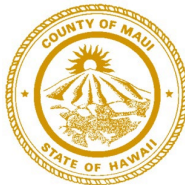


**MICHAEL P. VICTORINO**  
Mayor

**MOANA M. LUTEY**  
Corporation Counsel

**RICHELLE M. THOMSON**  
First Deputy

**LYDIA A. TODA**  
Risk Management Officer



DEPARTMENT OF THE CORPORATION COUNSEL  
COUNTY OF MAUI  
200 SOUTH HIGH STREET, 3<sup>RD</sup> FLOOR  
WAILUKU, MAUI, HAWAII 96793  
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March 23, 2022

To: Chair Tamara Paltin  
Planning and Sustainable Land Use Committee

SUBJECT: 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 (PSLU-30)

Dear Chair Paltin,

Please accept this memorandum pertaining to the attached signed 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.

Upon review of the bill as to form and legality, the following changes are recommended for consistency and clarity. Please note references to the section numbers pertain to the version of the bill originally submitted to our office on March 7, 2022. In the attached signed bill, the sections have been renumbered as appropriate.

1. Removal of Section 2, which added a new section regarding permits issued prior to the enactment of the comprehensive zoning ordinance.
2. Removal of Section 4, which added a new section regarding permits issued prior to the enactment of the comprehensive zoning ordinance.

3. Removal of Section 6, which added a new section regarding permits issued prior to the enactment of the comprehensive zoning ordinance.
4. Addition of language to Section 8, stating the Ordinance takes effect on approval, except dwellings or structures constructed with a building permit approved prior to the enactment of the Ordinance 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 Title 19.

The changes were made in consultation with the Planning Department. The changes revise the ordinance to cover permits approved prior to the changes made in this ordinance rather than the comprehensive zoning ordinance, which was the original intent. Attached please find the changes in red-line. Also attached is a signed copy of the bill incorporating the recommended changes. Please let me know if you have any questions.

Sincerely,

/s/ Michael J. Hopper

Michael J. Hopper  
Deputy Corporation Counsel

MJH:gmr

# REQUEST FOR LEGAL SERVICES

**RECEIVED**

By Corporation Counsel at 9:45 am, Mar 07, 2022

**Date:** March 4, 2022

**From:** 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 <u>Tamara M. Paltin</u> Tamara Paltin	Contact Person <u>Wilton Leauanae</u> (Telephone Extension: <u>7661</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): March 9, 2022  
REASON: For posting for the next Council meeting agenda on March 18, 2022.

## FOR CORPORATION COUNSEL'S RESPONSE

ASSIGNED TO: <u>MJH</u>	ASSIGNMENT NO. <u>2021-0016</u>	BY: <u>maa</u>
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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):  
Please see the attached memorandum dated March 22, 2022 and signed bill incorporating the recommended changes.

DEPARTMENT OF THE CORPORATION COUNSEL

Date March 22, 2022

By Stephanie Chen  
(Rev. 7/03)

pslu:ltr:030acc01:wal

Attachment

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

BILL NO. 24, CD1 (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,</u> <u>excluding the</u> <u>West Maui</u> <u>community plan</u> <u>area and Hāna</u> <u>community plan</u> <u>area; 45 for West</u> <u>Maui community</u> <u>plan area; 45 for</u> <u>Hāna community</u> <u>plan area; 45 for</u> <u>Lānaʻi; and 35 for</u> <u>Molokaʻi</u>	Except [that] vent pipes, fans, <u>elevator and</u> <u>stairway shafts,</u> <u>chimneys, cellular</u> <u>or other</u> antennae, and equipment used for small-scale energy systems on roofs [shall not exceed one hundred feet] <u>may</u> <u>extend an</u> <u>additional 10 feet</u>

		<u>above the building roof from which it extends</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] <u>setback</u> for free-standing antennae or wind turbine structures	Maximum height of 50 feet[;] <u>with a</u> minimum setback of 1 foot for each foot in height from all property lines	
Accessory structures within [set-back] <u>setback</u> area	<u>[Mail boxes,] 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 2. 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 for Maui, <u>excluding the West Maui community plan area and Hāna community plan area</u> ; 45 for West Maui community plan area; 45 for Hāna community plan area; 45 for Lānaʻi; and 35 for Molokaʻi	Except [that] vent pipes, fans, <u>elevator and stairway shafts</u> , 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 setback 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</u>

		<u>under chapter 16.13</u>
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”

SECTION 3. 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 [and rear yard] setback (in feet)	15	<del>[30]</del> <u>25</u>	
Minimum side [yard] and rear setback (in feet)	10	15	
Maximum height (in feet)	40	90 <u>for Maui, excluding the West Maui community plan area and Hāna community plan area; 45 for West Maui</u>	Except [that] structures with steeples, vent pipes, fans, <u>elevator and stairway shafts, chimneys, cellular or other antennae,</u> and equipment used for small scale

		<u>community plan area; 45 for Hāna community plan area; 45 for Lānaʻi; and 35 for Molokaʻi</u>	energy systems <u>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[.]

”

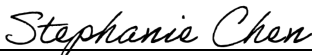
SECTION 4. Material to be repealed is bracketed. New material is underscored. In printing this bill, the County Clerk need not include the brackets, the bracketed material, or the underscoring.

SECTION 5. This Ordinance takes effect on approval, except dwellings or structures constructed with a building permit approved prior to the enactment of this Ordinance 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.

APPROVED AS TO FORM AND LEGALITY:

  
\_\_\_\_\_  
STEPHANIE M. CHEN  
Deputy Corporation Counsel  
County of Maui  
LF2021-0016  
PSLU-30 2022-03-22 Ord Amd Title 19  
pslu.misc:030abill02:wal

INTRODUCED BY:

*Jamnad M. Bhatti*

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