

REQUEST FOR LEGAL SERVICES

D a t e: October 18, 2023
F r o m: Tom Cook, Chair
Water and Infrastructure Committee

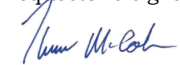
TRANSMITTAL

Memo to: DEPARTMENT OF THE CORPORATION COUNSEL
Attention: Caleb P. Rowe, Esq.

Subject: **BILL 87, CD1 (2023), RELATING TO THE ESTABLISHMENT OF PAID PARKING ZONES AND PERMIT PARKING ZONES IN WAILUKU, PROHIBITED ACTIVITIES FOR THE WAILUKU GARAGE, AND PENALTIES FOR PARKING VIOLATIONS** (WAI-10)

Background Data: Please see revised bill. Please submit your response to wai.committee@mauicounty.us with a reference to WAI-10.

Work Requested: ☒ FOR APPROVAL AS TO FORM AND LEGALITY
☐ OTHER:

Requestor's signature  Tom Cook, Chair	Contact Person <u>Jarret Pascual or Richard E. Mitchell</u> (Telephone Extension: <u>7141 or 7662, respectively</u>)
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☐ ROUTINE (WITHIN 15 WORKING DAYS) ☐ RUSH (WITHIN 5 WORKING DAYS)
☐ PRIORITY (WITHIN 10 WORKING DAYS) ☐ URGENT (WITHIN 3 WORKING DAYS)

☒ SPECIFY DUE DATE (IF IMPOSED BY SPECIFIC CIRCUMSTANCES): October 25, 2023
REASON: For posting on the November 3, 2023, Council agenda.

FOR CORPORATION COUNSEL'S RESPONSE

ASSIGNED TO:	ASSIGNMENT NO.	BY:
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TO REQUESTOR: ☐ APPROVED ☐ DISAPPROVED ☐ OTHER (SEE COMMENTS BELOW)
☐ RETURNING--PLEASE EXPAND AND PROVIDE DETAILS REGARDING ITEMS AS NOTED

COMMENTS (NOTE - THIS SECTION NOT TO BE USED FOR LEGAL ADVICE):

DEPARTMENT OF THE CORPORATION COUNSEL

Date _____

By _____
(Rev. 7/03)

wai:ltr:010acc01:jpp

Attachment

ORDINANCE NO. _____

BILL NO. 87, CD1 (2023)

A BILL FOR AN ORDINANCE AMENDING TITLE 10, MAUI COUNTY CODE,
RELATING TO THE ESTABLISHMENT OF PAID PARKING ZONES
AND PERMIT PARKING ZONES IN WAILUKU, PROHIBITED ACTIVITIES FOR
THE WAILUKU GARAGE FACILITY, AND PENALTIES FOR PARKING
VIOLATIONS

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

SECTION 1. This Ordinance's purpose is to assist the Department of Transportation in implementing a paid parking system by establishing off-street paid parking zones and permit parking zones in Wailuku, and establishing prohibited activities for the Wailuku garage facility. This Ordinance also proposes amendments to assist the Department in enforcing rules and laws on the general operation of paid and permit parking.

SECTION 2. Section 10.04.030, Maui County Code, is amended by adding new definitions to be appropriately inserted and to read as follows:

“Parking session” means the amount of time a vehicle is parked within 24 hours, starting at 12:00 a.m.

“Permit parking zone” means a group of parking spaces on a public right-of-way or County-owned or operated property, delineated by a posted sign, for which a valid parking permit is required to park a vehicle.”

SECTION 3. Section 10.04.030, Maui County Code, is amended by amending the definitions of “Parking” and “Public holiday” to read as follows:

“Parking” means the standing of a vehicle, whether occupied or not [, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading either freight or passengers].

“Public holiday” means all [legal] County-observed holidays now existing, or [such] as may be subsequently specifically later established [proclaimed by the governor of the State, and all Saturdays after the hour of one p.m].”

