

## APT Committee

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**From:** Graham Resell <Graham.M.Resell@co.maui.hi.us>  
**Sent:** Monday, November 29, 2021 4:33 PM  
**To:** APT Committee  
**Subject:** Draft Ordinance Amd Ch 19.48 & 19.52  
**Attachments:** 2021-11-29 Ord Amd Ch 19.48 19.52.pdf

Please find attached draft ordinance referenced above. Let me know if you have any questions.

Thank you,  
Graham

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ORDINANCE NO. \_\_\_\_\_

BILL NO. \_\_\_\_\_ (2022)

A BILL FOR AN ORDINANCE AMENDING CHAPTERS  
19.48 AND 19.52, MAUI COUNTY CODE, RELATING TO  
MAUI COUNTY HISTORIC AND CULTURAL DISTRICTS

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

SECTION 1. The purpose of this Ordinance is to establish cultural districts in culturally sensitive areas. As stated in the Countywide Policy Plan, the County of Maui has a responsibility to protect cultural resources. Certain geographically definable areas contain a great density of cultural and archaeological remains to the extent that development in these areas is likely to disturb archaeological and burial sites. Such sites require consideration and careful planning to ensure preservation for the benefit of future generations.

SECTION 2. Chapter 19.48, Maui County Code, is amended to read as follows:

**“Chapter 19.48**

**[GENERAL PROVISIONS]**

**MAUI COUNTY HISTORIC AND CULTURAL DISTRICTS**

**Sections:**

<b>19.48.010</b>	<b>Title and purpose.</b>
<b>19.48.020</b>	<b>Establishment or modification of districts— Report and hearing.</b>
<b>19.48.030</b>	<b>Applicability.</b>
<b>19.48.040</b>	<b>Administration.</b>
<b>19.48.050</b>	<b>Enforcement.</b>
<b>19.48.060</b>	<b>Reserved.</b>

**19.48.010 - Title and purpose.** The ordinance codified in this article [shall] will be known and may be cited as the “Maui County Historic and Cultural Districts Ordinance.” In order to promote the economic, cultural, and general welfare of the people of the [county] County and to [insure] ensure the harmonious, orderly, and efficient growth and development of the [county] County, it is deemed essential by the [county] council that the qualities relating to the history and culture of the [county] County be preserved, thereby creating attractions for visitors and residents alike. Certain geographically definable areas contain a great density of cultural and archaeological resources to the extent that development in these areas may disturb cultural, archaeological, and burial sites. Many of these sites are significant, and require consideration and careful planning to ensure preservation.

**19.48.020 - Establishment or modification of districts—Report and hearing.** A. Historic and cultural districts may be modified or extended and new historic and cultural districts established, provided in all such cases there [shall] must be a report from the cultural resources commission to the State department of land and natural resources, State historic preservation division. At least one public hearing [shall] must be held by the cultural resources commission.

B. A cultural district must be a geographically definable area that is culturally significant and must exhibit one or more of the following:

1. A pattern of or complex of sites.
2. An association with a historic event.
3. An association with an important historic person.
4. A particular type, period, or method of construction, or high artistic value.
5. Importance to Native Hawaiian people or to another ethnic group because of associations with cultural practices, traditional beliefs, events, or oral accounts that are important to the group’s history and cultural identity.
6. Religious value.
7. Are or are in close proximity to a known burial site or burial grounds.

**19.48.030 - Applicability.** In the event any provision of this article conflicts with the provisions of article II of this title, the provisions of this article [shall prevail] prevails.

**19.48.040 - Administration.** The director [shall] must provide planning, architectural, engineering, secretarial, and other services as may be required by the cultural resources commission.

**19.48.050 - Enforcement.** Enforcement of this chapter [shall] will be pursuant to section 19.530.030[ of this title].

**19.48.060 - Reserved.”**

SECTION 3. Section 19.52.020, Maui County Code, is amended to read as follows:

**“19.52.020 – Review of Plans.** A. For any building or structure within any historic or cultural district established in this article, and for any building or structure of historic significance in the Lahaina Historic District (National Historic Landmark), the cultural resources commission [shall have] has the authority to approve all plans.

