

REQUEST FOR LEGAL SERVICES

D a t e: October 14, 2024
F r o m: Tasha Kama, Chair
Housing and Land Use Committee

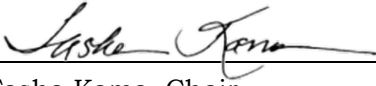
TRANSMITTAL

Memo to: DEPARTMENT OF THE CORPORATION COUNSEL
Attention: Michael J. Hopper, Esq.

Subject: BILL 104 (2024), AMENDING CHAPTERS 19.04, 19.08, 19.29, and 19.36B, MAUI COUNTY CODE, RELATING TO KITCHENS, KITCHENETTES, AND WET BARS (HLU-33)

Background Data: Please see revised bill. Please submit your response to hlu.committee@mauicounty.us with a reference to HLU-33.

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

Requestor's signature  Tasha Kama, Chair	Contact Person <u>Carla Nakata</u> (Telephone Extension: <u>5519</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): _____
REASON: _____

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)

hlu:ltr:033acc01:cmn

Attachment

ORDINANCE NO. _____

BILL NO. 104, CD1 (2024)

A BILL FOR AN ORDINANCE AMENDING CHAPTERS 19.04, 19.08, 19.29, AND 19.36B, MAUI COUNTY CODE, RELATING TO KITCHENS, KITCHENETTES, AND WET BARS

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

SECTION 1. This Ordinance’s purpose is to provide lower-cost opportunities for more autonomous living areas in a dwelling unit by amending the Comprehensive Zoning Code to: (1) allow for kitchenettes in dwelling units in the Residential and Rural Districts on Maui and Lāna‘i; and (2) require a dwelling unit with a kitchenette to be occupied on a long-term residential basis, with one additional off-street parking space to accommodate the higher intensity use for each kitchenette. This Ordinance also makes conforming amendments to the definitions of “kitchen” and “wet bar.”

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:

“Kitchenette” means an area within a dwelling unit, in addition to the kitchen, used for the small-scale preparation and serving of food and beverages that may contain a sink; a refrigerator, seven-and-one-half cubic feet or smaller; and small appliances for the preparation of hot food or beverages, such as countertop appliances and a two-burner range. A kitchenette may not contain a 220-volt electrical outlet.”

SECTION 3. Chapter 19.08, Maui County Code, is amended by adding a new section to be appropriately inserted and to read as follows:

“19.08.055 Dwelling units with kitchenettes; requirements. Dwelling units with kitchenettes must be occupied on a long-term residential basis only. One additional off-street parking space must be provided for each kitchenette.”

SECTION 4. Chapter 19.29, Maui County Code, is amended by adding a new section to be appropriately inserted and to read as follows:

“19.29.045 Dwelling units with kitchenettes; requirements. Dwelling units with kitchenettes must be occupied on a long-term residential basis only. One additional off-street parking space must be provided for each kitchenette.”

SECTION 5. Section 19.04.040, Maui County Code, is amended as follows:

1. By amending the definition of “kitchen” to read:

““Kitchen” means a room, or portion [thereof] of a room, designed, arranged, intended, or used for cooking or otherwise making food ready for consumption, and within which there may be appliances for the heating, [or] cooking, and storage of food. This definition excludes “kitchenettes.”

2. By amending the definition of “wet bar” to read:

““Wet bar” means an area within a dwelling unit[, other than a kitchen,] used for the preparation and serving of beverages, other than a kitchen or kitchenette, that contains a sink that is one-and-one-half cubic feet or smaller and at least one of the following: refrigeration seven-and-one-half cubic feet or smaller; an ice maker; a small mixing or blending appliance; or a small appliance for the preparation of hot beverages, such as a coffee maker or microwave.

The area [is not] cannot qualify as a wet bar if any of the following is also present: a sink larger than one-and-one-half cubic feet; refrigeration larger than seven-and-one-half cubic feet; a 220-volt electrical outlet; a gas or propane service line; a dishwashing machine; a garbage disposal; a range hood, exhaust vent, or similar equipment; a stove, range, or oven; or any other appliance for the heating or cooking of food.

[No] Except as otherwise provided in this title, no more than two wet bars [shall be] are permitted in a dwelling unit that is less than [five thousand] 5,000 square feet in total floor area. No more than three wet bars [shall be] are permitted in a dwelling unit that is [five thousand] 5,000 square feet or more in total floor area. [No] A wet bar [shall be permitted] is prohibited in a bedroom or

bathroom.”