SECTION 4. Section 10.48.050, Maui County Code, is amended to read as follows:

“10.48.050 Limited parking. On any County street, or in any parking lot or parking garage, when authorized time limit signs are posted, the operator of any vehicle must not park [such] their vehicle for a period longer than the time limit designated by posted signage during the designated days and times. Vehicles parked longer than the posted limit are subject to fines, impoundment, or both. A vehicle will be [deemed] determined to have been parked longer than the posted time limit if it has not been moved at least out of the block face, parking lot, or parking garage after the expiration of the maximum time limit. A vehicle may not return to the initial block face, parking lot, or parking garage [sooner than three hours following the expiration of the initial time period] until the following day.”

SECTION 5. Section 10.76.060, Maui County Code, is amended to read as follows:

“10.76.060 Wailuku [off-street parking lot] garage facility.
A. Within the Wailuku [off-street parking lot:] garage facility and premises, it is unlawful for any person to:

[1. An owner or operator of any vehicle must not park a vehicle for a continuous period longer than one hundred twenty minutes between the hours of 8:00 a.m. and 5:00 p.m., unless otherwise indicated by posted signage, in the following parking stalls:

- a. The first row closest to Market Street.
- b. The first row closest to Church Street.

2. In the remaining stalls of the Wailuku off-street parking lot, no owner or operator of any vehicle may park a vehicle for a continuous period longer than twelve hours.

A vehicle will be deemed to have been parked longer than the posted time limit, if it has not been moved out of the parking lot after the expiration of the maximum time limit. A vehicle must not return to the parking lot sooner than three hours following the expiration of the initial time period.

3. Restrictions in this subsection do not apply to Saturdays, Sundays, and holidays unless otherwise indicated by posted signage.]

1. Throw or dispose of any waste material except in a waste receptacle designated for this purpose.

2. Destroy, injure, deface, or remove in any manner any structure, sign, equipment, monument, plant, mural, art installation, or any equipment or device.

3. Possess or discharge any weapon, explosive, or firework.

4. Establish or feed feral animal colonies or bring animals onto the premises except for guide, signal/hearing, and service dogs, as defined in section 6.05.010.

5. Park any vessel.

6. Defecate or urinate.

7. Engage in smoking or the use of tobacco products.

8. Abandon, store, or leave any personal property unattended.

9. Distribute, post, or place any commercial handbill, circular, notice, or other advertising material without approval from the director of transportation or their designee.

10. Store, wash, polish, or repair any vehicle.

11. Use or operate loudspeakers unless authorized by permit.

12. Engage in any commercial activity, including catering or commercial food distribution, classes, lessons, teaching, instruction, or operate any car rental services of any kind, unless authorized by permit.

13. Consume any intoxicating liquor.

14. Ride on roller skates, skateboards, bicycles, dirt bikes, or any vehicles or devices that are not street legal.

15. Throw, cast, roll, catch, kick, or strike any object.

16. Kindle, build, maintain, or use any fire, grill or hibachi, unless authorized by permit for commercial food activity.

17. Access or enter the Wailuku garage facility between the hours of 11:00 p.m. and 5:00 a.m.

B. When parking in the Wailuku garage facility and premises it is unlawful for any person to:

1. Park a vehicle between the hours of 11:00 p.m. and 5:00 a.m., except in the case that a vehicle has a valid parking permit, as permitted under chapter 10.78, and following parking permit zone policies.

2. Park outside of marked parking stalls.

3. Park a motorcycle outside of designated motorcycle parking stalls.

4. Park in an electric vehicle stall when not actively charging.

5. Park in violation of any posted regulations.

C. Anyone who violates any provision of this chapter, on conviction, is subject to a fine of no less than \$50 and no more than \$500.”

SECTION 6. Section 10.48.220, Maui County Code, is amended to read as follows:

“10.48.220 Tow-away zones. A. Wailuku district. The following streets or portions of streets are designated tow-away zones for twenty-four hours a day unless otherwise provided.

1. Both sides of Kiele Street beginning one hundred sixty feet from its intersection with Kaohu Street for a distance of one hundred feet in the Maalaea direction.