B. Application for an appropriate permit to construct, alter, repair, modify, move, or demolish any building or structure in the historic or cultural districts established in this article, or any building or structure of historic significance in the Lahaina Historic District (National Historic Landmark), [shall] must be made to the director of public works. The director of public works [shall] must immediately notify the chair of the cultural resources commission of the receipt of the application and [shall] must transmit it together with accompanying plans and other information to the cultural resources commission. The cultural resources commission may delegate the approval of certain minor applications to the planning director pursuant to the cultural resources commission’s rules of practice and procedure.

C. The cultural resources commission [shall] must meet within ninety days after notification by the director of public works of the filing of the application, unless otherwise mutually agreed upon by the applicant and cultural resources commission, and [shall] must review the plans according to procedures as set forth in this article.

D. The cultural resources commission [shall] must approve or disapprove such plans and, if approved, [shall] must issue a letter of approval signed by the chair of the cultural resources commission, or the chair’s designee, and attached to the application for a building permit, and immediately transmit it to the director of public works.

E. If the cultural resources commission disapproves such plans, it [shall] must state its reasons for doing so and [shall] must transmit a record of such action and reasons in writing to the director of public works, and the applicant. The cultural resources commission may advise the applicant what it thinks is proper if it disapproves the plans submitted. The applicant may make

modifications to the plans and [shall] will have the right to resubmit the application at any time after so doing. The decision of the cultural resources commission to disapprove such plans [shall] must be considered a final decision of the cultural resources commission that is appealable under section 91-14, Hawaii Revised Statutes.

F. The failure of the cultural resources commission to approve or disapprove such plans within ninety days from the date of submittal of a complete application for the building permit, unless otherwise mutually agreed upon by the applicant and the cultural resources commission, [shall] must be deemed to constitute approval and the director of public works [shall] must proceed to process the application without regard to a letter of approval.

G. Within any historic or cultural district established in this article, and for any building or structure of historic significance in the Lahaina Historic District (National Historic Landmark), the director of public works [shall] must not approve a building [or], demolition, or grading permit application unless a letter of approval has been issued by the cultural resources commission or the plans have been deemed approved pursuant to subsection 19.52.020(F).

H. For the purposes of this article, buildings or structures of historic significance [shall be] are those that are more than fifty years old and that are deemed by the State historic preservation officer to be eligible for listing in the National Register of Historic Places, based on federal criteria.”

SECTION 4. Section 19.52.050, Maui County Code, is amended to read as follows:

**“19.52.050 – Demolition or movement of buildings or structures.** A. The cultural resources commission [shall] must not issue a letter of approval for the demolition or moving of a building or structure of historic or cultural significance, except in one or more of the following instances:

1. The director of public works or the State department of health deems the building or structure to be a hazard to public safety or health and repairs are impossible;

2. The building or structure is a deterrent to a major historic restoration or preservation program; or

3. The building or structure is of low priority and its retention would not materially contribute to the integrity of the historic district or the Lahaina Historic District (National Historic Landmark). In each instance, a letter of explanation [shall] must accompany the letter of approval.

B. Unless waived by the cultural resources commission, any building or structure that is eligible for or is listed individually or as part of a historic district in the Hawaii or national register of historic places, or the Lahaina Historic District (National Historic Landmark), that has been approved for demolition pursuant to this section [shall] must be recorded according to the Secretary of the United States Department of the Interior's standards for mitigation, which [shall include] includes the historic American building survey or historic American engineering record, as applicable.”

SECTION 5. 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 6. This Ordinance takes effect upon approval.

APPROVED AS TO FORM AND  
LEGALITY:

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STEPHANIE M. CHEN  
Deputy Corporation Counsel  
County of Maui

2021-11-29 Ord Amd Ch 19.48 & 19.52.docx