

COUNCIL OF THE COUNTY OF MAUI
CLIMATE ACTION, RESILIENCE, AND
ENVIRONMENT COMMITTEE

December 16, 2022

Committee
Report No. _____

Honorable Chair and Members
of the County Council
County of Maui
Wailuku, Maui, Hawaii

Chair and Members:

Your Climate Action, Resilience, and Environment Committee, having met on November 30, 2022, makes reference to Resolution 22-258 entitled “REFERRING TO THE LĀNA‘I, MAUI, AND MOLOKAI PLANNING COMMISSIONS AND ADVISORY COMMITTEES TO MAUI PLANNING COMMISSION A PROPOSED BILL AMENDING CHAPTERS 12.24 AND 19.36, MAUI COUNTY CODE, RELATING TO THE LANDSCAPE PLANTING PLAN.”

Resolution 22-258’s purpose is to refer to the Lāna‘i, Maui, and Molokai Planning Commissions and Advisory Committees a proposed bill, entitled “A BILL FOR AN ORDINANCE AMENDING CHAPTERS 12.24 AND 19.36, MAUI COUNTY CODE, RELATING TO THE LANDSCAPE PLANTING PLAN.”

The purpose of the proposed bill is to amend Chapters 12.24 and 19.36, Maui County Code, to address violations of the landscape planting plan subject to enforcement under Section 19.530.030 and require a minimum of 50 percent canopy coverage in parking areas.

The Deputy Planning Director said passage of the bill would require the hiring of an Arborist as additional staff for the Department, along with funding for office space and other associated costs which may be addressed during the Fiscal Year 2024 Budget Session.

COUNCIL OF THE COUNTY OF MAUI

CLIMATE ACTION, RESILIENCE, AND ENVIRONMENT COMMITTEE

Page 2

**Committee
Report No. _____**

The Department also said the bill would impact property owners:

- During the initial permitting process when submitting a Landscape Planting Plan application;
- When tenants of storefronts submit for a Certificate of Occupancy and the landowner has not maintained the property; and
- When complaints are received.

Your Committee expressed concern that a tenant's Certificate of Occupancy may be denied if the landowner was not in compliance with the Landscape Planting Plan. Your Committee urged the Planning Commissions and Advisory Committees to consider other avenues of enforcement that would not penalize tenants who do not own the property.

Your Committee notes the Council received written testimony dated November 15, 2022, from the Planning Director, recommending that the proposed bill be separated into two bills so the Planning Commissions and Advisory Committees would not be tasked with reviewing the proposed Chapter 12.24 amendments which are outside of their authority.

Your Committee agreed to amend the resolution and attached proposed bill to correctly reference Chapter 19.36B that addresses landscaping in parking areas and delete any references to Chapter 12.24.

Your Committee voted 4-0 to recommend adoption of Resolution 22-258, CD1. Committee Chair King, Vice-Chair Sinenci, and members Johnson and Paltin voted "aye." Committee members Lee, Molina, and Sugimura were excused.

Your Committee is in receipt of Resolution 22-258, CD1, entitled "REFERRING TO THE PLANNING COMMISSIONS AND ADVISORY COMMITTEES A PROPOSED BILL AMENDING CHAPTER 19.36B, MAUI COUNTY CODE, RELATING TO THE LANDSCAPE PLANTING PLAN,"

COUNCIL OF THE COUNTY OF MAUI

CLIMATE ACTION, RESILIENCE, AND ENVIRONMENT COMMITTEE

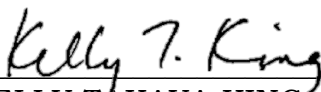
Page 3

**Committee
Report No.** _____

incorporating your Committee's recommended revisions and nonsubstantive revisions.

Your Climate Action, Resilience, and Environment Committee RECOMMENDS that Resolution 22-258, CD1, as revised herein and attached hereto, entitled "REFERRING TO THE PLANNING COMMISSIONS AND ADVISORY COMMITTEES A PROPOSED BILL AMENDING CHAPTER 19.36B, MAUI COUNTY CODE, RELATING TO THE LANDSCAPE PLANTING PLAN," be ADOPTED.

This report is submitted in accordance with Rule 8 of the Rules of the Council.



KELLY TAKAYA KING, Chair

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Resolution

No. 22-258, CD1

REFERRING TO THE PLANNING COMMISSIONS
AND ADVISORY COMMITTEES A PROPOSED
BILL AMENDING CHAPTER 19.36B, MAUI
COUNTY CODE, RELATING TO THE
LANDSCAPE PLANTING PLAN

WHEREAS, the Council is considering a proposed bill to amend Chapter 19.36B, Maui County Code, relating to the landscape planting plan; and

WHEREAS, Sections 8-8.4 and 8-8.6 of the Revised Charter of the County of Maui (1983), as amended, require the appropriate planning commissions to review proposed land use ordinances and amendments and provide findings and recommendations to the Council; and

WHEREAS, Section 2.28.050, Maui County Code, authorizes the advisory committees to provide recommendations to the Maui Planning Commission on matters within their community plan areas; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That it refers the proposed bill, entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.36B, MAUI COUNTY CODE, RELATING TO THE LANDSCAPE PLANTING PLAN," a copy of which is attached as Exhibit "1," to the Lānaʻi Planning Commission, Maui Planning Commission, and Molokai Planning Commission for findings and recommendations in accordance with Sections 8-8.4 and 8-8.6 of the Revised Charter of the County of Maui (1983), as amended, and to the Hāna Advisory Committee, South Maui Advisory Committee, and Pāʻia-Haʻikū Advisory Committee for findings and recommendations;
2. That it respectfully requests the Planning Commissions and Advisory Committees transmit their findings and recommendations as expeditiously as possible; and

Resolution No. _____

3. That certified copies of this Resolution be transmitted to the Mayor, the Planning Director, the Lānaʻi Planning Commission, the Maui Planning Commission, the Molokai Planning Commission, the Hāna Advisory Committee, the South Maui Advisory Committee, and the Pāʻia-Haʻikū Advisory Committee.