2. On both sides of Hali‘a Street on school days, between the hours of 7:00 a.m. and 2:30 p.m.

3. On the makai side of South Kihei Road extending two hundred fifty feet south of Waimahaihai Street, and on the mauka side of South Kihei Road, a distance of seven hundred twenty feet, between Halelani Place and Kupuna Street.

4. The entire north side of Halelani Place and on the south side of Halelani Place beginning two hundred ninety feet from South Kihei Road and continuing to the end of Halelani Place.

B. Lahaina district. The following streets or portions of streets are designated tow-away zones for twenty-four hours a day unless otherwise provided:

1. The south side of Canal Street adjacent to King Kamehameha III Elementary School, eight parking stalls in length, on school days, between the hours of 7:00 a.m. and 3:00 p.m., subject to loading zones for school buses as provided by ordinance.

2. The makai side of Wharf Street between Hotel Street and the flag poles fronting the district court building between the hours of 11:00 a.m. and 3:00 p.m. each day.

3. The makai side of Front Street for a distance of one hundred twenty-one feet south of the north property line of Whaler’s Market Place, between the hours of 9:00 a.m. and 9:00 p.m. each day.

4. The makai side of Front Street for a distance of one hundred seventeen feet north of the south property line of Whaler's Market Place, between the hours of 9:00 a.m. and 9:00 p.m. each day; [provided,] except that any bus certified to carry passengers by the public utilities commission of the State [shall] may be permitted to stop, stand, or park in the loading and unloading zone for the purposes of loading and unloading passengers, and then only for a period not to exceed fifteen minutes.

5. The makai side of Front Street, beginning at Papalaua Street and ending at Canal Street, between the hours of 3:00 a.m. and 5:00 a.m. each day.

6. The mauka side of Front Street, beginning at Papalaua Street and ending at Wahie Lane.

7. The mauka side of Front Street, beginning at Wahie Lane and ending at Canal Street, between the hours of 3:00 a.m. and 5:00 a.m. each day.

8. On both sides of Hale Street for its entire length.

9. The makai side of Lower Honoapiilani Road in Lahaina beginning at its intersection with Kaanapali Shores Drive and ending at Kapalua Place.

10. On both sides of Hui Road "F" in Napili beginning at its intersection with Lower Honoapiilani Road, and extending east approximately one thousand seven hundred feet, with the exception of a six-hundred-eighty-foot section located on the south side, beginning seven hundred feet mauka of Lower Honoapiilani Road.

11. On both sides of Kauaula Road between Ilikahi Street and Front Street.

12. On the makai side of Puu Hale Street in the Kaanapali Hillside Subdivision.

13. On both sides of Luakini Street beginning with Prison Street, and extending northeast approximately three hundred twenty feet.

14. On the east side of Lahainaluna Road beginning at its intersection with Honoapiilani Highway and extending southwest approximately one hundred sixty-five feet from Wainee Street.

15. On both sides of Wahie Lane for its entire length.

16. On the makai side of Front Street adjacent to King Kamehameha III Elementary School, twelve parking stalls in length, between Prison Street and the south school driveway entrance, on school days, between the hours of 7:00 a.m. and 3:00 p.m., subject to loading zones for school buses as provided by ordinance.

C. Makawao district. The following streets or portions of streets are designated tow-away zones for twenty-four hours a day unless otherwise provided:

1. The makai side of Aewa Place from the intersection of Haleakala Highway and Aewa Place extending two hundred twenty-five feet along Aewa Place.

2. The south side of Kaiholo Place.

D. Paid parking zones and permit parking zones. Paid parking zones and permit parking zones are designated tow-away zones for twenty-four hours a day, except that parking is permitted during certain hours with the payment of a fee or purchase of a permit, as indicated on posted signage and the official map for each parking zone.

SECTION 7. Section 10.77.010, Maui County Code, is amended to read as follows:

“10.77.010 Establishment of paid parking zones. A. Paid parking zones in on-street and off-street locations, including County-owned or operated surface lots and garages, and other areas under the County’s jurisdiction, may be established by the council by ordinance. Paid parking zones must be identified on an official digital paid parking zone map, such as within a geographic information system, stored on file with the County and approved by the council. No person may stop, stand, or park a vehicle for any purpose or period of time in a paid parking zone without payment of the parking fee during the days and times indicated on the parking payment device or posted signage for that zone. [However, the council may authorize the director to establish paid parking zones on streets and in off-street locations under the County’s jurisdiction.]

