

COUNCIL OF THE COUNTY OF MAUI

PLANNING AND SUSTAINABLE LAND USE COMMITTEE

June 18, 2021

**Committee
Report No. _____**

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

Chair and Members:

Your Planning and Sustainable Land Use Committee, having met on May 19, 2021, and reconvened on May 20, 2021, makes reference to the following:

1. County Communication 20-422, from the Planning Director, transmitting a proposed bill entitled “A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.69, MAUI COUNTY CODE, RELATING TO URBAN RESERVE DISTRICT,” and other related documents.

The purpose of the proposed bill is to amend the Comprehensive Zoning Ordinance on permitted uses in the Urban Reserve District by:

- expressly identifying “garages” as accessory uses;
 - repealing the requirement that accessory dwellings be allowed only on lots of at least 7,500 square feet;
 - allowing Bed and Breakfast Homes;
 - allowing buildings and structures for government or public services; and
 - prohibiting Short-Term Rental Homes.
2. County Communication 21-157, from the Planning Director, transmitting a revised proposed bill entitled “A BILL FOR AN

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ORDINANCE AMENDING CHAPTERS 19.64 AND 19.69, MAUI COUNTY CODE, RELATING TO THE URBAN RESERVE DISTRICT.” The revised proposed bill is the same as the proposed bill transmitted by County Communication 20-422 except that it requires Hana Advisory Committee review of Bed and Breakfast Home permit applications within the Hana Community Plan Area, as requested by the Hana Advisory Committee.

Your Committee notes the Council's Planning and Sustainable Land Use Committee (2019-2021 Council term) met on October 22, 2020. The Committee deferred consideration of the proposed bill attached to County Communication 20-422 pending review by the Hana Advisory Committee.

In County Communication 20-422, the Planning Director stated: “Urban Reserve is purposefully restrictive.” Your Committee notes the Urban Reserve District is expressly intended to prevent “premature subdivision and development of lands in the state urban district in areas where public sewer, water, roadways, and other public facilities and services are unavailable or inadequate for urban uses,” as stated in Section 19.69.010, Maui County Code.

The Planning Director informed your Committee that Urban Reserve is a sparingly used zoning district. Only 84 parcels are zoned Urban Reserve, all on Maui, and located in Hana, in Upcountry, and on the North Shore. About 75 percent of the parcels have less than one acre in Urban Reserve.

The Planning Director advised your Committee that the Department determined Urban Reserve is overly restrictive and unnecessarily prohibits benign uses, such as recycling facilities and other governmental structures, and accessory dwellings on small lots. She noted the Lānaʻi, Maui, and Molokaʻi Planning Commissions agreed and recommended passage of the proposed bill.

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Your Committee expressed general concurrence with the revised proposed bill's purpose and additional requirement for the Hana Advisory Committee to review Bed and Breakfast Home permit applications.

Your Committee discussed possible further revisions with the Department of Planning, including the Planning Director and the Administrative Planning Officer, and a Deputy Corporation Counsel.

Your Committee voted to further amend the revised proposed bill to:

- prohibit the Urban Reserve District on Moloka'i;
- allow structures used for public purposes only on land with a community plan designation of Park;
- disallow buildings or premises used by the United States and State of Hawai'i governments;
- require the Paia-Haiku Advisory Committee review Bed and Breakfast Home permit applications within the Paia-Haiku Community Plan Area; and
- require the South Maui Advisory Committee review Bed and Breakfast Home permit applications within the Kihei-Makena Community Plan Area.

Your Committee voted 6-0 to recommend passage of the revised proposed bill, as further revised, on first reading and filing of the communications. Committee Chair Paltin, Vice-Chair King, and members Lee, Molina, Sinenci, and Sugimura. Committee members Johnson, Kama, and Rawlins-Fernandez were excused.

Your Committee is in receipt of a revised proposed bill amending Chapters 19.64 and 19.69, Maui County Code, relating to Urban Reserve

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District, approved as to form and legality by the Department of the Corporation Counsel, incorporating your Committee's revisions and nonsubstantive revisions.

Your Planning and Sustainable Land Use Committee
RECOMMENDS the following:

1. That Bill _____ (2021), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTERS 19.64 AND 19.69, MAUI COUNTY CODE, RELATING TO THE URBAN RESERVE DISTRICT," be PASSED ON FIRST READING and be ORDERED TO PRINT;
2. That County Communication 20-422 be FILED; and
3. That County Communication 21-157 be FILED.

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



TAMARA PALTIN, Chair

ORDINANCE NO. _____

BILL NO. _____ (2021)

A BILL FOR AN ORDINANCE AMENDING CHAPTERS 19.64 AND 19.69, MAUI COUNTY CODE, RELATING TO THE URBAN RESERVE DISTRICT

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

SECTION 1. Section 19.64.050, Maui County Code, is amended by amending subsection A to read as follows:

“19.64.050 Permit processing. A. Bed and [Breakfast Home.] breakfast home. Short-term rental of one to six bedrooms on [Lanaʻi] Lānaʻi or Maui or of one to three bedrooms on Molokaʻi in a bed and breakfast home [shall] must be permitted by a bed and breakfast home permit.

