

# REQUEST FOR LEGAL SERVICES

**D a t e:** March 4, 2022

**F r o m:** Tamara Paltin, Chair

Planning and Sustainable Land Use Committee

TRANSMITTAL


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

**Subject:** **BILL 24 (2022), RELATING TO MAXIMUM BUILDING HEIGHTS IN THE B-2 COMMUNITY BUSINESS DISTRICT, B-3 CENTRAL BUSINESS DISTRICT, AND P-1 AND P-2 PUBLIC/QUASI-PUBLIC DISTRICTS** (PSLU-30)

**Background Data:** Please see the attached bill. Please submit the response to pslu.committee@mauicounty.us with a reference to PS LU-30.

**Work Requested:** ☒ FOR APPROVAL AS TO FORM AND LEGALITY

☐ OTHER:

Requestor's signature  Tamara Paltin	Contact Person <u>Wilton Leauanae</u> (Telephone Extension: <u>7661</u> )
---	---

☐ 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): March 9, 2022

REASON: For posting for the next Council meeting agenda on March 18, 2022.

## FOR CORPORATION COUNSEL'S RESPONSE

ASSIGNED TO:	ASSIGNMENT NO.	BY:
--------------	----------------	-----

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)

pslu:ltr:030acc01:wal

Attachment

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

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

A BILL FOR AN ORDINANCE AMENDING TITLE 19, MAUI COUNTY  
CODE, RELATING TO THE COMPREHENSIVE ZONING  
ORDINANCE'S DEVELOPMENT STANDARDS IN THE B-2  
COMMUNITY BUSINESS DISTRICT, B-3 CENTRAL BUSINESS DISTRICT,  
AND P-1 AND P-2 PUBLIC/QUASI-PUBLIC DISTRICTS

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

SECTION 1. Section 19.18.050, Maui County Code, is amended to read  
as follows:

**“19.18.050 Development standards.** The development standards in the B-2 community business district [shall be] are as follows:

	B-2	Notes and exceptions
Minimum lot area (square feet)	6,000	
Minimum lot width (in feet)	60	
Maximum building height (in feet)	90 <u>for Maui, excluding the West Maui community plan area and Hāna community plan area; 45 for West Maui community plan area; 45 for Hāna community plan area; 45 for Lānaʻi; and 35 for Molokaʻi.</u>	Except [that] vent pipes, fans, <u>elevator and stairway shafts, chimneys, cellular or other antennae, and equipment used for small-scale energy systems on roofs [shall not exceed one hundred feet] may extend an additional 10 feet above the building roof.</u>
Floor area ratio	<u>[200%] 200 percent</u>	

Minimum [yard] setback (in feet)		
Front	None	
Side and rear	0 or the same as the adjoining zoning category, whichever is greater.	
Maximum height and minimum [set-back] setback for free-standing antennae or wind turbine structures	Maximum height of 50 feet[;] with a minimum setback of 1 foot for each foot in height from all property lines.	
Accessory structures within [set-back] setback area	[Mail boxes,] Mailboxes, trash enclosures, boundary walls, and ground signs.	Must not exceed 8 feet in height, except for signs for which a greater height is allowed under chapter 16.13.

”

SECTION 2. Chapter 19.18, Maui County Code, is amended by adding a new section to be appropriately designated and to read as follows:

**“19.18.070 Permits issued prior to the enactment of the comprehensive zoning ordinance.** Dwellings or structures constructed with a building permit approved prior to the enactment of the comprehensive zoning ordinance need not acquire a County special use permit, conditional permit, or variance; may be reconstructed as permitted by the original building permit; and may be expanded or modified with a building permit, subject to the other provisions of this title.”