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INTRODUCED BY:

Kelly T. King

KELLY TAKAYA KING

Exhibit "1"

ORDINANCE NO. _____

BILL NO. _____ (2022)

A BILL FOR AN ORDINANCE AMENDING CHAPTER
19.36B, MAUI COUNTY CODE, RELATING TO THE
LANDSCAPE PLANTING PLAN

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

SECTION 1. Section 19.36B.080, Maui County Code, is amended by
amending Subsection A to read as follows:

"A. To provide maximum shade over hardscape, visual screening, and aesthetics, landscaping [shall] including canopy trees must be provided for all parking areas in all zoning districts, excluding parking areas for single-family dwellings, accessory dwellings, farm dwellings, farm labor dwellings, and duplex dwellings. During review of a building permit application and prior to the issuance of a certificate of occupancy, the department [shall] must require the submittal of a landscape plan that shows compliance with the following landscaping standards:

1. A planted area with a minimum size of four-feet wide in the front and two-feet wide on the sides and rear [shall] must be provided around the area containing parking spaces, loading spaces, and aisles, except where vehicles access the property or where buildings are situated between the parking area and roadways or an adjacent lot.

a. For visual screening, the planted area [shall] must have appropriate hedge material in linear masses that will reach at least four feet in height when mature.

b. A solid five-foot-high barrier or wall [shall] must be erected along the abutting portion of the lot line wherever any portion of the planted area abuts a lot with:

i. Existing adjacent dwelling units, or

ii. A zoning designation based on chapter 19.08 (residential districts), [of this code,] chapter 19.09 [of this code] (R-0 zero-lot line residential district), chapter 19.10 of [this code] (two-family (duplex)

districts), or a project district containing a district or subdistrict with a residential principal permitted use.

iii. The director may waive the requirement for the barrier or wall to allow a sidewalk between parking areas and adjacent residential properties or if an adjacent residential property is designated for residential mixed use development.

2. [One tree shall] A minimum of one tree must be provided in the parking area for every five parking spaces, distributed as evenly as practicable throughout the parking area and appropriately maintained to provide [maximum shade to the extent practicable] a minimum of 50 percent canopy coverage of the hardscape. The [Maui County] landscape planting plan, as defined in [subsection] section 12.24A.020 [of this code, shall] must be referenced [in order] to choose appropriate trees, planting methods, and maintenance. The director [shall] must grant the following exceptions upon request and a showing of reasonable cause:

a. Any parking space that is completely covered by another parking space located directly above it, such as in a parking garage, may be excluded from the count of parking spaces used in determining the number of required trees.

b. Required trees may be planted elsewhere on the lot if it is not practicable for them to be planted in the parking area, such as when parking spaces are partially covered or when solar or photovoltaic carports are present.

c. As an alternative means to provide visual relief, if solar or photovoltaic carports are situated in a manner that makes it impracticable to plant the required trees anywhere on the lot, appropriate additional hedge material may be planted elsewhere on the lot in linear masses that will reach at least four feet in height when mature.

d. Modifications recommended by the Maui County arborist committee[, pursuant to] under chapter 12.24A [of this code].

3. Each required tree and landscape planted area [shall] must be maintained to comply with the requirements of this chapter and [shall] must be regularly irrigated by an automated system. If any required tree or landscaping is removed, it [shall] must be replaced by a tree or landscaping of the same species and maturity, or the department may require the submittal of a revised landscape plan.

4. In addition to any required landscaping, at the parking space terminus of standard-sized non-parallel parking spaces, up to two feet of the pavement may be replaced with landscaping as described below:

- a. The area [shall] must be planted with a low-growing ground cover or grass (no trees or hedges) so that the end of a vehicle can extend over the area.
 - b. The area [shall] must be located at the same or a lower elevation than the adjacent parking spaces and designed to allow the surface water to flow into this area.
 - c. Tire stops or curbs with openings for the passage of water [shall] must be installed on the pavement to protect the ground cover from vehicle tires.
 - d. The area [shall] does not satisfy any front, side, or rear landscaping requirements.
5. [To the extent practicable, the] The landscaping area [shall] must be incorporated into any drainage or storm water management plans to increase recharge and percolation of storm water.
6. The application for a landscape plan [shall] must include a site plan drawn to scale and [shall] provide the information as required by the director to show compliance with this title, including lot boundaries, parking area location and dimensions, planted area dimensions, and plant information such as plant species, sizes, quantities, locations, and irrigation details."

SECTION 2. 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 3. This Ordinance takes effect on approval.

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