

MICHAEL P. VICTORINO  
Mayor

MICHELE CHOUTEAU MCLEAN, AICP  
Director

JORDAN E. HART  
Deputy Director



**DEPARTMENT OF PLANNING**

COUNTY OF MAUI  
ONE MAIN PLAZA  
2200 MAIN STREET, SUITE 315  
WAILUKU, MAUI, HAWAII 96793

July 16, 2021

RECEIVED  
2021 JUL 16 AM 8:49  
OFFICE OF THE  
COUNTY CLERK

Honorable Michael P. Victorino, Mayor  
County of Maui  
200 South High Street  
Wailuku, Hawaii 96793

APPROVED FOR TRANSMITTAL

For Transmittal to:

Honorable Alice Lee, Chair  
and Members of the Maui County Council  
200 South High Street  
Wailuku, Hawaii 96793

  
Acting Mayor  
7/15/21  
Date

Dear Council Chair Lee and Councilmembers:

**SUBJECT: RESOLUTION NO. 21-66 RELATING TO THE NAPILI BAY  
CIVIC IMPROVEMENT DISTRICT**

On July 13, 2021, the Maui Planning Commission (MPC) considered Resolution 21-66 which transmitted a proposed bill to amend Chapter 19.60, Maui County Code, relating to the Napili Bay Civic Improvement District, and recommended approval of the bill with minor revisions recommended by the Department. The Department's memorandum to the MPC is attached.

At the MPC meeting, nine individuals provided testimony. Four provided comments in support, three provided comments and requested that the matter be deferred, and one opposed the proposed bill. The MPC discussed several issues that were raised by testifiers, including the use of the sea level rise exposure area as a delineation for short-term rental use, what the proposed bill would mean for existing vacation rental operations, if or how new vacation rental use could be conducted under the Department's proposed recommendations, and whether to include "two stories" as well as "30 feet" in the height limitation.

After learning that existing vacation rental operations would be considered lawful nonconforming (or grandfathered), and that new vacation rental uses would require a short-term rental home permit, bed and breakfast permit, or special use permit under the Department's recommendations, the MPC agreed that new vacation rental uses should be limited throughout the district and not just outside the sea level rise exposure area, and that the height limit should include "two stories." The MPC unanimously recommended approval of the proposed bill accordingly, with one member absent and excused.

The revised bill was signed by Corporation Counsel and is attached for your action. The

Honorable Michael P. Victorino  
For Transmittal to:  
Honorable Alice Lee, Chair  
and Members of the Maui County Council  
July 16, 2021  
Page 2

meeting minutes will be sent to you separately as soon as they are ready.

You may wish to consider the proposed bill for approval on first reading by the full Council. In addition or alternatively, you may wish to refer this matter to the relevant committee for further consideration.

Sincerely, -

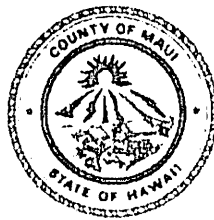
A handwritten signature in black ink, appearing to read 'Michele McLean', with a stylized, cursive script.

MICHELE MCLEAN, AICP  
Planning Director

Attachments (2)

xc: Councilmember Tamara Paltin  
Jacky Takakura, Administrative Planning Officer  
MCM:atw  
S:\ALL\Michele\Council\Lee Reso 21-66 NBCID.docx

MICHAEL P. VICTORINO  
Mayor  
MICHELE CHOUTEAU MCLEAN, AICP  
Director  
JORDAN E. HART  
Deputy Director



DEPARTMENT OF PLANNING  
COUNTY OF MAUI  
ONE MAIN PLAZA  
2200 MAIN STREET, SUITE 315  
WAILUKU, MAUI, HAWAII 96793

July 13, 2021

**MEMORANDUM**

TO: MAUI PLANNING COMMISSION

FROM: MICHELE CHOUTEAU MCLEAN, AICP   
PLANNING DIRECTOR

SUBJECT: **A PROPOSED BILL RELATING TO SHORT-TERM RENTAL HOMES AND MAXIMUM BUILDING HEIGHT IN THE NAPILI BAY CIVIC IMPROVEMENT DISTRICT (Resolution No. 21-66)**

The attached Resolution No. 21-66 was adopted by the County Council on April 6, 2021 and transmits to the Maui Planning Commission a proposed bill to amend Maui County Code (MCC) Chapter 19.60 – Napili Bay Civic Improvement District (NBCID). The NBCID currently has a building height limit of two stories, and its permitted uses are those allowed in the hotel districts (MCC Chapter 19.12). The proposed bill has two primary purposes:

- to clarify the maximum building height as two stories or thirty feet; and
- to prohibit new short-term rental homes on properties outside the 3.2-foot sea level rise exposure area (SLR-XA).