SECTION 6. Section 19.08.020, Maui County Code, is amended to read as follows:

“19.08.020 Permitted uses. Within residential districts, the following principal uses and structures are permitted:

- A. Single-family dwellings.
- B. Greenhouses, plant nurseries, and the raising of plants, flowers, fruits, or vegetables for subsistence or commercial purposes; except for retailing or transacting of business on the premises, unless allowed by chapter 19.67.
- C. Parks and playgrounds, noncommercial; certain commercial amusement and refreshment sale activities may be permitted when under supervision of the government agency in charge of the park or playground.
- D. Publicly or privately owned and operated elementary~~[.]~~ schools, intermediate~~[.]~~ schools, high schools, and colleges, which may include on-campus dormitories.
- E. Buildings or premises used by the federal, state, or county governments for public purposes.
- F. Accessory uses and structures located on the same lot, the use of which is customary, incidental, usual, and subordinate to that of the main building or to the use of the land. The initiation of accessory uses and the erection of accessory structures are not contingent on the existence, and may be in advance of the main building or use of the land.
- G. Accessory dwellings under chapter 19.35.
- H. Day care nurseries, kindergartens, nursery schools, child care homes, day care homes, day care centers, nurseries, preschool kindergartens, babysitting services, and other like facilities located in private homes used for child care services. These facilities may serve six or fewer children at any one time on lot sizes of less than ~~[seven thousand five hundred]~~ 7,500 square feet, eight or fewer children at any one time on lot sizes of ~~[seven thousand five hundred]~~ 7,500 or more ~~[square feet]~~ but less than ~~[ten thousand]~~ 10,000 square feet, or twelve or fewer children at any one time on lot sizes of ~~[ten thousand]~~ 10,000 or more square feet, or as otherwise required under chapter 46, ~~[Hawaii]~~ Hawai‘i Revised Statutes.
- I. Bed and breakfast homes subject to the provisions of chapter 19.64.
- J. Home businesses that meet the requirements of sections 19.67.030 and 19.67.040.
- K. Short-term rental homes subject to the provisions of

chapter 19.65.

L. Family child care homes, hospice homes, adult residential care homes, and adult family care homes, as required under chapter 46, [Hawaii] Hawai'i Revised Statutes.

M. On Maui and Lānaʻi, all dwelling units permitted under this section may also contain up to two kitchenettes, two wet bars, or one kitchenette and one wet bar, regardless of the square footage of the dwelling unit. On Molokaʻi, dwelling units may not contain a kitchenette, but may contain wet bars in accordance with the definition in section 19.04.040.

SECTION 7. Section 19.29.030, Maui County Code, is amended to read as follows:

“19.29.030 Permitted uses. The following uses and structures [shall be] are permitted in the RU-0.5, RU-1, RU-2, RU-5, RU-10, and County rural districts if they also conform with all other applicable laws:

A. Principal uses.

1. One single-family dwelling per one-half acre in the RU-0.5 and County rural districts; one single-family dwelling per one acre in the RU-1 district; one single-family dwelling per two acres in the RU-2 district; one single-family dwelling per five acres in the RU-5 district; and one single-family dwelling per ten acres in the RU-10 district.

2. Growing and harvesting of any agricultural or agricultural crop or product, subject to restrictions set forth in this chapter.

3. Minor utility facilities as defined in section 19.04.040 [of this title].

4. Parks for public use, but not including commercial camping, campgrounds, campsites, overnight camps, and other similar uses.

5. Day care nurseries, kindergartens, nursery schools, child care homes, day care homes, adult day care homes, day care centers, nurseries, preschool kindergartens, babysitting services, and other like facilities located in dwelling units used for child care services. These facilities shall serve six or fewer clients at any one time on lot sizes of less than [seven thousand five hundred] 7,500 square feet, eight or fewer clients at any one time on lot sizes of [seven thousand five hundred] 7,500 or more [square feet,] but less than [ten

thousand] 10,000 square feet, or twelve or fewer clients at any one time on lot sizes of [ten thousand] 10,000 or more square feet.

6. Home businesses, subject to the provisions of chapter 19.67 [of this title].

7. On Maui and Lānaʻi, all principal or accessory dwelling units permitted under this section may also contain up to two kitchenettes, two wet bars, or one kitchenette and one wet bar, regardless of the square footage of the dwelling unit. On Molokaʻi, dwelling units may not contain a kitchenette, but may contain wet bars in accordance with the definition provided in section 19.04.040.

B. Accessory uses.

1. Accessory uses such as garages, carports, barns, greenhouses, gardening sheds, and similar structures that are customarily used in conjunction with, and incidental and subordinate to, a principal use or structure.

2. The keeping of livestock, hogs, poultry, and fowl and game birds.

3. Accessory dwellings [pursuant to] under chapter 19.35 [of this title] and chapter 205, [Hawaii] Hawaiʻi Revised Statutes.

4. Small-scale energy systems that are incidental and subordinate to principal uses.

5. Stands for the purpose of displaying and selling agricultural, floriculture, or farming products, if such products have been produced or grown on the premises, subject to standards in section 19.29.020. Goods produced off-premises are expressly prohibited.

