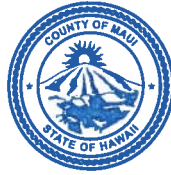


ALAN M. ARAKAWA
Mayor

WILLIAM R. SPENCE
Director

MICHELE CHOUTEAU McLEAN
Deputy Director



COUNTY OF MAUI
DEPARTMENT OF PLANNING

April 4, 2016

MEMO REPORT

To: Maui Planning Commission
Molokai Planning Commission
Lanai Planning Commission

From: William Spence
Planning Director

SUBJECT: RESOLUTION NO. 16-01 ENTITLED "REFERRING TO THE LANAI, MAUI, AND MOLOKAI PLANNING COMMISSIONS A PROPOSED BILL AMENDING TITLE 19, MAUI COUNTY CODE, RELATING TO COMPOSTING."

The Department of Planning (Department) received the above noted resolution on January 14, 2016 from the Maui County Council. Pursuant to Sec. 19.510.020(B)(2) of the Maui County Code (MCC), the deadline for the Planning Commissions to transmit comments back to the Council is May 13, 2016. Attached, for your use, is a copy of Resolution No.16-01 (Exhibit 1). Committee Report No.16-4 was also transmitted and is attached as Exhibit 2.

The proposed bill would amend MCC Chapter 19.04 to define "Composting" and Chapter 19.30A to add composting as a permitted use within the Agricultural District as defined.

The Resolution was transmitted to agencies on February 9, 2016. Below is a summary of the comments:

Agency	Date	Summary	Exhibit
Fire and Public Safety		No comments received at this time.	
Department of Environmental Management		No comments received at this time.	
Department of Public Works	March 10, 2016	No comments	3
Department of Health, Maui		No comments received at this time.	

Office of Planning (OP)		No comments received at this time.	
Land Use Commission		No comments received at this time.	
Department of Health, Honolulu	3/17/16	Comments from DOH, Solid & Hazardous Waste Branch. The definition of "composting" should not be dependent on the Department of Health, and as a result, the last two sentences of the proposed definition should be deleted.	4
Hawaii Department of Agriculture		No comments received at this time.	

The Department also transmitted to and discussed the item with the Mayor's Office of Economic Development (OED). Four areas of concern were raised:

1. Noise - Composting operations that utilize tub grinders can generate a lot of noise, especially if they are grinding large trees;
2. Containment - There have been issues with the finished product becoming wind borne if not properly contained on site or sheltered;
3. Fire - Large piles of static material can generate a lot of heat and there have been fires of such material in the past. Heights of the static piles need to be managed;
4. Invasive species movement - Collected materials should be composed on-site and not moved around. Fire ants were found in some plant material that was first taken to the Hana Landfill; it was then transported to the Central Maui site. The multiple movement of material increases the spreading of invasive species.

OED supports the concept, as there is a need for local compost to help fuel organic and conventional farming production. Fertilizers are very expensive and being able to lower costs will increase margins for farmers and divert green and food waste from our landfills.

The Department discussed the proposal with staff. Several concerns and comments were raised.

1. By placing the use and definition within Title 19, the Planning Department is tasked with enforcement of the use. This may not be the ideal agency to regulate the use. A particular concern is the restriction to use "organic" solid waste. This could be interpreted to mean material that is directly derived from plant or animal sources, and which can generally be decomposed by microorganisms; or the intent could be to restrict it to food and plant material that meets a more restrictive standard.

2. The proposal is for defining and allowing composting within the County Agricultural District; staff feels "commercial composting" should also be defined. The Department has allowed composting as a permitted use within the Agricultural District as a normal operation of farming activity. A farmer could accept waste material and compost it on site so long as all the material is being used on site. A farmer could grow, harvest and process green waste material from their own site, and sell the finished product as part of a commercial farming operation. The proposal would essentially allow composting as an outright permitted use with no established standards.

3. Impacts on neighbors should be addressed. The proposal does not have any limitations. As indicated by OED, some phases of the composting process can produce noise, dust, and potential for fire. Planning staff indicated that minimum lot size and setback should be considered to mitigate these issues as well as addressing potential traffic concerns.