B. Upon establishment of a paid parking zone, the director is authorized to install and maintain parking payment devices and identify paid parking spaces to indicate where authorized parking is permitted.

C. For each paid parking zone, the director must install signage to indicate the time limitations for paid parking and utilization of parking payment devices.

D. Paid parking zones are established in the following areas, with a digital paid parking zone map incorporated by reference and located online at the department of transportation’s website:

1. Wailuku, including areas identified on the official paid parking zone map, as adopted by the council.”

SECTION 8. Section 10.77.030, Maui County Code, is amended by amending subsection B to read as follows:

“B. No person may park or permit a vehicle to be parked in any paid parking space for a period of time longer than the period of time designated by the parking payment device or signs, for which parking is lawfully permitted in the paid parking zone during the designated days and times. Vehicles parked longer than the posted time limit are subject to fines, impoundment, or both.

1. A vehicle may park in a space only for a period not to exceed the posted time limit. A vehicle will be [deemed] determined to not have been parked longer than the posted time limit if it has not been moved at least out of the block face, parking lot, or parking garage after the expiration of the maximum time limit. A vehicle may not return to the initial block face, parking lot, or parking garage [sooner than three hours following the expiration of the initial time period] until the following day.

2. [The provisions of this section] This section’s provisions do not relieve any person from the duty to observe other laws, including more restrictive provisions of this article prohibiting or limiting the stopping, standing, or parking of vehicles in specified places or at specified times.”

SECTION 9. Section 10.77.060, Maui County Code, is amended to read as follows:

“10.77.060 Tampering with parking payment devices and associated signage prohibited. No person may deface, injure, tamper with, open, or willfully break, destroy, or impair the usefulness of any parking payment device, method, or associated signage.”

SECTION 10. Chapter 10.77, Maui County Code, is amended by adding a new section to be appropriately designated and to read as follows:

“10.77.080 Penalties. Any person in violation of any section or provision of this chapter will be subject to a fine of not more than \$100 for the first offense and not more than \$250 for every subsequent offense.”

SECTION 11. Chapter 10.78, Maui County Code, is amended to read as follows:

“Chapter 10.78

PERMIT PARKING ZONES

Sections:

10.78.010 Establishment of permit parking zones.

10.78.020 Permit required.

10.78.030 Penalties.

10.78.010 Establishment of permit parking zones. A. The director or the director’s designee may issue parking permits for areas designated as [paid parking zones in accordance with chapter 10.77,] permit parking zones, with a term not to exceed one year, subject to the requirements [set forth] established in administrative rules adopted [in accordance with] under this chapter.

B. A vehicle with a valid parking permit will be permitted to stand or park in a permit parking zone for which the permit has been issued. Any vehicle that has not been issued a valid parking permit will be subject to the requirements and restrictions related to parking within the parking zones.

C. A parking permit does not guarantee or reserve to the permit holder a specific parking space within the designated permit parking zone.

D. This chapter may not be interpreted or applied in a manner that may abridge or alter regulations established by authority other than this chapter.

E. Permit parking zones are established in the following areas, with a digital permit parking zone map incorporated by reference and located online at the department of transportation’s website:

1. Wailuku, including areas identified on the official permit parking zone map, as adopted by the council.

10.78.020 Permit required. A. No person may park or permit a vehicle to be parked in any permit parking space during the regulated time applicable to the permit parking zone, as designated by signs and by the official paid parking zone map, without a valid parking permit issued by the County. Vehicles parked without a valid permit are subject to fines, towing, or impounding.

1. This section's provisions do not relieve any person from the duty to observe other laws, including more restrictive provisions of this article prohibiting or limiting the stopping, standing, or parking of vehicles in specified places or at specified times.

10.78.030 Penalties. Any person in violation of any section or provision of this chapter will be subject to a fine of not more than \$100 for the first offense and not more than \$250 for every subsequent offense."