SECTION 3. Section 19.20.050, Maui County Code, is amended to read as follows:

**“19.20.050 Development standards.** The development standards in the B-3 central business district [shall be] are as follows:

	B-3	Notes and exceptions
Minimum lot area (square feet)	6,000	
Minimum lot width (in feet)	60	
Maximum building height (in feet)	144 <u>for Maui, excluding the West Maui community plan area and Hāna community plan area; 45 for West Maui community plan area; 45 for Hāna community plan area; 45 for Lānaʻi; and 35 for Molokaʻi.</u>	Except [that] vent pipes, fans, elevator and stairway shafts, chimneys, <u>cellular or other antennae</u> , and equipment used for small-scale energy systems on roofs [shall not exceed 155 feet] <u>may extend an additional 10 feet above the building roof from which it extends.</u>
Floor area ratio	<del>[400%]</del> <u>400 percent</u>	
Minimum [yard] setback (in feet)		
Front	None	
Side and rear	0 or the same as the adjoining zoning category, whichever is greater.	
Maximum height and minimum [set-back] <u>setback</u> for free-standing antennae or wind turbine structures	Maximum height of 50 feet[;], <u>with a minimum setback of 1 foot for each foot in height[,]</u> from all property lines.	
Accessory structures within [set-back] <u>setback</u> area	<del>[Mail boxes,]</del> <u>Mailboxes</u> , trash enclosures, boundary walls, and ground signs.	<u>Must not exceed 8 feet in height, except for signs for which a greater height is allowed under chapter 16.13.</u>

”

SECTION 4. Chapter 19.20, Maui County Code, is amended by adding a new section to be appropriately designated and to read as follows:

**“19.20.070 Permits issued prior to the enactment of the comprehensive zoning ordinance.** Dwellings or structures constructed with a building permit approved prior to the enactment of the comprehensive zoning ordinance need not acquire a County special use permit, conditional permit, or variance; may be reconstructed as permitted by the original building permit; and may be expanded or modified with a building permit, subject to the other provisions of this title.”

SECTION 5. Section 19.31.050, Maui County Code, is amended to read as follows:

**“19.31.050 Development standards.** The development standards in the P-1 and P-2 public/quasi-public districts are as follows:

	P-1	P-2	Notes and Exceptions
Minimum lot area (square feet)	15,000	20,000	The County may allow lot sizes of less than the minimum lot size as specified under this section for lots created or used for public, private, and quasi-public utility purposes.
Minimum lot width (in feet)	<del>[100]</del> <u>75</u>	<del>[200]</del> <u>100</u>	
Minimum front <del>[and rear yard]</del> setback (in feet)	15	<del>[30]</del> <u>25</u>	
Minimum side <del>[yard]</del> <u>and rear</u> setback (in feet)	10	15	

Maximum height (in feet)	40	90 for Maui, <u>excluding the West Maui community plan area and Hāna community plan area; 45 for West Maui community plan area; 45 for Hāna community plan area; 45 for Lānaʻi; and 35 for Molokaʻi.</u>	Except that structures with steeples, vent pipes, fans, <u>elevator and stairway shafts, chimneys, cellular or other antennae, and equipment used for small scale energy systems on roofs</u> [shall not exceed a total of 50 feet in P-1 and 100 feet in P-2] <u>may extend an additional 10 feet above the building roof from which it extends.</u>
Free standing [antenna,] <u>antennae</u> or wind turbine structures height and setback	Maximum height of 50 feet and [shall] <u>must</u> be set back 1 foot for every foot in height from all property lines.	Maximum height of 100 feet and [shall] <u>must</u> be set back 1 foot for every foot in height from all property lines.	
Accessory structures within setback area	[Mail boxes,] <u>Mailboxes,</u> trash enclosures, boundary walls, light pole, and ground signs.	[Mail boxes,] <u>Mailboxes,</u> trash enclosures, boundary walls, light pole, and ground signs.	Trash enclosures and boundary walls [shall be] <u>are</u> limited to a maximum height of 8 feet. Light poles [shall be] <u>are</u> limited to a maximum height of 30 feet.

SECTION 6. Chapter 19.31, Maui County Code, is amended by adding a new section to be appropriately designated and to read as follows:

**“19.31.070 Permits issued prior to the enactment of the comprehensive zoning ordinance. Dwellings or structures constructed with a building permit approved prior to the enactment of the comprehensive zoning ordinance need not acquire a County special use permit, conditional permit, or variance; may be reconstructed as permitted by the original building permit; and may be expanded or modified with a building permit, subject to the other provisions of this chapter title.”**

SECTION 7. 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 8. This Ordinance takes effect on approval.

APPROVED AS TO FORM AND LEGALITY:

---

Department of the Corporation Counsel  
County of Maui

pslu.misc:030abill02:wal

INTRODUCED BY:

*Jamnad M. Balin*

---