

# **Bill 78 (2026) Proposed Bill Regarding the Number of Accessory Dwellings**

Housing and Land Use Committee

May 20, 2026



# Background:

- ▶ November 7, 2025 – County Council adopted Resolution No. 25-203 referring the proposed bill to the Planning Commissions
- ▶ Maui PC – February 24
- ▶ Molokaʻi PC – February 25
- ▶ Lānaʻi PC – February 18 and March 18
- ▶ Purpose of Bill
  - ▶ Comply with HRS 46-4.8/Act 39



# Background: HRS 46-4.8/Act 39

- ▶ **Effective May 28, 2024:**

- ▶ Allows for 2 accessory dwellings per “residentially zoned lot”
- ▶ County must adopt ordinance by December 31, 2026

- ▶ **Requirements/Exceptions:**

- ▶ Accessory dwellings must comply with all development standards (height, setback, impervious surface requirement, parking)
- ▶ County may deny permits if insufficient utility infrastructure to service demand caused by accessory dwellings
- ▶ Defines “residentially zoned lot” and exempts lots in “rural, low density residential development and open space preservation”
- ▶ Does not apply to areas outside of state Urban District, county powers within a SMA, and any area in the Urban District at high risk (flooding, lava, or fire)
- ▶ Private covenants (CC&Rs) recorded prior May 28, 2024 may still restrict accessory dwellings



# Background: Existing Requirements

- ▶ **Permitted use in various zoning districts**
  - ▶ MCC 19.35 – Accessory Dwellings
  
- ▶ **MCC 19.35.050 – Number of accessory dwellings per lot:**
  - ▶ Maui: 1 on lots less than 7,500 sq. ft., and 2 on lots 7,500 sq. ft. or greater
  - ▶ Lānaʻi and Molokaʻi: 1 on lots 7,500 sq. ft. or greater
  
- ▶ **MCC 19.35 – Standards:**
  - ▶ Maximum size – recent change
  - ▶ Separate entrance
  - ▶ No interior connection
  - ▶ Cannot be used as B&B, STRH, or TVR
  - ▶ Parking spaces required based upon bedroom count – recent change
  - ▶ Adequate public facilities (sewage disposal, fire protection, street access)



# Proposed Code Amendment

- ▶ **Proposed Revisions:**

- ▶ MCC 19.35: Maui, Lānaʻi and Molokaʻi = 2 accessory dwellings per lot regardless of lot size or island location
- ▶ MCC various Project Districts: “residentially zoned lot” now requires accessory dwelling where currently not permitted



# Department Recommendation

- ▶ **Department supports the proposed Bill**

- ▶ Consistent with State Law mandate and Maui County General Plan – LRD list of Policies
- ▶ Encourages more housing through accessory dwellings

- ▶ **Department recommended 13 modifications:**

- ▶ #1, 2, 3, 5, 6, and 7 - Non-substantial amendments for clarity
- ▶ #4 - Lānaʻi Project Districts 1 and 2 – “low-density” - propose to remove from Bill
- ▶ #8, 11 – Allow for accessory dwellings in MCC Sections 19.09 and 19.84 Zero Lot Line Districts
- ▶ #9 and 10 – Allow for total number of accessory dwellings not to be restricted in Waikapu Country Town District and Maui Research & Technology Park District
- ▶ #12 – Amend MCC 19.29 – Rural District - Continue to allow accessory dwellings per existing MCC requirements based upon size of lot and island location.
- ▶ #13 – Amend MCC 19.35.090 – Add “D. Adequacy of water supply. The lot must have adequate water supply.”



# Comments from Department of Fire and Public Safety

- ▶ **Comment Letter - December 22, 2025:**

- ▶ Not in conflict with current fire code
- ▶ Increase in units will increase fuel load to properties and surrounding community
- ▶ Increase in units should consider infrastructure improvements, water supply and roadways
- ▶ Maintaining building separation, setbacks from property and provisions for clear apparatus access both in street and private driveway to structures will help mitigate the increased risk
- ▶ Should be applicable only to those neighborhoods that already meet or are specifically designed to meet this density level



# Planning Commission Recommendations

- ▶ **Maui PC Recommendation (February 24, 2026):**
  - ▶ Recommend Approval with Department's 13 Modifications
  - ▶ Comment to Council - Departments to provide an opportunity for property owners to seek early consultation regarding the availability of public facilities that are required to service the lot for prior to permit submittal.
- ▶ **Moloka'i PC Recommendation (February 25, 2026):**
  - ▶ Recommend Approval with Department's 13 Modifications
  - ▶ Comments to Council – Concerned about impacts to existing septic systems and wastewater impact due to additional units; increased runoff due to development; more short-term rentals and not enough enforcement; incompatibility with community plan.
- ▶ **Lāna'i PC Recommendation (February 18 and March 18, 2026):**
  - ▶ Recommend Approval with Department's 13 Modifications
  - ▶ Comment to Council - Consider the comments provided by the Maui and Moloka'i Planning Commissions.

## HLU Committee

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**From:** Gregory J. Pfof <Gregory.J.Pfof@co.maui.hi.us>  
**Sent:** Friday, May 15, 2026 2:21 PM  
**To:** HLU Committee  
**Subject:** Bill 78 (2026) PPT presentation from Planning Department  
**Attachments:** CC Presentation 2 Accessory Dwellings.pptx

Aloha-

Please find a PPT presentation from the Planning Department that if time avails I plan to give at the May 20, 2026 HLU meeting regarding the agenda item pertaining to Bill 78 (2026) Accessory Dwellings.

Mahalo,

-Greg.

**Gregory Pfof, AICP**

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