It should be noted that Section 2 of the proposed bill appears to reference the wrong MCC Section. The bill proposes to amend Section 19.60.030, not Section 2.60.030.

Regarding building height, the Planning Department (Department) recommends deleting the reference to stories altogether, and clarifying that the height limit of 30 feet applies to all structures. Section 19.60.030.A is proposed to be amended as follows:

*Proposed bill:* "Building height ~~[shall]~~ must not exceed two stories[-] or thirty feet in height."

*Department:* "~~[Building height shall not exceed two stories]~~ Structures must be limited to thirty feet in height, including all appurtenances such as elevator shafts, stairwells, vent pipes and antennae."

Regarding hotel and short-term rental home use, the Department notes that there are no short-term rental home permits issued in the NBCID. This is because all uses allowed in Chapter 19.14 (Hotel Districts) are allowed in the NBCID which, historically, has meant that transient use of single-family dwellings and multi-family dwellings is allowed. It is not clear why the Council proposes to limit short-term rental home use outside the SLR-XA.

Given recent public sentiment on new visitor accommodations, including language in the proposed West Maui Community Plan update that will soon be considered by the full Council, the Department recommends prohibiting all new hotel and short-term rental home uses as permitted uses; existing transient uses would be allowed to continue as nonconforming uses, new bed and breakfast homes could be allowed with a permit issued pursuant to Chapter 19.64, and new transient uses could be allowed with a special use permit pursuant to Chapter 19.510. Section 19.60.030.E is proposed to be amended as follows (with corrected Ramseyer formatting):

*Proposed bill:* “The permitted uses ~~[shall be as provided for in the hotel district and as listed in]~~ are consistent with chapter 19.14 [of this code, provided,] except short-term rental homes are prohibited on properties located outside the 3.2-foot sea level rise exposure area and that any permitted accessory use ~~[shall]~~ must be an integral function of the hotel operation, ~~[and]~~ shall be operated ~~[by the management provided]~~ only for the convenience of guests, and ~~[shall]~~ must not be an independent commercial venture.”

*Department:* “The permitted uses shall be as provided for in the ~~[hotel district]~~ residential and apartment districts [and] as listed in ~~[chapter 19.14]~~ chapters 19.08 and 19.12 [of this code, provided, that any permitted accessory use shall be an integral function of the hotel operation and shall be operated by the management provided only for the convenience of guests and shall not be an independent commercial venture].”

The Department supports the proposed revisions to subsections 19.60.030.B, C, D and H, and also recommends several minor amendments to the remaining subsections to correct a typographical error and to provide clarity, as follows:

F: “Location of accessory uses ~~[shall]~~ must be to the rear ~~[of]~~ or interior of the lot.”

G: “Signs and advertisements shall not be gaudy or excessive in size, and must comply with chapter 16.13 of this code.”

I: “Special use permits may be granted pursuant to section 19.510.070 of this code for marginal uses that would conform with the intent of the civic improvement district as approved by the Maui Planning Commission.”

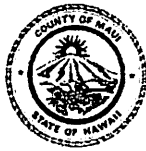
**Recommendation and Options**

The Department supports updating Section 19.60.030, and is recommending approval of the proposed bill with the amendments recommended by the Department as listed above. The Commission has the following options:

1. Recommend approval of the proposed bill to the Maui County Council.
2. Recommend approval of the proposed bill with amendments to the Maui County Council.
3. Recommend denial of the proposed bill to the Maui County Council.
4. Vote to defer action on the proposed bill in order to gather specific additional information.

