

COUNCIL OF THE COUNTY OF MAUI
PLANNING AND SUSTAINABLE LAND
USE COMMITTEE

October 23, 2020

Committee
Report No. _____

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

Chair and Members:

Your Planning and Sustainable Land Use Committee, having met on October 8, 2020, makes reference to County Communication 20-421, from the Planning Director, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.35, MAUI COUNTY CODE, RELATING TO ACCESSORY DWELLINGS."

The purpose of the proposed bill is to amend the Comprehensive Zoning Ordinance to establish that the standards for accessory dwellings' fire apparatus access roads are the same as in the Fire Code.

Your Committee notes the Comprehensive Zoning Code defines accessory dwelling as "an attached or detached dwelling unit which is incidental or subordinate to the main or principal dwelling on a lot." Your Committee further notes the Council enacted Ordinance 4936, effective December 24, 2018, to "allow more accessory dwellings in order to increase the County's housing stock." Some building permits for accessory dwellings are being rejected, however, because the units cannot comply with Comprehensive Zoning Ordinance's requirement that the units be accessible to fire trucks and other fire equipment by a road at least 20 feet wide.

The Fire Prevention Bureau Captain of the Department of Fire and Public Safety informed your Committee that the Fire Code allows exceptions to the standard requirement of a 20-foot-wide fire apparatus access road, including when an accessory dwelling unit is equipped with an automatic sprinkler system. The Department supports the bill.

COUNCIL OF THE COUNTY OF MAUI
PLANNING AND SUSTAINABLE LAND
USE COMMITTEE

Page 2

Committee
Report No. _____

The Planning Director informed your Committee the proposed bill was supported by the Maui, Molokai, and Lanai Planning Commissions. The Planning Director further explained the proposed bill carries out the Countywide Policy Plan to “ensure that laws, policies and regulations are internally consistent.”

Your Committee discussed the proposed bill’s substitution of “shall” for “will” in two Maui County Code subsections. Your Committee notes the Obama Administration’s PlainLanguage.gov project—launched in response to the Plain Writing Act of 2010—suggests deleting “shall” in legislation because of its inherent ambiguity. The suggestion is based on the advice of Bryan Garner, Editor-in-Chief, Black’s Law Dictionary, and other experts on legislative drafting.

Your Committee expressed support for the proposed bill, which would allow more accessory dwelling units without compromising public safety, consistent with the advice of the Department of Fire and Public Safety, the Department of Planning, and the Maui, Molokai, and Lanai Planning Commissions.

Your Committee voted 6-0 to recommend passage of the proposed bill on first reading and filing of the communication. Committee Chair Paltin, Vice-Chair Sinenci, and members King, Molina, Rawlins-Fernandez, and Sugimura voted “aye.” Committee member Lee was excused.

Your Planning and Sustainable Land Use Committee
RECOMMENDS the following:

1. That Bill _____ (2020), attached hereto, entitled “A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.35, MAUI COUNTY CODE, RELATING TO ACCESSORY DWELLINGS,” be PASSED ON FIRST READING and be ORDERED TO PRINT; and

COUNCIL OF THE COUNTY OF MAUI
**PLANNING AND SUSTAINABLE LAND
USE COMMITTEE**

Page 3

**Committee
Report No. _____**

2. That County Communication 20-421 be FILED.

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



TAMARA PALTIN, Chair

pslu:cr:20070aa:alkl

ORDINANCE NO. _____

BILL NO. _____ (2020)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.35, MAUI COUNTY
CODE, RELATING TO ACCESSORY DWELLINGS

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

SECTION 1. Findings and Purpose. The purpose of this ordinance is to correct an inconsistency with the Maui County Fire Code 16.04C.440-subsection 18.2.3.6 regarding fire apparatus access roads for accessory dwellings.

SECTION 2. Section 19.35.090, Maui County Code, is amended to read as follows:

"19.35.090 Public facilities required. The following public facilities are required to service the lot: A. Adequacy of sewage disposal system. This [shall] will be secured in writing from the department of environmental management for public sewage systems and the State of Hawaii department of health for individual wastewater systems and private wastewater treatment works.

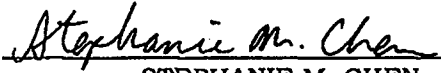
B. Adequacy of fire protection for all lots served by private streets. This [shall] will be secured in writing from the department of fire and public safety.

C. Adequacy of street. The lot must have direct access to a street [which has a minimum paved roadway width of sixteen feet and which the director of public works determines to be adequate for the proposed construction, except that a minimum width of twenty feet shall be required for fire apparatus access roads.] that meets fire code requirements for fire apparatus access roads."

SECTION 3. 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 4. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM AND LEGALITY:

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STEPHANIE M. CHEN

Department of the Corporation Counsel
County of Maui

2020-0796

2020-07-06 Amend MCC 19.35.090