The Department notes that during last year's State legislative session, a proposal was introduced to regulate composting (SB320 SD 1, HD2). The proposal would have required a Special Permit for composters using material from off-site and would have limited the use of A and B rated lands to 10 percent or one acre, whichever was less. Although the bill was deferred, the department saw this bill as confirming that a Special Permit is needed to compost off site material. Further, some legislators wanted to establish restrictions on the location and size of such operations.

Although Resolution No.16-01 would allow for composting within the County Agricultural District, the majority of these lands are also designated Agriculture by State land use maps. Any composting facility that utilizes and sells material from off site would be required to obtain a State Special Permit pursuant to HRS 205-6.

Current Standards	State Ag	County Ag
Compost and use on-site material	Allowed	Allowed
Compost on-site material and sell to other users	Allowed	Allowed
Compost off-site material and use on-site	Allowed	Allowed
Compost off-site material and sell to off-site users	Special Permit	Special Permit

Recommendation and Options

The Department is not in support of the proposed bill because the use is currently allowed under certain restrictions and the proposed amendments would appear to circumvent the need for a State Special Permit under HRS 205-6. The Department recommends that Chapter 19.04 be amended to add the following definitions to help improve and clarify existing law.

“Composting” means the biological decomposition of solid organic materials by bacteria, fungi, and other organisms into a soil-like product.

“Commercial composting” means the importing of solid organic material for the purposes of processing or composting and the eventual sale of a finished organic material or compost.

The Commission has the following options:

1. Recommend approval of the proposed bill to the Maui County Council.
2. Recommend approval of the proposed bill with amendments to the Maui County Council.
3. Recommend denial of the proposed bill to the Maui County Council.
4. Vote to defer action on the proposed bill in order to gather specific additional information.

Attachment

xc: Michele McLean, Deputy Director
Joseph Alueta; Administrative Planning Officer (via email)

WRS:JWA:atw

General File

[PLANNING\ALL\APO\Reso 16-01\MemoReport to Commission.doc](#)

Resolution

No. 16-1

REFERRING TO THE LANAI, MAUI, AND
MOLOKAI PLANNING COMMISSIONS A
PROPOSED BILL AMENDING TITLE 19, MAUI
COUNTY CODE, RELATING TO COMPOSTING

WHEREAS, the Council is considering a proposed bill to allow composting using off-site materials, as a permitted use in the Agricultural Zoning District; 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 amendments thereto, 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 TITLE 19, MAUI COUNTY CODE, RELATING TO COMPOSTING," a copy of which is attached hereto as Exhibit "1" and made a part hereof, to the Lanai, Maui, and Molokai planning commissions for appropriate action, pursuant to Sections 8-8.4 and 8-8.6 of the Revised Charter of the County of Maui (1983), as amended;
2. That it respectfully requests that the Lanai, Maui, and Molokai planning commissions transmit their 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.

EXHIBIT-1

Resolution No. 16-1

APPROVED AS TO FORM AND LEGALITY

A handwritten signature in black ink, appearing to read 'M. Hopper', written over a horizontal line.

MICHAEL J. HOPPER
Deputy Corporation Counsel
County of Maui

pc:misc:012areso01:gjg/jkm

ORDINANCE NO. _____

BILL NO. _____ (2015)

A BILL FOR AN ORDINANCE AMENDING TITLE 19, MAUI COUNTY CODE,
RELATING TO COMPOSTING

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

SECTION 1. The purpose of this ordinance is to regulate composting operations in the Agricultural Zoning District.

SECTION 2. Section 19.04.040, Maui County Code, is amended by adding a new definition to be appropriately inserted and to read as follows:

“Composting” means a process in which organic solid wastes, such as biosolids (sewage sludge), green or yard waste materials, food scraps, manures, and non-treated wood chips and shavings, are biologically decomposed and stabilized under controlled conditions to produce a stable humus-like mulch or soil amendment. This term includes the processing of organic and non-treated wood waste materials for the generation of wood chips or other materials that can be used as soil amendment, planting mixes, mulches for horticultural and agricultural applications, landfill cover, and land reclamation. The process of composting under methods approved by the State Department of Health is a recycling activity. Land application of uncomposted organic solid waste shall not be considered an approved solid waste management activity.”

SECTION 3. Section 19.30A.050, Maui County Code, is amended to read as follows:

“19.30A.050 Permitted uses. The following uses and structures shall be permitted in the agricultural district provided they also comply with all other applicable laws:

- A. Principal uses.
 1. Agriculture.
 2. Agricultural land conservation.

