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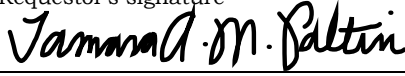
By Dept of the Corporation Counsel at 4:25 pm, Jun 08, 2021

REQUEST FOR LEGAL SERVICES**Date:** June 8, 2021**From:** Tamara Paltin, Chair

Planning and Sustainable Land Use Committee

TRANSMITTAL

Memo to: DEPARTMENT OF THE CORPORATION COUNSEL
Attention: Michael J. Hopper, Esq.**Subject:** URBAN RESERVE DISTRICT (PSLU-71)**Background Data:** Please see the attached bill. Please provide your response to pslu.committee@mauicounty.us and alison.stewart@mauicounty.us.**Work Requested:** ☒ FOR APPROVAL AS TO FORM AND LEGALITY☐ OTHER:

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|---|--|
| Requestor's signature  Tamara Paltin | Contact Person <u>Alison Stewart</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): June 9, 2021REASON: For posting on the June 18, 2021 Council agenda.**FOR CORPORATION COUNSEL'S RESPONSE**

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| ASSIGNED TO: SMC | ASSIGNMENT NO. 2021-0016 | BY: jcm |
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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): _____

*see the attached signed bill

DEPARTMENT OF THE CORPORATION COUNSEL

Date 6/10/2021By /s/Stephanie M. Chen

(Rev. 7/03)

pslu:ltr:071acc01:ans
Attachment

ORDINANCE NO. _____

BILL NO. _____ (2021)

A BILL FOR AN ORDINANCE AMENDING CHAPTERS 19.64 AND 19.69, MAUI COUNTY CODE, RELATING TO THE URBAN RESERVE DISTRICT

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

SECTION 1. Section 19.64.050, Maui County Code, is amended to read as follows:

“19.64.050 Permit processing. A. Bed and [Breakfast Home.] breakfast home. Short-term rental of one to six bedrooms on [Lanaʻi] Lānaʻi or Maui or of one to three bedrooms on Molokaʻi in a bed and breakfast home [shall] must be permitted by a bed and breakfast home permit.

1. The applicant for a bed and breakfast home permit [shall] must file an application with the planning director as provided in section 19.64.040.

2. The planning director [shall] must approve or deny the application [pursuant to] in accordance with the requirements of this chapter.

3. The application [shall] will be processed as provided in subsection B of this section, if any of the following occur:

a. [If written] Written protests [pursuant to section] in accordance with subsection 19.64.040.B.4 comprise [thirty] 30 percent or more of the owners and lessees of record within a five-hundred-foot distance from the lot [on] upon which the bed and breakfast home is proposed[;].

b. [If a] A variance was obtained to meet the requirements for a bed and breakfast home permit[;].

c. [If an] An existing bed and breakfast home is operating [on] upon a lot within a five-hundred-foot distance from the lot [on] upon which the bed and breakfast home is proposed[;].

d. For bed and breakfast homes located within the Hana, Paia-Haiku, and Kihei-Makena community plan [area] areas, the number of bedrooms

used for short-term rental in the bed and breakfast home [shall be] is greater than three[; or], or in the urban reserve district in accordance with chapter 19.69.

e. For bed and breakfast homes located on Molokaʻi and [Lanaʻi,] Lānaʻi, the application is for an initial bed and breakfast home permit.

4. The planning director [shall] must specify in the department's annual report the number of bed and breakfast home permit applications received and approved."

SECTION 3. Section 19.69.020, Maui County Code, is amended to read as follows:

"19.69.020 Permitted uses. A. [Except as otherwise provided, uses not expressly permitted herein are prohibited in the urban reserve district.] This district is prohibited on Molokaʻi.

B. The following uses are permitted in the urban reserve district:

1. One single-family dwelling per zoning lot[;].

2. Uses and structures that are accessory to the single-family dwelling [and located on the same zoning lot as said dwelling. These uses and structures include, but are not limited to], such as garages, carports, and storage sheds, and other uses which are customary, incidental, usual, and necessary to the use of a the dwelling or the land of the zoning lot[;].

3. [One accessory dwelling] Accessory dwellings; provided that, the area of the zoning lot is seven thousand five hundred square feet or more; and provided further that the provisions of] subject to chapter 19.35. [of this title are complied with;]

4. Pasturing of animals and cultivation of crops, including[, but not limited to,] greenhouses, flower and truck gardens, and nurseries; [provided that,] except there [shall] must not be any retailing or transacting of business on the premises[;].

5. Private, public or quasi-public utility lines and roadways, drainage improvements, water source and distribution services, including[, but not limited to,] water wells, reservoirs, tanks, and not more than a twenty-three kilovolt public utility substation[; and].

6. [Short-term rental homes, subject to the provisions of chapter 19.65 of this title.] Bed and breakfast homes, subject to the provisions of chapter 19.64. For the

Hana, Paia-Haiku, and Kihei-Makena community plan [area] areas, bed and breakfast home permit applications must be reviewed by the [Hana] respective advisory committee.

7. Buildings or premises used by County government for public purposes.

8. Only structures used for public purposes are permitted on land the community plan designates as park.

[C. Notwithstanding the other provisions of this section, no structure shall be permitted on lands designated for open space or park use by the community plan applicable to the land in question.

D.] C. Minimum development standards for the urban reserve district [shall be as follows:] are:

1. [Area regulations. Any zoning lot, the boundaries of which are established prior to the effective date of the ordinance codified in this chapter, may be developed in accordance with section 19.69.020(B) of this title. The subdivision of any lot zoned urban reserve district to create additional zoning lots shall not be permitted;] Subdivisions. Subdivisions must not create additional lots other than restricted use lots or lots for park purposes.

