

Resolution

No. 12-111

REFERRING TO THE LANAI, MAUI, AND MOLOKAI
PLANNING COMMISSIONS A PROPOSED BILL AMENDING
CHAPTER 19.40, MAUI COUNTY CODE, RELATING TO THE
DURATION OF CONDITIONAL PERMITS


WHEREAS, the Council is considering a proposed bill to amend Chapter 19.40, Maui County Code, relating to the duration of conditional permits; 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 proposed land use ordinances and provide findings and recommendations to the Council; now, therefore,

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

1. That it hereby refers the proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.40, MAUI COUNTY CODE, RELATING TO THE DURATION OF CONDITIONAL PERMITS", 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, 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, the Maui Planning Commission, and the 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



Department of the Corporation Counsel
County of Maui

paf:jkn:12-175d

EXHIBIT

-1

ORDINANCE NO. _____

BILL NO. _____ (2012)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.40, MAUI COUNTY CODE,
RELATING TO THE DURATION OF CONDITIONAL PERMITS

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

SECTION 1. Section 19.40.070, Maui County Code, is amended to read as follows:

“19.40.070 Establishment. A. Upon finding by the appropriate planning commission that reasons justifying granting of a conditional permit exist, and that the proposed use would not be significantly detrimental to the public interest, convenience and welfare, and will be in harmony with the area in which it is to be located; issuance of a conditional permit may be recommended, subject to such terms and conditions and for such period of time as the facts may warrant[.], not to exceed five years.

B. Should the commission determine that the permit requested is for a use which is substantially different from those uses permitted in the use zone, the commission shall recommend denial of the request and may instruct the applicant to seek a change of zoning should the facts warrant such an application.

C. Every conditional permit shall be conditioned upon the proposed development fully complying with all requirements of this title and other applicable governmental requirements.

D. Approval of a conditional permit application shall be through the enactment of an ordinance by the council, in accordance with the provisions of the charter[.]; provided that the duration of the conditional permit, including extensions granted pursuant to section 19.40.090(D) of this code, shall not exceed five years.”

SECTION 2. Section 19.40.090, Maui County Code, is amended by amending subsection C to read as follows:

“C. The planning director may approve the application for time extension provided the following criteria are met:

1. The permit holder is in compliance with the conditions of approval;

2. The permitted use has not been substantially changed and new uses have not been added that may result in significant impacts above what would result from the approved conditional permit;

EXHIBIT “A”

3. Agencies have not identified new matters of concern that require mitigation; [and]

4. No protests have been received from the owners and lessees of record located within five hundred feet of the parcel on which the conditional permit use is located after the notice requirements of subsection B have been met[.]; and

5. The total duration of the conditional permit, including extensions granted pursuant to this section, shall not exceed five years.”

SECTION 3. Section 19.40.100, Maui County Code, is amended to read as follows:

“19.40.100 Expiration of permits. Each permit and the ordinance enacting the same shall state the duration of the permit, and if a specific expiration date is stated, such permit shall expire and be repealed on said date without further action.”

SECTION 4. Section 19.40.110, Maui County Code, is amended to read as follows:

“19.40.110 Reporting. The department of [public works] planning shall submit to the [county] council quarterly reports on the status of all conditional permits.”

SECTION 5. 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 6. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM AND LEGALITY:

Department of the Corporation Counsel
County of Maui

paf:jkn:12-175a1:jkn/kmh

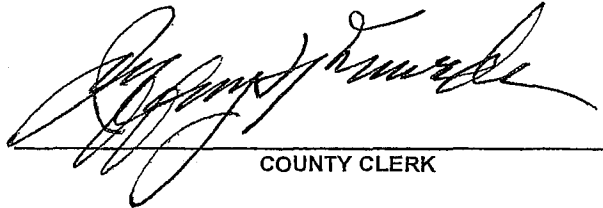
COUNCIL OF THE COUNTY OF MAUI

WAILUKU, HAWAII 96793

CERTIFICATION OF ADOPTION

It is **HEREBY CERTIFIED** that **RESOLUTION NO. 12-111** was adopted by the Council of the County of Maui, State of Hawaii, on the 19th day of October, 2012, by the following vote:

MEMBERS	Dennis A. MATEO Chair	Joseph PONTANILLA Vice-Chair	Gladys C. BAISA	Robert CARROLL	Eleanora COCHRAN	Donald G. COUCH, JR.	G. Riki HOKAMA	Michael P. VICTORINO	Michael B. WHITE
ROLL CALL	Aye	Aye	Aye	Aye	Aye	Aye	Aye	Aye	Excused



COUNTY CLERK