Attachment  
MCM:JMCT  
S:\ALL\APO\19.60\210625MPCMemoReport.docx

KATHY L. KAOHU  
County Clerk



JAMES G.M. KRUEGER  
Deputy County Clerk

RECEIVED

OFFICE OF THE COUNTY CLERK  
COUNTY OF MAUI  
200 SOUTH HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
[www.mauicounty.gov/county/clerk](http://www.mauicounty.gov/county/clerk)

21 APR -7 P1:07

OFFICE OF THE MAYOR

April 7, 2021

Honorable Michael P. Victorino  
Mayor, County of Maui  
200 South High Street  
Wailuku, Hawaii 96793

APPROVED FOR TRANSMITTAL

*Michael P. Victorino* 4/7/21  
Mayor Date

For transmittal to:

Maui Planning Commission  
Planning Department  
2200 Main Street  
One Main Plaza, Suite 315  
Wailuku, Hawaii 96793

Dear Sir/Madam:

Transmitted herewith is a certified copy of Resolution No. 21-66,  
which was adopted by the Council of the County of Maui, State of Hawaii,  
on April 6, 2021.

Respectfully,

*Kathy L. Kaohu*

KATHY L. KAOHU  
County Clerk

/djy

Enclosure

# Resolution

No. 21-66

REFERRING TO THE MAUI PLANNING  
COMMISSION A PROPOSED BILL RELATING TO  
SHORT-TERM RENTAL HOMES AND MAXIMUM  
BUILDING HEIGHT IN THE NAPILI BAY CIVIC  
IMPROVEMENT DISTRICT (LAHAINA)

WHEREAS, the Council is considering a proposed bill amending the Napili Bay Civic Improvement precise plan to phase-out short-term rental homes in the Napili Bay Civic Improvement District for properties outside the 3.2-foot sea level rise exposure area and clarify the maximum building height; and

WHEREAS, Sections 8-8.4 and 8-8.6 of the Revised Charter of the County of Maui (1983), as amended, require that the appropriate planning commission review proposed land use ordinances and provide findings and recommendations to the Council; 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 RELATING TO SHORT-TERM RENTAL HOMES AND MAXIMUM BUILDING HEIGHT IN THE NAPILI BAY CIVIC IMPROVEMENT DISTRICT (LAHAINA)", a copy of which is attached as Exhibit "1," to the Maui Planning Commissions for appropriate action, in accordance with Sections 8.8.4 and 8.8.6 of the Revised Charter of the County of Maui (1983), as amended;
2. That it respectfully requests that the Maui Planning Commission transmit its findings and recommendations to the Council as expeditiously as possible; and
3. That certified copies of this resolution be transmitted to the Mayor, the Planning Director, and the Maui Planning Commission.

**Resolution No.** 21-66

APPROVED AS TO FORM AND LEGALITY



2021.03.26

09:23:12 -10'00'

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Deputy Corporation Counsel  
County of Maui

paf:alkd:21-061a



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

BILL NO. \_\_\_\_\_ (2021)

A BILL FOR AN ORDINANCE RELATING TO SHORT-TERM RENTAL HOMES  
AND MAXIMUM BUILDING HEIGHT IN THE NAPILI BAY CIVIC IMPROVEMENT  
DISTRICT (LAHAINA)

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

SECTION 1. This Ordinance's purpose is to phase out Short-Term Rental Homes outside of the sea level rise exposure area and establish maximum building height for the Napili Bay Civic Improvement District.

SECTION 2. Section 2.60.030, Maui County Code, is amended to read as follows:

"[Pursuant to] Under chapter 19.34, [of this code,] the precise plan of the Napili Bay civic improvement district [shall be as follows] is the following:

A. Building height [shall] must not exceed two stories[,] or thirty feet in height.

B. Total floor area of structures [shall] must be limited to 50 percent of the lot area.

C. Construction [shall be of] must use new material, and the relocation of old buildings [will not be] is not permitted.

D. Construction and architectural styling of buildings and structures [shall] must be in conformance with present developments in the Napili Bay civic improvement district.

E. The permitted uses [shall be as provided for in the hotel district and as listed in] are consistent with chapter 19.14, [of this code, provided,] except short-term rental homes are prohibited on properties located outside of the 3.2-foot sea level rise exposure area and that any permitted accessory use [shall] must be an integral function of the hotel operation,

[and shall] be operated [by the management provided] only for the convenience of the guests, and [shall] not be an independent commercial venture.