EXHIBIT “1”

3. Agricultural parks, pursuant to chapter 171, Hawaii Revised Statutes.

4. Animal and livestock raising, including animal feed lots and sales yards.

5. Private agricultural parks as defined herein.

6. Minor utility facilities as defined in section 19.04.040 of this title.

7. Retention, restoration, rehabilitation, or improvement of buildings, sites, or cultural landscapes of historical or archaeological significance.

8. Solar energy facilities, as defined in section 19.04.040 of this title, and subject to the restrictions of chapter 205, Hawaii Revised Statutes, that are less than fifteen acres, occupy no more than thirty-five percent of the lot, and are compatible with existing agricultural uses; except that land with soil classified by the land study bureau's detailed land classification as overall (master) productivity rating class D or E need not be compatible with existing agricultural uses.

9. Composting, as defined in section 19.04.040 of this title, including the use of materials sourced from off site.

B. Accessory uses. Uses that are incidental or subordinate to, or customarily used in conjunction with, a permitted principal use, as follows:

1. Two farm dwellings per lot, one of which shall not exceed one thousand square feet of developable area.

2. One farm labor dwelling per five acres of lot area. On the island of Maui, the owner or lessee of the lot shall meet two of the following three criteria:

a. Provide proof of at least \$35,000 of gross sales of agricultural product(s) per year, for the preceding two consecutive years, for each farm labor dwelling on the lot, as shown by State general excise tax forms and federal form 1040 Schedule F filings.

b. Provide certification by the department of water supply that agricultural water rates are being paid if the subject lot is served by the County water system.

c. Provide a farm plan that demonstrates the feasibility of commercial agricultural production.

On the islands of Molokai and Lanai, the owner or lessee of the lot shall meet both of the criteria provided by subsections 19.30A.050(B)(2)(a) and 19.30A.050(B)(2)(b).

3. A maximum of two commercial agricultural structures per lot, subject to parking requirements of section 19.36A.010 of this title.

4. Storage, wholesale and distribution, including barns; greenhouses; storage facilities for agricultural supplies, products and irrigation water; farmer's cooperatives; and similar structures that are customarily associated with one or more of the permitted principal uses or, for the purpose of this section, are associated with agriculture in the County.

5. Processing of agricultural products, the majority of which are grown in the County; this includes the burning of bagasse as part of an agricultural operation.

6. Energy systems, small-scale.

7. Small-scale animal-keeping.

8. Animal hospitals and animal board facilities; if conducted on the island of Molokai, such uses shall have been approved by the Molokai planning commission as conforming to the intent of this chapter.

9. Riding academies; if conducted on the island of Molokai, such uses shall have been approved by the Molokai planning commission as conforming to the intent of this chapter.

10. Open land recreation as follows: hiking; noncommercial camping; fishing; hunting; equestrian activities; rodeo arenas; arboretums; greenways; botanical gardens; guided tours that are accessory to principal uses, such as farm or plantation tours, petting zoos, and garden tours; hang gliding; paragliding; mountain biking; and accessory restroom facilities. If hiking, fishing, hunting, equestrian activities, rodeo arenas, hang gliding, paragliding, or mountain biking are conducted for commercial purposes on the island of Molokai, such uses shall have been approved by the Molokai planning commission as conforming to the intent of this chapter. Open land recreation uses or structures not specifically permitted by this subsection or by subsection 19.30A.060(H) shall be prohibited; certain open land recreation uses or structures may also be required to obtain a special permit pursuant to chapter 205, Hawaii Revised Statutes.

11. Except on Molokai, bed and breakfast homes permitted under chapter 19.64 of this title that are:

a. Operated in conjunction with a bona fide agricultural operation that produced \$35,000 of gross sales of agricultural products for each of the preceding

two years, as shown by State general excise tax forms and federal form 1040 Schedule F filings; or

b. In compliance with all of the following criteria, provided that the bed and breakfast home is not subject to a condominium property regime pursuant to chapter 514A, Hawaii Revised Statutes:

i. The lot was created prior to November 1, 2008.

ii. The lot is comprised of five acres or less.

iii. An approved farm plan has been fully implemented and is consistent with chapter 205, Hawaii Revised Statutes; or

c. Located in sites listed on the State of Hawaii Historic Register or the National Register of Historic Places.