6. Bed and breakfast homes, subject to the provisions of chapter 19.64 [of this title].

7. Short-term rental homes, subject to the provisions of chapter 19.65 [of this title].”

SECTION 8. Section 19.36B.020, Maui County Code, is amended to read as follows:

“19.36B.020 Designated number of off-street parking spaces. Unless otherwise provided in this chapter, the following minimum numbers of accessible, onsite, off-street facilities for the parking of self-propelled motor vehicles [shall] must be provided in connection with the use of any land or the construction, alteration, or improvement of any building or structure. When reviewing a

building permit application or proposed change of use, the department [shall] must determine whether the applicant must submit a parking and landscaping plan to [establish compliance] comply with this chapter. If the department requires a plan, the department will not recommend approval of a building permit application or proposed change of use until it approves the plan and will not approve a certificate of occupancy or final inspection until the applicant has implemented the approved plan. The number of required parking spaces [shall] must be based on the floor area of each use or component use except where otherwise specified. When calculating the total number of required parking spaces, a fraction less than one-half [shall] must be disregarded, and a fraction of one-half or more [shall require] requires one parking space. The following chart establishes the general requirements for accessible, onsite, off-street parking. Compliance with the Americans with Disabilities Act, administered through the State department of health, disability and communications access board, and with State requirements for electric-vehicle parking is also required.

USE	MINIMUM NUMBER OF OFF-STREET PARKING SPACES	
1) HOUSING		
Dwelling units: apartment, duplex dwelling, farm dwelling, farm labor dwelling, multi-family dwelling, single-family dwelling. Note: A dwelling unit's parking spaces may be in tandem.	Floor area of dwelling unit in square feet:	Minimum number of parking spaces:
	Under 3,000	2
	3,000-3,999	3
	4,000-4,999	4
	5,000-5,999	5
	6,000-6,999	6
	7,000-7,999	7
	8,000 and above	8
Dwelling units: accessory dwelling.	1 for each accessory dwelling.	
<u>Dwelling units: with a kitchenette.</u>	<u>1 additional for each kitchenette.</u>	
Home business.	1 for each home business that is allowed to have clients, patrons, or customers on the premises, in addition to any other parking requirements under this chapter.	

Transient accommodations.	Type:	Minimum number of parking spaces:
Note: A dwelling unit's parking spaces may be in tandem.	Bed and breakfast home	1 parking space for each bedroom [used] for bed and breakfast home use, plus 2 parking spaces for the operator of the bed and breakfast home or as required for a single-family dwelling, whichever is greater.
	Short-term rental home	2 if the short-term rental home has 4 or fewer bedrooms or as required for the dwelling, whichever is greater; 3 if the short-term rental home has 5 or more bedrooms, or as required for the dwelling, whichever is greater.
	Hotel, motel, other transient vacation rental, with or without kitchen facilities	1 per rental unit, except that a transient vacation rental in a single-family dwelling [shall] <u>must</u> provide the same number of parking spaces as a single-family dwelling. Units capable of being utilized as 2 or

		more units are counted as separate rental units.
2) COMMERCIAL, BUSINESS, OR INDUSTRIAL		
Agriculture retail structure, agriculture product stand, bakery and catering (with no onsite eating or drinking), farmer's market, general merchandising, general office, personal and business services, personal services establishment, animal hospital.	1 per 500 square feet, provided that the minimum [shall be] <u>is</u> 3.	
General merchandising of only large items such as furniture, flooring, mattresses, and appliances.	1 per 1,000 square feet for all areas including office, storage, and showroom.	
Animal boarding facility.	3 plus 1 per 20 boarding units above 60 boarding units. The parking spaces may be shared with animal hospital parking space requirements.	
Bank.	1 per 300 square feet, provided that the minimum [shall be] <u>is</u> 3.	
Eating and drinking establishment or agricultural food establishment as defined in section 19.30A.015 with dining areas.	1 per 100 square feet of amusement, serving, and dining areas (not counting drive-through uses), provided that the minimum [shall be] <u>is</u> 4; 2 or more such establishments in a "food court" configuration may share amusement and dining areas.	
Eating and drinking establishment or agricultural food	1 per 500 square feet of serving area, provided that the minimum [shall be] <u>is</u> 3 for each establishment.	