1. The applicant for a bed and breakfast home permit [shall] must file an application with the planning director as provided in section 19.64.040.

2. The planning director [shall] must approve or deny the application [pursuant to] in accordance with the requirements of this chapter.

3. The application [shall] will be processed as provided in subsection B of this section, if any of the following occur:

a. [If written] Written protests [pursuant to section] in accordance with subsection 19.64.040.B.4 comprise [thirty] 30 percent or more of the owners and lessees of record within a five-hundred-foot distance from the lot [on] upon which the bed and breakfast home is proposed[;].

b. [If a] A variance was obtained to meet the requirements for a bed and breakfast home permit[;].

c. [If an] An existing bed and breakfast home is operating [on] upon a lot within a five-hundred-foot distance from the lot [on] upon which the bed and breakfast home is proposed[;].

d. For bed and breakfast homes located within the Hana, Paia-Haiku, and Kihei-Makena community plan [area,] areas, the number of

bedrooms used for short-term rental in the bed and breakfast home ~~[shall be]~~ is greater than three~~;~~ or, or in the urban reserve district in accordance with chapter 19.69.

e. For bed and breakfast homes located on Moloka'i and ~~[Lana'i,]~~ Lāna'i, the application is for an initial bed and breakfast home permit.

4. The planning director ~~[shall]~~ must specify in the department's annual report the number of bed and breakfast home permit applications received and approved."

SECTION 2. Section 19.69.020, Maui County Code, is amended to read as follows:

"19.69.020 Permitted uses. A. ~~[Except as otherwise provided, uses not expressly permitted herein are prohibited in the urban reserve district. B.]~~ The following uses are permitted in the urban reserve district:

1. One single-family dwelling per zoning lot~~;~~].
2. Uses and structures that are accessory to the single-family dwelling ~~[and located on the same zoning lot as said dwelling. These uses and structures include, but are not limited to]~~, such as garages, carports, and storage sheds, and other uses which are customary, incidental, usual, and necessary to the use of a the dwelling or the land of the zoning lot~~;~~].

3. ~~[One accessory dwelling; provided that, the area of the zoning lot is seven thousand five hundred square feet or more; and provided further that the provisions of]~~ Accessory dwellings subject to chapter 19.35. ~~[of this title are complied with;]~~

4. Pasturing of animals and cultivation of crops, including~~], but not limited to,~~ greenhouses, flower and truck gardens, and nurseries; ~~[provided that,]~~ except there ~~[shall]~~ must not be any retailing or transacting of business on the premises~~;~~].

5. Private, public or quasi-public utility lines and roadways, drainage improvements, water source and distribution services, including~~], but not limited to,~~ water wells, reservoirs, tanks, and not more than a twenty-three kilovolt public utility substation~~;~~ and].

6. ~~[Short-term rental homes, subject to the provisions of chapter 19.65 of this title.]~~ Bed and breakfast homes, subject to the provisions of chapter 19.64. For the Hana, Paia-Haiku, and Kihei-Makena community plan areas,

bed and breakfast home permit applications must be reviewed by the appropriate advisory committee.

7. Buildings or premises used by County government for public purposes.

8. Only structures used for public purposes are permitted on land the community plan designates as park.

[C. Notwithstanding the other provisions of this section, no structure shall be permitted on lands designated for open space or park use by the community plan applicable to the land in question.

D.] B. Minimum development standards for the urban reserve district [shall be as follows:] are:

1. [Area regulations. Any zoning lot, the boundaries of which are established prior to the effective date of the ordinance codified in this chapter, may be developed in accordance with section 19.69.020(B) of this title. The subdivision of any lot zoned urban reserve district to create additional zoning lots shall not be permitted;] Subdivisions. Subdivisions must not create additional lots other than restricted use lots or lots for park purposes.

2. Height regulations. [No building shall] Buildings must neither exceed two stories nor thirty feet in height[; and].

3. Yard setbacks. There [shall] must be a front yard setback of [not less than] at least fifteen feet, side yard setback of [not less than] at least six feet, and rear yard setback of [not less than] at least six feet; [provided that,] except side and rear yard setbacks for two-storied buildings [shall] must be [not less than] at least ten feet.”

SECTION 3. Chapter 19.69, Maui County Code, is amended by adding a new section to be designated to read as follows:

“19.69.030 This district is prohibited on Moloka‘i.”

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 takes effect upon its approval.

APPROVED AS TO FORM AND LEGALITY:

/s/ Stephanie M. Chen
STEPHANIE M. CHEN
Department of the Corporation Counsel
County of Maui
LF2021-0016
2021-06-09 amend ch 19.64 and 19.69