F. Location of accessory uses [shall] must be to the rear of interior of the lot.

G. Signs and advertisements [shall] must not be gaudy or excessive in size.

H. Off-street parking [shall] must be as provided in chapter 19.36B.[of this code.]

I. Special permits may be granted for marginal uses that would conform with the intent of the civic improvement district as approved by the Maui planning commission."

SECTION 3. Section 19.04.040, Maui County Code, is amended by adding a new definition to be appropriately inserted and to read as follows:

"Sea level rise exposure area" means a geographic location identified and officially designated by the Hawaii climate change mitigation and adaptation commission as a sea level rise exposure area."

SECTION 4. Short-Term Rental Home permits in the Napili Bay Civic Improvement District existing on the effective date of this ordinance may continue to be renewed under Section 19.65.070, Maui County Code.

SECTION 5. 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 6. This Ordinance takes effect upon approval.

APPROVED AS TO FORM AND LEGALITY

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Deputy Corporation Counsel  
County of Maui

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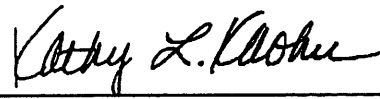
**COUNCIL OF THE COUNTY OF MAUI**

**WAILUKU, HAWAII 96793**

**CERTIFICATION OF ADOPTION**


**It is HEREBY CERTIFIED that RESOLUTION NO. 21-66 was adopted by the Council of the County of Maui, State of Hawaii, on the 6th day of April 2021, by the following vote:**

<b>MEMBERS</b>	<b>Alice L. LEE Chair</b>	<b>Keani N. W. RAWLINS- FERNANDEZ Vice-Chair</b>	<b>Gabe JOHNSON</b>	<b>Natalie A. KAMA</b>	<b>Kelly T. KING</b>	<b>Michael J. MOLINA</b>	<b>Tamara A. M. PALTIN</b>	<b>Shane M. SINENCI</b>	<b>Yuki Lei K. SUGIMURA</b>
<b>ROLL CALL</b>	<b>Aye</b>	<b>Excused</b>	<b>Aye</b>	<b>Excused</b>	<b>Aye</b>	<b>Aye</b>	<b>Aye</b>	<b>Aye</b>	<b>Aye</b>