12. Parks for public use, not including golf courses and not including commercial uses, except when under the supervision of a government agency in charge of parks and playgrounds.

13. Other uses that primarily support a permitted principal use; however, such uses shall be approved by the appropriate planning commission as conforming to the intent of this chapter.”

SECTION 4. 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 5. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM AND LEGALITY:

Department of the Corporation Counsel
County of Maui

pc:misc:012abill01:gjg/jkm

COUNCIL OF THE COUNTY OF MAUI

WAILUKU, HAWAII 96793

CERTIFICATION OF ADOPTION

It is **HEREBY CERTIFIED** that **RESOLUTION NO. 16-1** was adopted by the Council of the County of Maui, State of Hawaii, on the 8th day of January, 2016, by the following vote:

MEMBERS	Michael B. WHITE Chair	Donald S. GUZMAN Vice-Chair	Gladys C. BAISA	Robert CARROLL	Eleanora COCHRAN	Donald G. COUCH, JR.	S. Stacy CRIVELLO	G. Riki HOKAMA	Michael P. VICTORINO
ROLL CALL	Aye	Aye	Aye	Aye	Aye	Aye	Aye	Excused	Aye



COUNTY CLERK

COUNCIL OF THE COUNTY OF MAUI
PLANNING COMMITTEE

January 8, 2016

Committee
Report No. 16-4

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

Chair and Members:

Your Planning Committee, having met on September 24, 2015, and December 16, 2015, makes reference to County Communication 14-310, from Councilmember Elle Cochran, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING TITLE 19, MAUI COUNTY CODE, RELATING TO COMPOSTING."

The purpose of the proposed bill is to allow for composting as a permitted use in the County Agricultural District.

Your Committee is in receipt of a proposed resolution, entitled "REFERRING TO THE LANAI, MAUI, AND MOLOKAI PLANNING COMMISSIONS A PROPOSED BILL AMENDING TITLE 19, MAUI COUNTY CODE, RELATING TO COMPOSTING," approved as to form and legality by the Department of the Corporation Counsel with a revised proposed bill, entitled "A BILL FOR AN ORDINANCE AMENDING TITLE 19, MAUI COUNTY CODE, RELATING TO COMPOSTING," attached as an exhibit. The purpose of the proposed resolution is to refer to the planning commissions a revised proposed bill to allow for composting using off-site materials as a permitted use in the County Agricultural District.

Your Committee noted the purpose of the revised proposed bill is to allow for commercial composting activities on agricultural land as a permitted use. As stated in testimony, the Comprehensive Zoning Ordinance does not permit commercial composting on agricultural land using off-site materials.

Your Committee expressed concern regarding the composting of biosolids, human waste, and compostable food service materials. Your Committee also expressed concern regarding the transportation of fire

EXHIBIT -2

COUNCIL OF THE COUNTY OF MAUI
PLANNING COMMITTEE

Page 2

Committee
Report No. 16-4

ants or other invasive species or seeds and discussed the possibility of limiting the movement of composting materials within community plan areas.

Your Committee recommended the State Department of Health and County Department of Environmental Management review the revised proposed bill. The Planning Department agreed to route the revised proposed bill to appropriate agencies prior to transmittal to the planning commissions and to inform the commissions of your Committee's concerns. Your Committee encouraged revisions to the proposed bill by the commissions to address the concerns of your Committee and any reviewing agencies. During the commission review process, your Committee would like the commission to explore the unique composting needs of Maui, Molokai, and Lanai residents.

Your Committee supported the proposed legislation because it will potentially allow additional composting businesses, reduce waste at landfills, increase utilization of compostable materials, and support farms.

Your Committee voted 6-0 to recommend adoption of the proposed resolution. Committee Chair Couch, Vice-Chair Carroll, and members Cochran, Guzman, Victorino and White voted "aye." Committee member Baisa was excused.

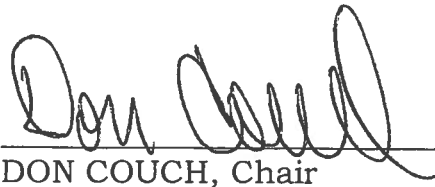
Your Planning Committee RECOMMENDS that Resolution 16-1, as attached hereto, entitled "REFERRING TO THE LANAI, MAUI, AND MOLOKAI PLANNING COMMISSIONS A PROPOSED BILL AMENDING TITLE 19, MAUI COUNTY CODE, RELATING TO COMPOSTING," be ADOPTED.