SECTION 12. 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 13. This Ordinance takes effect on approval.

APPROVED AS TO FORM AND LEGALITY:

Department of the Corporation Counsel
County of Maui

wai:misc:010abill01:jpp

Exhibit "A"

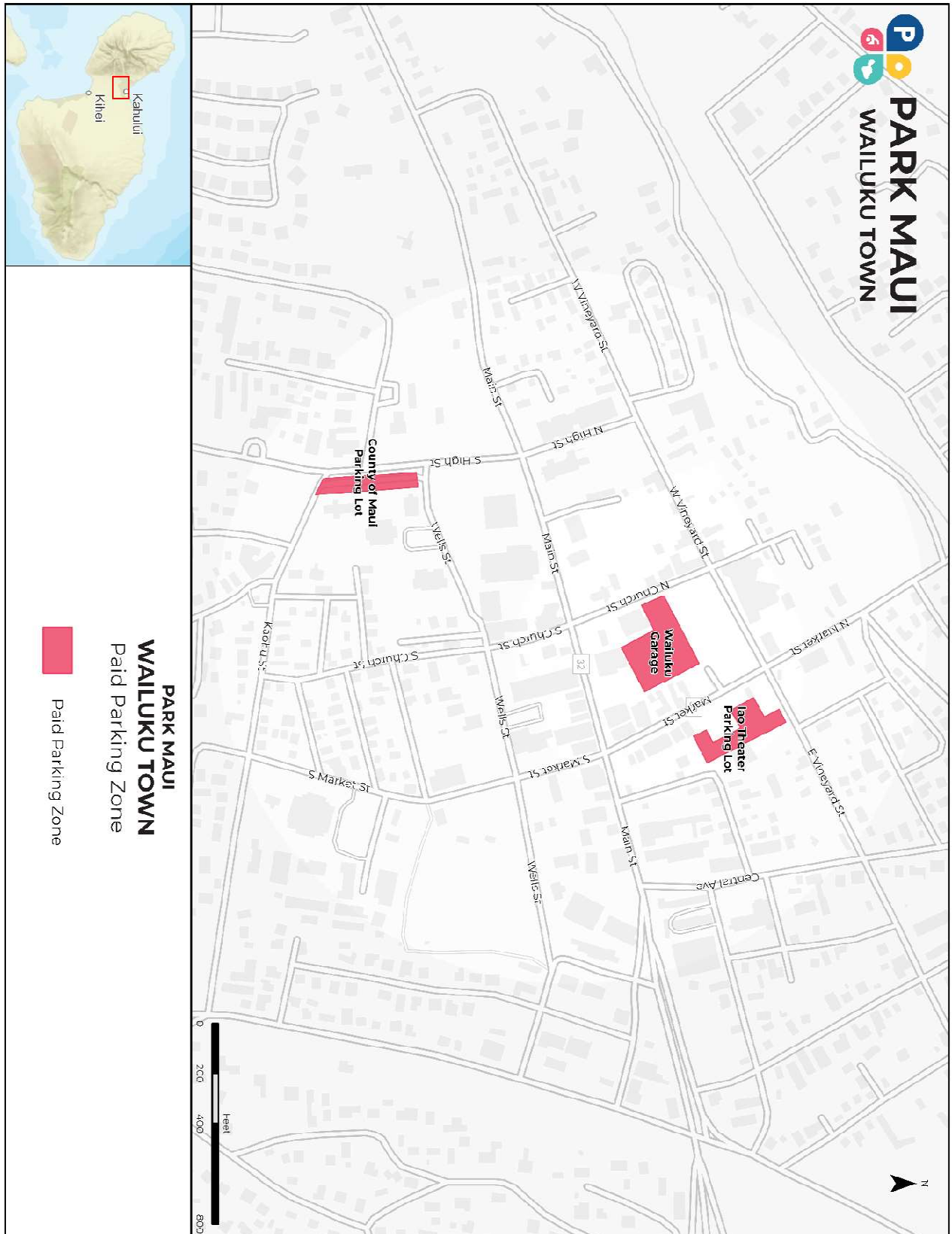
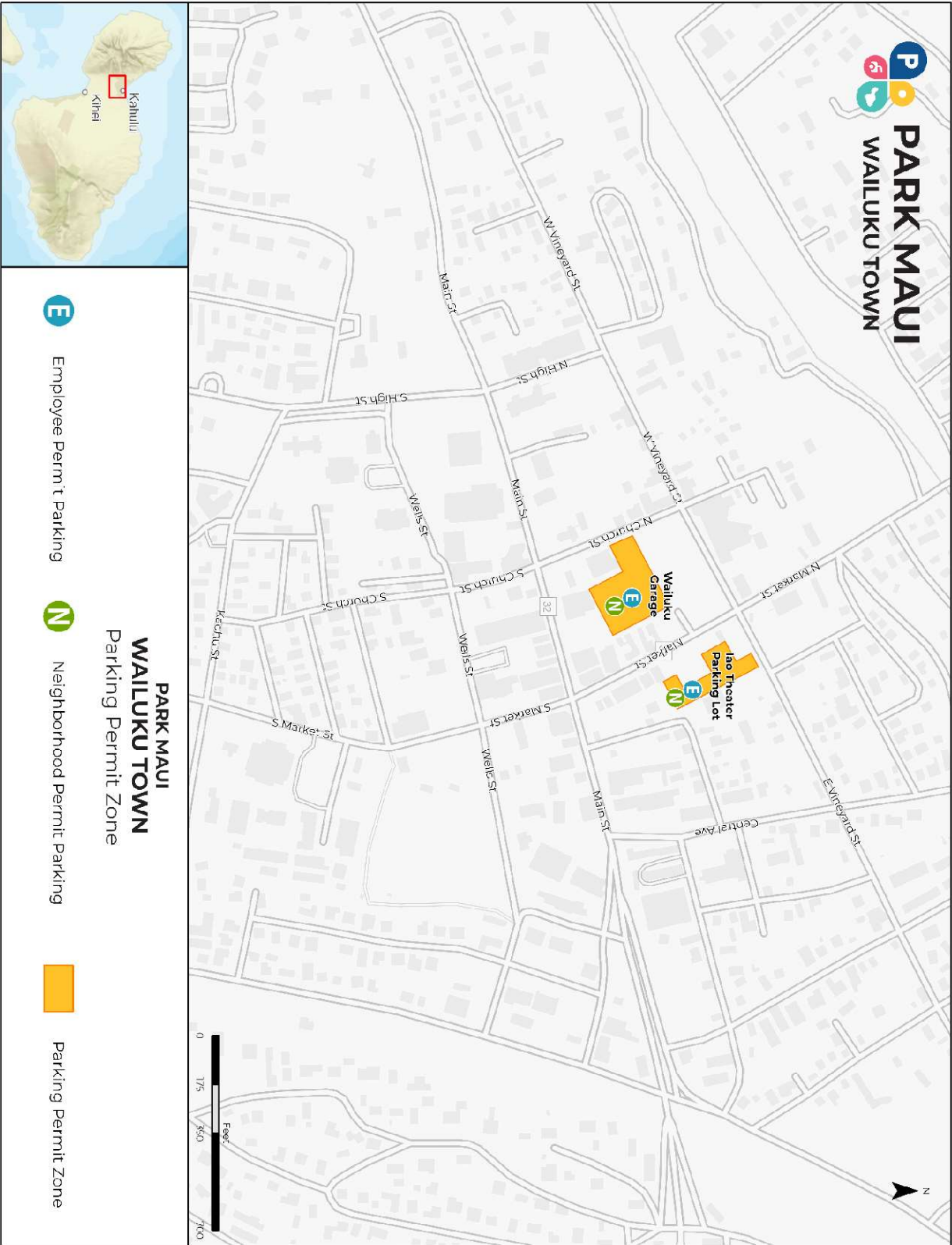


Exhibit “B”



INTRODUCED BY:

A handwritten signature in cursive script, appearing to read "Alice L. Lee", written over a horizontal line.

ALICE L. LEE

Upon the request of the Mayor.