall can either be a free standing wall or a portion of a wall designated to support utility services.

Your Committee recommended that the proposed bill be revised to delete the word “pedestal” from the term “utility pedestal wall” and specify that the utility wall can be a portion of a wall designated to support utility services, and not just a free standing wall. The revised proposed bill will allow one utility wall per lot, constructed in the setback area, which shall not exceed seven feet in height and seven feet in width, in the County Agricultural Districts, for construction of utilities.

Your Committee is in receipt of a revised proposed bill from the Department of the Corporation Counsel, approved as to form and legality, incorporating your Committee’s recommended revisions.

Your Committee voted 5-0 to recommend passage of the revised proposed bill on first reading and filing of the communication. Committee Chair Couch, and members Cochran, Crivello, Guzman, and White voted “aye”. Committee Vice-Chair Victorino and member Baisa were excused.

Your Planning Committee RECOMMENDS the following:

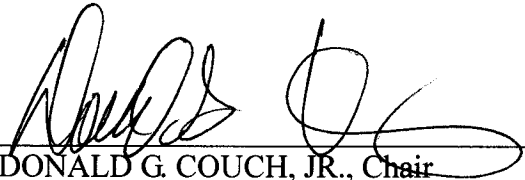
1. That Bill No. \_\_\_\_\_ (2013), attached hereto, entitled, “A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.04, MAUI COUNTY CODE, RELATING TO COMPREHENSIVE ZONING PROVISIONS AND CHAPTER 19.30A, MAUI COUNTY CODE, RELATING TO AGRICULTURAL DISTRICT”, be PASSED ON FIRST READING and be ORDERED TO PRINT ; and
2. That County Communication 10-12 be FILED.

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This report is submitted in accordance with Rule 8 of the Rules of the Council.

  
\_\_\_\_\_  
DONALD G. COUCH, JR., Chair

pc:cr:13020aa:srg

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

BILL NO. \_\_\_\_\_ (2013)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.04,  
MAUI COUNTY CODE, RELATING TO COMPREHENSIVE  
ZONING PROVISIONS AND CHAPTER 19.30A, MAUI COUNTY CODE,  
RELATING TO AGRICULTURAL DISTRICT

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

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

"Utility wall" means a specifically designed and built, free standing wall or a portion of a wall designated to support utility services such as electrical, cable television, or phone service to a property."

SECTION 2. Section 19.30A.030, Maui County Code, is amended by amending subsection F to read as follows:

"F. Maximum wall height: Walls shall not exceed four feet within the yard setback area as measured from the finished or existing grade, whichever is lower, to the top of the wall as defined herein[.], except for one utility wall per lot; utility walls shall not exceed seven feet in height and seven feet in width, and shall not obstruct sight distance for roadways or driveways. This does not preclude constructing fences on the top of the wall for safety purposes. The director of public works [and waste management] may permit greater heights of walls as needed to retain earth, water, or both for health and safety purposes;"

SECTION 3. 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 4. 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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