2. Height regulations. [No building shall] Buildings must not exceed [two stories nor] thirty feet in height[; and].

3. Yard setbacks. There [shall] must be a front yard setback of [not less than] at least fifteen feet, side yard setback of [not less than] at least six feet, and rear yard setback of [not less than] at least six feet; [provided] except [that,] side and rear yard setbacks for two-storied buildings [shall] must be [not less than] at least ten 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 upon its approval.

APPROVED AS TO FORM AND LEGALITY:

Department of the Corporation Counsel
County of Maui

pslu:misc:071abill01:al

ORDINANCE NO. _____

BILL NO. _____ (2021)

A BILL FOR AN ORDINANCE AMENDING CHAPTERS 19.64 AND 19.69, MAUI COUNTY CODE, RELATING TO THE URBAN RESERVE DISTRICT

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

SECTION 1. Section 19.64.050, Maui County Code, is amended by amending subsection A to read as follows:

“19.64.050 Permit processing. A. Bed and [Breakfast Home.] breakfast home. Short-term rental of one to six bedrooms on [Lanaʻi] Lānaʻi or Maui or of one to three bedrooms on Molokaʻi in a bed and breakfast home [shall] must be permitted by a bed and breakfast home permit.

1. The applicant for a bed and breakfast home permit [shall] must file an application with the planning director as provided in section 19.64.040.

2. The planning director [shall] must approve or deny the application [pursuant to] in accordance with the requirements of this chapter.

3. The application [shall] will be processed as provided in subsection B of this section, if any of the following occur:

a. [If written] Written protests [pursuant to section] in accordance with subsection 19.64.040.B.4 comprise [thirty] 30 percent or more of the owners and lessees of record within a five-hundred-foot distance from the lot [on] upon which the bed and breakfast home is proposed[;].

b. [If a] A variance was obtained to meet the requirements for a bed and breakfast home permit[;].

c. [If an] An existing bed and breakfast home is operating [on] upon a lot within a five-hundred-foot distance from the lot [on] upon which the bed and breakfast home is proposed[;].

d. For bed and breakfast homes located within the Hana, Paia-Haiku, and Kihei-Makena community plan [area,] areas, the number of

bedrooms used for short-term rental in the bed and breakfast home ~~[shall be]~~ is greater than three~~;~~ or, or in the urban reserve district in accordance with chapter 19.69.

e. For bed and breakfast homes located on Moloka'i and ~~[Lana'i,]~~ Lāna'i, the application is for an initial bed and breakfast home permit.

4. The planning director ~~[shall]~~ must specify in the department's annual report the number of bed and breakfast home permit applications received and approved."

SECTION 2. Section 19.69.020, Maui County Code, is amended to read as follows:

"19.69.020 Permitted uses. A. ~~[Except as otherwise provided, uses not expressly permitted herein are prohibited in the urban reserve district. B.]~~ The following uses are permitted in the urban reserve district:

1. One single-family dwelling per zoning lot~~;~~].
2. Uses and structures that are accessory to the single-family dwelling ~~[and located on the same zoning lot as said dwelling. These uses and structures include, but are not limited to]~~, such as garages, carports, and storage sheds, and other uses which are customary, incidental, usual, and necessary to the use of a the dwelling or the land of the zoning lot~~;~~].

3. ~~[One accessory dwelling; provided that, the area of the zoning lot is seven thousand five hundred square feet or more; and provided further that the provisions of]~~ Accessory dwellings subject to chapter 19.35. ~~[of this title are complied with;]~~

4. Pasturing of animals and cultivation of crops, including~~], but not limited to,~~ greenhouses, flower and truck gardens, and nurseries; ~~[provided that,]~~ except there ~~[shall]~~ must not be any retailing or transacting of business on the premises~~;~~].

5. Private, public or quasi-public utility lines and roadways, drainage improvements, water source and distribution services, including~~], but not limited to,~~ water wells, reservoirs, tanks, and not more than a twenty-three kilovolt public utility substation~~;~~ and].

6. ~~[Short-term rental homes, subject to the provisions of chapter 19.65 of this title.]~~ Bed and breakfast homes, subject to the provisions of chapter 19.64. For the Hana, Paia-Haiku, and Kihei-Makena community plan areas,

bed and breakfast home permit applications must be reviewed by the appropriate advisory committee.

7. Buildings or premises used by County government for public purposes.

8. Only structures used for public purposes are permitted on land the community plan designates as park.

[C. Notwithstanding the other provisions of this section, no structure shall be permitted on lands designated for open space or park use by the community plan applicable to the land in question.

D.] B. Minimum development standards for the urban reserve district [shall be as follows:] are:

1. [Area regulations. Any zoning lot, the boundaries of which are established prior to the effective date of the ordinance codified in this chapter, may be developed in accordance with section 19.69.020(B) of this title. The subdivision of any lot zoned urban reserve district to create additional zoning lots shall not be permitted;] Subdivisions. Subdivisions must not create additional lots other than restricted use lots or lots for park purposes.

2. Height regulations. [No building shall] Buildings must neither exceed two stories nor thirty feet in height[; and].

3. Yard setbacks. There [shall] must be a front yard setback of [not less than] at least fifteen feet, side yard setback of [not less than] at least six feet, and rear yard setback of [not less than] at least six feet; [provided that,] except side and rear yard setbacks for two-storied buildings [shall] must be [not less than] at least ten feet.”

SECTION 3. Chapter 19.69, Maui County Code, is amended by adding a new section to be designated to read as follows:

“19.69.030 This district is prohibited on Moloka‘i.”

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 upon its approval.

APPROVED AS TO FORM AND LEGALITY:

/s/ Stephanie M. Chen

STEPHANIE M. CHEN

Department of the Corporation Counsel

County of Maui

LF2021-0016

2021-06-09 amend ch 19.64 and 19.69