COUNCIL OF THE COUNTY OF MAUI
PLANNING COMMITTEE

Page 3

Committee
Report No. 16-4

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



A handwritten signature in black ink, appearing to read "Don Couch", is written over a horizontal line.

DON COUCH, Chair

pc:cr:15012aa:gjg

COUNCIL OF THE COUNTY OF MAUI

WAILUKU, HAWAII 96793

CERTIFICATION OF ADOPTION

It is HEREBY CERTIFIED that the recommendations contained in COMMITTEE REPORT NO. 16-4 were adopted by the Council of the County of Maui, State of Hawaii, on the 8th day of January, 2016, by the following vote:

MEMBERS	Michael B. WHITE Chair	Donald S. GUZMAN Vice-Chair	Gladys C. BAISA	Robert CARROLL	Eleanora COCHRAN	Donald G. COUCH, JR.	S. Stacy CRIVELLO	G. Riki HOKAMA	Michael P. VICTORINO
ROLL CALL	Aye	Aye	Aye	Aye	Aye	Aye	Aye	Excused	Aye



COUNTY CLERK

16/1204 3/14/16 LS → Joe

ALAN M. ARAKAWA
Mayor

DAVID C. GOODE
Director

ROWENA M. DAGDAG-ANDAYA
Deputy Director

Telephone: (808) 270-7845
Fax: (808) 270-7955



COUNTY OF MAUI
DEPARTMENT OF PUBLIC WORKS

200 SOUTH HIGH STREET, ROOM NO. 434
WAILUKU, MAUI, HAWAII 96793

GLEN A. UENO, P.E., P.L.S.
Development Services Administration

CARY YAMASHITA, P.E.
Engineering Division

Highways Division

March 10, 2016

MEMO TO: WILLIAM R. SPENCE, PLANNING DIRECTOR

FROM: DAVID C. GOODE, DIRECTOR OF PUBLIC WORKS

SUBJECT: **RESOLUTION NO. 16-01: DRAFT BILL AMENDING MAUI COUNTY CODE, TITLES 19.04 AND 19.30A RELATING TO COMPOSTING**

We reviewed the subject resolution and have no comments at this time.

If you have any questions regarding this memorandum, please call Rowena M. Dagdag-Andaya at 270-7845.

DCG:RMDA:da

xc: Highways Division
Engineering Division

S:\DSA\Engr\CZM\Draft Comments\reso_16-01_bill_amending_title_19.04_&_19-30_relating_to_composting.wpd

RECEIVED
2016 MAR 14 A 9:49
COUNTY OF MAUI
DEPT. OF PLANNING
& DEVELOPMENT

EXHIBIT - 3

Joseph Alueta - Resolution 16-01 - draft bill amending title 19.04 and 19.30A relating to composting - comments

From: "Otsu, Lane M" <lane.otsu@doh.hawaii.gov>
To: "joseph.alueta@co.maui.hi.us" <joseph.alueta@co.maui.hi.us>
Date: 03/17/2016 11:16 AM
Subject: Resolution 16-01 - draft bill amending title 19.04 and 19.30A relating to composting - comments
CC: "Ichinotsubo, Lene K" <lene.ichinotsubo@doh.hawaii.gov>

Joseph,

I apologize for the delay in getting this to you, but we did not receive the document until March 15.

The documents were reviewed by our Solid Waste Section and we have the following comment:

The definition of "composting" should not be dependent on the Department of Health, and as a result, the last two sentences of the proposed definition should be deleted.

Please let me know if you have any questions regarding these comments.

Thank you,
Lane

Lane Otsu
Hawaii Department of Health
Solid & Hazardous Waste Branch
919 Ala Moana Blvd., Rm. 212
Honolulu, HI 96814
lane.otsu@doh.hawaii.gov
Ph. (808) 586-4226

Notice: This information and attachments are intended only for the use of the individual(s) or entity to which it is addressed, and may contain information that is privileged and/or confidential. If the reader of this message is not the intended recipient, any dissemination, distribution, or copying of this communication is strictly prohibited and may be punishable under state and federal law. If you have received this communication and/or attachments in error, please notify the sender via e-mail immediately and destroy all electronic and paper copies.

EXHIBIT - 4