

ORDINANCE NO. _____

BILL NO. _____ (2013)

A BILL FOR AN ORDINANCE AMENDING SECTION 19.510.040, MAUI COUNTY CODE,
RELATING TO CHANGE OF ZONING PROTESTS

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

SECTION 1. The purpose of this ordinance is to clarify how the percentage of owners or lessees protesting a change of zoning is to be calculated. The ordinance will thereby reduce the need for piecemeal interpretations of the change of zoning protest provision.

SECTION 2. Section 19.510.040, Maui County Code, is amended by amending subsection (B) to read as follows:

"B. Protests. Protests may be filed with the appropriate planning commission prior to or on the public hearing date of the application being protested. In the case in which the owners or lessees of record of forty percent or more of the [land] parcels located within a five-hundred-foot distance from the boundaries of the subject parcel have filed written protests, the ordinance [which] that grants the application shall not become effective unless approved by a vote of [seven] at least six members of the [county] council. In calculating the percentage of owners or lessees of record who have filed written protests, the following standards shall apply:

1. Protest area. The total number of parcels that are located within a five-hundred foot distance from the boundaries of the subject parcel shall include parcels that are situated entirely within five hundred feet and those with only a portion situated within five hundred feet. Each parcel, whether situated entirely or partially within five hundred feet, shall be counted equally toward the percentage calculation. Publicly owned parcels, such as roadways and parks, shall be included in the computation.

2. Protest by less than all owners or lessees of a parcel. A parcel within a 500-foot distance from the boundaries of the subject parcel shall be treated as having filed a protest if any of the parcel's owners or lessees filed a timely protest.

3. Withdrawal of protest. A protest may be withdrawn in writing, even if the withdrawal is received after the date of the planning commission's public hearing on the application. A protest may not be reinstated after such date. Upon receipt of a written withdrawal of protest, the percentage of owners or lessees of record who have filed written protests shall be recalculated.

EXHIBIT " A "

4. Change of zoning initiated by planning director or council. Unless the planning director or council otherwise specify in writing at the time the change of zoning is initiated, the protest provisions under this section shall not apply to a change of zoning initiated by the planning director or council."

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; provided that, nothing herein shall affect a calculation of protests determined by the planning director prior to the effective date of this ordinance.

APPROVED AS TO FORM AND LEGALITY:

JAMES A. GIROUX
Deputy Corporation Counsel
County of Maui
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