

**COUNCIL OF THE COUNTY OF MAUI**  
**PUBLIC WORKS AND**  
**FACILITIES COMMITTEE**

September 21, 2007

**Committee**  
**Report No.**

07-101

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

Chair and Members:

Your Public Works and Facilities Committee, having met on July 5, 2007 and September 5, 2007, makes reference to County Communication No. 07-191, from the Director of Public Works and Environmental Management, transmitting a proposed bill, entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 12.02, MAUI COUNTY CODE, PERTAINING TO CLEANING AND MAINTAINING SIDEWALKS".

The purpose of the proposed bill is to require owners of agricultural lots of 15 acres or less to clean and maintain the sidewalk area fronting their property.

At its meeting of July 5, 2007, your Committee met with the Director of Public Works and a Deputy Corporation Counsel.

There was no public testimony.

The Director of Public Works provided an overview of the proposed bill. He noted that Chapter 12.02, Maui County Code, currently requires all property owners, except for owners of agricultural lots exceeding 2 acres, to clean and maintain the sidewalk area fronting their property. The Director further noted that an increasing number of residential homes are being erected on smaller agricultural lots. Because homeowners within the urban and rural districts are responsible for cleaning and maintaining the sidewalk area along their property frontage, owners of agricultural lots of 15 acres or less should have that same responsibility, according to the Director. Currently, the County is responsible for cleaning and maintaining sidewalks fronting agricultural lots exceeding 2 acres.

The Director and the Deputy Corporation Counsel responded to your Committee's questions about Chapter 12.02, pertaining to cleaning and maintaining sidewalks. Your Committee expressed concerns about Chapter 12.02's criminal penalties.

Your Committee deferred consideration of the matter pending further discussion.

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By correspondence dated August 8, 2007, the Director of Public Works transmitted a revised proposed bill, entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 12.02, MAUI COUNTY CODE, PERTAINING TO CLEANING AND MAINTAINING SIDEWALKS". The revised proposed bill eliminates the criminal penalties in Chapter 12.02.060 and clarifies that violations of Chapter 12.02 are subject to civil enforcement pursuant to Section 19.530.030, Maui County Code.

At its meeting of September 5, 2007, your Committee met with the Director of Public Works and two Deputy Corporation Counsel.

There was no public testimony.

The Director and a Deputy Corporation Counsel provided an overview of the revised proposed bill. In response to your Committee's questions, they noted that existing Administrative Rules provide that violations of Chapter 12.02 are subject to a daily civil fine of \$50. The Administrative Rules are based on authority granted pursuant to Section 19.530.030 relating to civil enforcement. Such authority would not change if the revised proposed bill is enacted.

Your Committee expressed concurrence with the revised proposed bill's purpose of requiring owners of agricultural lots of 15 acres or less to clean and maintain the sidewalk area fronting their property, thus relieving the County of that responsibility.

Your Committee voted to recommend passage of the revised proposed bill and filing of the communication.

Your Public Works and Facilities Committee **RECOMMENDS** the following:

1. That Bill No. \_\_\_\_\_ (2007), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 12.02, MAUI COUNTY CODE, PERTAINING TO CLEANING AND MAINTAINING SIDEWALKS", be **PASSED ON FIRST READING** and be **ORDERED TO PRINT**; and
2. That County Communication No. 07-191 be **FILED**.

Adoption of this report is respectfully requested.

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**BILL KAUAKEA MEDEIROS** Co-Chair

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**DANNY A. MATEO** Member

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**MICHAEL P. VICTORINO** Co-Chair

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**JOSEPH PONTANILLA** Member

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**G. RIKI HOKAMA** Member