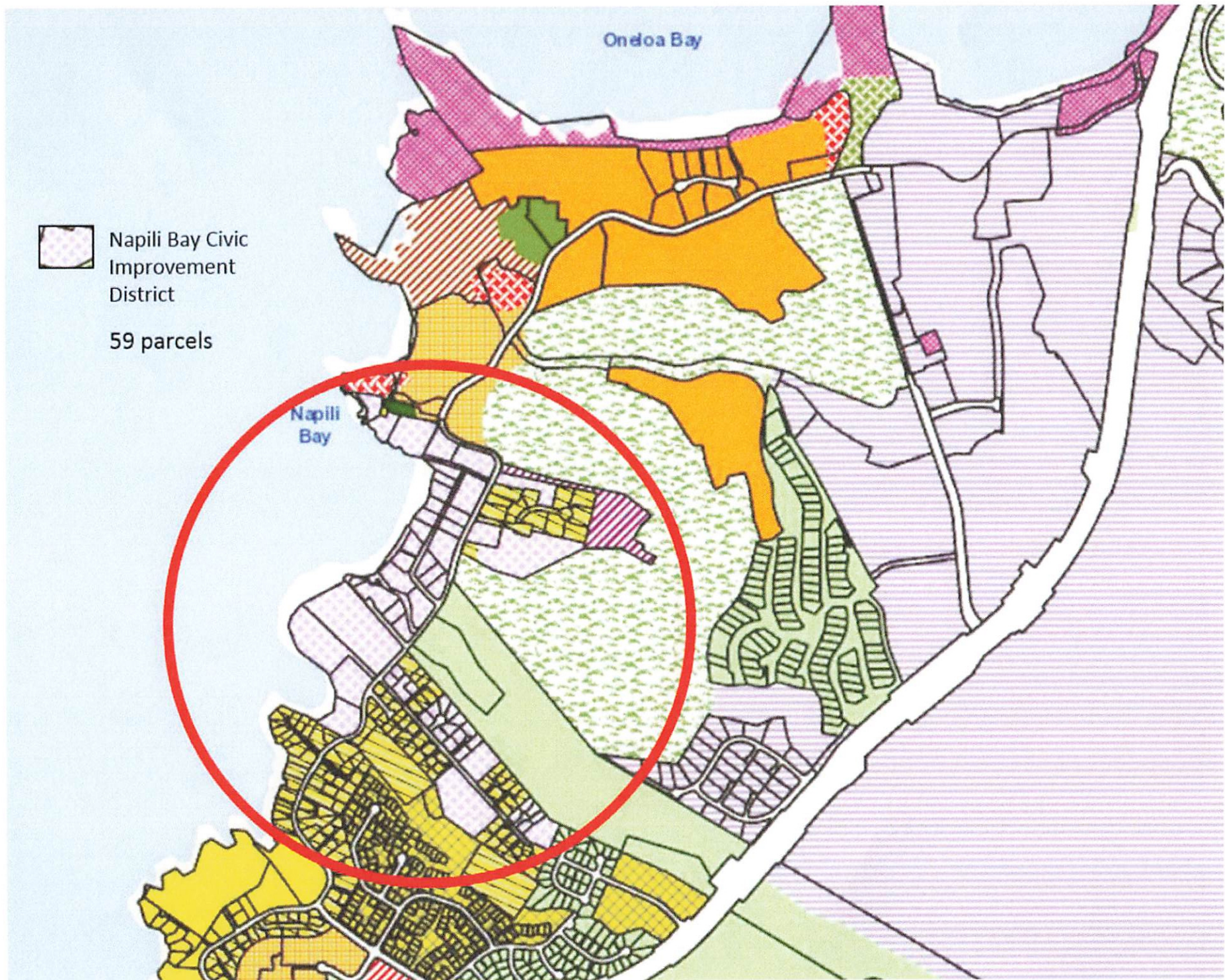


COUNTY CLERK



 Napili Bay Civic  
Improvement  
District

59 parcels





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

BILL NO. \_\_\_\_\_ (2021)

A BILL FOR AN ORDINANCE AMENDING SECTION 19.60.030,  
MAUI COUNTY CODE, RELATING TO HOTEL USE AND DEVELOPMENT  
STANDARDS IN THE NAPILI BAY CIVIC IMPROVEMENT DISTRICT (LAHAINA)

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

SECTION 1. The purposes of this Ordinance are to prohibit new hotel use in, and to revise the precise plan development standards for, the Napili Bay Civic Improvement District.

SECTION 2. Section 19.60.030, Maui County Code, is amended to read as follows:

**“19.60.030 - Precise plan.** [Pursuant to] Under chapter 19.34 of this [code] title, the precise plan of the Napili Bay civic improvement district [shall] is as follows:

A. [Building height shall not exceed two stories.] Structures are limited to a maximum of two stories and thirty feet in height, including all appurtenances such as elevator shafts, stairwells, vent pipes, and antennae.

B. Total floor area of structures [shall] must be limited to 50 percent of the lot area.

C. Construction [shall be of] must use new material, and the relocation of old buildings [will not be] is not permitted.

D. Construction and architectural styling of buildings and structures [shall] must be in conformance with present developments in the Napili Bay civic improvement district.

E. The permitted uses shall be as provided for in the [hotel district and as listed in chapter 19.14 of this code, provided, that any permitted accessory use shall be an integral function of the hotel operation and shall be operated by the management provided only for the convenience of the guests and shall not be an independent commercial venture.] residential and apartment districts as listed in chapters 19.08 and 19.12 of this title.

F. Location of accessory uses [shall] must be to the rear [of] or interior of the lot.

G. Signs and advertisements [shall] must not be gaudy or excessive in size[.], and must comply with chapter 16.13 of this code.

H. Off-street parking [shall be as provided in] must comply with chapter 19.36B of this [code] title.

I. Special use permits may be granted in accordance with section 19.510.070 of this title for marginal uses that would conform with the intent of the civic improvement district as approved by the Maui planning commission.”

SECTION 3. Material to be repealed is bracketed. New material is underscored. In printing this bill, the County Clerk need not include the brackets, bracketed material, or the underscoring.

SECTION 4. This Ordinance takes effect upon approval.

APPROVED AS TO FORM AND LEGALITY:

/s/ Stephanie M. Chen

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STEPHANIE M. CHEN  
Department of the Corporation Counsel  
County of Maui  
LF2021-1044  
2021-07-14 amend sec. 19.60.030