establishment as defined in section 19.30A.015 without dining areas (such as take-out counters or “food retail”).	
Mobile food truck.	0 mobile food trucks [shall] <u>must</u> not occupy any parking space required by this title.
Industrial or storage uses, warehouse.	1 per 1,500 square feet, provided that the minimum [shall be] <u>is</u> 3.
SBR mixed-use establishment.	2 for each dwelling unit, plus 1 per 300 square feet of non-residential floor area.
SBR service establishment.	1 per 300 square feet.
Self-storage.	1 per 5,000 square feet.
Service station, repair shop, public garage, automobile services.	1 per 200 square feet, excluding drive-through fueling areas, which [shall] <u>must</u> not be used for required parking, or 1 per 40 percent of lot area, whichever is greater. The storing and keeping of damaged vehicles or vehicle parts [shall] <u>must</u> be within an enclosure bounded completely by a wall at least 6 feet in height.
Shopping center.	1 per 300 square feet of leasable or commercial area (not subject to component use requirements).
Swap meet.	1 per 500 square feet.
Vehicle and equipment rental or sales.	1 per 500 square feet for sales, showrooms, services, offices, and parts facilities, provided that the minimum [shall be] <u>is</u> 3; 0 for outdoor storage of vehicles and equipment.
3) RECREATION OR ENTERTAINMENT (PUBLIC OR COMMERCIAL)	
Amusement center, entertainment establishment.	1 per 100 square feet.
Auditorium, theater, stadium, assembly area, arena, gymnasium.	1 per 300 square feet, 1 per 4 seats, or 1 per 8 feet of bleacher length, whichever is [greater.] <u>greatest.</u>

Bowling alley.	3 per lane.	
Clubhouse, private club, fitness center, health club.	1 per 200 square feet.	
Golf course.	3 per hole. Parking spaces may be located on any lot occupied by the golf course if the golf course occupies multiple lots.	
Golf driving range.	1 per tee.	
Miniature golf course.	1 per hole.	
Swimming pool.	1 per 600 square feet of pool and associated buildings.	
Tennis court.	4 for each court.	
Passive recreation.	0 for up to 2 acres; 4 for above 2 acres (paving not required).	
Active recreation.	Type:	Minimum number of parking spaces:
	Athletic field for baseball, football, soccer, other team sports (non-stadium).	50 per athletic field; 0 additional for adjacent practice field; 10 for practice field without a full-sized field.
	Outdoor basketball court.	6 per court.
	Children's playground.	0
	Skate park.	1 per 500 square feet.
	Site for motor sports, paintball, zip lines, fitness course.	1 per 2 participants at regular capacity.
Arboretum, botanical garden.	3 plus 1 per acre, except that the maximum number of required parking spaces [shall] <u>must</u> be no more than 20.	
4) SOCIAL OR CIVIC SERVICE		
Airport, heliport, other public transportation.	Parking for terminal, hangars, and in-terminal operations to be determined by the government agency that operates the airport, heliport, or other public facility. Private support services, such as automobile rental and cargo, to be determined separately as component uses.	

Cemetery, mausoleum.	0; any offices or other accessory uses to be determined separately.
Church, including place of worship.	1 per 300 square feet, 1 per 5 seats, or 1 per 8 feet of bench length, whichever is <u>[greater.] greatest.</u>
Community center.	1 per 100 square feet.
Day care facility, nursing home, assisted living facility.	1 per 6 clients, plus 1 per employee onsite at one time.
Fire station, police station.	To be determined by the fire chief, police chief.
Library, museum.	1 per 500 square feet, provided that the minimum <u>[shall be] is</u> 3.
Minor medical center, medical or dental clinic.	1 per 300 square feet, provided that the minimum <u>[shall be] is</u> 3.
Major medical center.	1 per 2 beds.
Mortuary, funeral home.	1 per 100 square feet.
Public utility substation.	1
Recycling, redemption facility.	3
School, educational institution, general education, specialized education.	1 per classroom if all students are under 16 years of age; 8 per classroom if any student is 16 years of age or older.

”

SECTION 9. 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 10. This Ordinance takes effect on approval.

APPROVED AS TO FORM AND LEGALITY:

Department of the Corporation Counsel
County of Maui

hlu:misc:033abill01:cmn

INTRODUCED BY:

A handwritten signature in cursive script, appearing to read "Chris P. Lee". The signature is written in black ink and is positioned above a horizontal line.

Upon the request of the Mayor.

HLU Committee

From: HLU Committee
Sent: Monday, October 14, 2024 2:25 PM
To: CorpCounselRFLS@co.maui.hi.us
Cc: HLU Committee; Tasha A. Kama; Carla M. Nakata; James G. Krueger; Ellen B. McKinley
Subject: (RUSH) OCS - HLU: Bill 104 (2024), Amending Chapters 19.04, 19.08, 19.29 and 1936B, Relating to Kitchens, Kitchenettes, and Wet Bars (HLU-33); response due 10/21/2024 3:00 p.m.
Attachments: 033abill01_TK.pdf; 033abill01_markup.pdf
Importance: High

Aloha Corporation Counsel,

Please see the attached Request for Legal Services from HLU Chair Kama, dated 10/14/2024, regarding the above-referenced matter.

Also attached is the markup PDF version of Bill 104 (2024)

Mahalo,
HLU Committee Staff