

ORDINANCE NO. _____

BILL NO. _____ (2008)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 18.04,
MAUI COUNTY CODE, PERTAINING TO
SUBDIVISION GENERAL PROVISIONS

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

SECTION 1. Section 18.04.020, Maui County Code, is amended
to read as follows:

"18.04.020 Authority and scope. [Authorized by]
A. Pursuant to section 8-5.3 of the revised charter
of the County of Maui (1983), as amended, all
subdivisions and consolidations, and all streets or
ways within the County created for the purposes of
subdividing land, shall be approved by the director in
accordance with this title.

B. Any person desiring to subdivide or
consolidate land shall submit plans and documents for
approval as provided by this title. No subdivision
plat may be filed with the bureau of conveyances or
land court or state department of taxation until
submitted to and approved by the director. Land shall
not be offered for sale, lease, or rent in any
subdivision, nor shall options or agreements for the
sale, lease, or rental of land in any subdivision be
made until approval for recordation of the final plat
is granted by the director as provided in this title,
unless such offer, option, or agreement expressly
provides in writing that such sale, lease, or rental
of land in the subdivision shall not occur nor become
effective unless and until approval for recordation of
the final plat is granted by the director as provided
in this title.

C. The requirements of this title shall not
apply to a consolidation/resubdivision of two [or
more] developable lots resulting in [the same or fewer
number of] one or two developable lots [that existed
before the consolidation/resubdivision action] or to

the establishment of easements for ingress and egress where no new developable lots are created together with the establishment of the easement subject to the following conditions:

1. Compliance with title 19 of this code or chapter 205, Hawaii Revised Statutes or both;
2. Compliance with chapter 18.08 of this title except for section 18.08.090;
3. Compliance with chapter 18.12 of this title except for section 18.12.070; and
4. Compliance with chapter 18.24 of this title.

D. Parcels that have undergone consolidation/resubdivision under this subsection shall not qualify for this exception with respect to any subsequent consolidation/resubdivision of any of the parcels.

E. If the director [of public works] finds that the subdivision will have a significant or substantial impact upon public facilities or infrastructure, the director [of public works] may impose those requirements in title 18 that are appropriate.

F. The director [of public works] shall adopt rules to implement the provisions of subsection E of this section.

G. Except for family subdivisions as described in section 18.20.280 of this code, a consolidation and a concurrent resubdivision that does not create additional developable lots, road widening lots, utility lots, and easements for access or utility purposes, the director [of public works] shall not approve any subdivision unless the subdivider provides written verification of a long term, reliable supply of water issued by the director of the department of water supply as set forth in section 14.12.040 of this code.

H. The director may recognize a separate lot where:

1. Conveyance of the parcel of land occurred prior to July 3, 1951; and
2. The parcel was conveyed as a separate parcel of land in every subsequent conveyance.

I. The director shall adopt rules to implement subsection H of this section."

SECTION 2. Section 18.04.030, Maui County Code, is amended to read as follows:

"18.04.030 Administration. This title shall be applied and administered within the framework of the county general plan, community plans, land use ordinances, the [provisions of the] Maui County Code and other laws relating to the use of land. The director shall not approve any subdivision that does not conform to or is inconsistent with the county general plan, community plans, land use ordinances, the [provisions of the] Maui County Code, and other laws relating to the use of land; provided, however, that this prohibition shall not apply to:

1. Subdivisions created solely for the purpose of dedicating land to the county or for lands otherwise acquired by the county for public purposes;

2. Subdivisions for affordable housing or park purposes where the county is the applicant;

3. Subdivisions created solely for designating roadway or access easements;

4. Consolidations and resubdivisions where no additional developable lots are created; or

5. Large lots in subdivisions containing one or more large lots where the large lot(s) do not conform to or are inconsistent with the aforementioned plans, ordinances, codes, and law, provided that the owners, their heirs, executors, and assigns of the subdivision execute an agreement with the director to have each large lot conform to said plans, ordinances, codes, and laws then in effect upon actual development of the large lot, or future subdivision into lots which do not fall within the large lot definition."

SECTION 3. Section 18.04.130, Maui County Code, is amended to read as follows:

"18.04.130 Director. "Director" means the [person who holds the office of the planning director of the county.] director of public works or the director's authorized representative."

SECTION 4. Section 18.04.140, Maui County Code, is repealed.

[18.04.140 Director of public works and waste management. "Director of public works and waste management" means the person who holds the office of the director of the department of public works and waste management of the county.]

SECTION 5. Section 18.04.220, Maui County Code, is amended to read as follows:

"18.04.220 Lot. "Lot" means a parcel of land [intended as a unit for transfer of ownership or for development.] created pursuant to this title, or a parcel of land recognized as a separate lot by the director pursuant to rules adopted by the director. For purposes of this title, the term "lot" shall not include a separate unit created pursuant to a condominium property regime."

SECTION 6. Section 18.04.320, is amended to read as follows:

"18.04.320 Reserve strips. "Reserve strip" means a nonaccess reservation[,] placed under public control, with conditions approved by the [director of planning,] director, for future public use."

SECTION 7. Section 18.04.470, Maui County Code, is amended to read as follows:

"18.04.470 Subdivision. "Subdivision" means improved or unimproved land or lands divided into two or more lots, parcels, sites, or other divisions of land for the purpose, whether immediate or future, of sale, lease, rental, transfer of title to or interest in, any or all such parcels, and includes resubdivision, and when appropriate to the context relates to the process of subdividing of the land or territory subdivided. Easements for roadway or access purposes shall be construed as subdivided land. [Except as otherwise permitted by law, the] The

construction of four or more dwelling units on a lot, parcel, or site shall be subject to the provisions of this title."

SECTION 8. 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 9. This ordinance shall take effect upon its approval. This ordinance does not apply to subdivisions that received preliminary approval prior to the effective date of this ordinance.

APPROVED AS TO FORM AND
LEGALITY:



DAVID A. GALAZIN

Deputy Corporation Counsel
County of Maui

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