

COUNCIL OF THE COUNTY OF MAUI
PLANNING COMMITTEE

October 7, 2011

Committee
Report No. _____

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

Chair and Members:

Your Planning Committee, having met on February 28, 2011 and September 12, 2011, makes reference to County Communication 10-43, from the Planning Director, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.04, MAUI COUNTY CODE, PERTAINING TO GENERAL PROVISIONS AND DEFINITIONS".

The purpose of the proposed bill is to amend Chapter 19.04, Maui County Code ("MCC"), to revise the definitions of "basement", "building", "court", "apartment court", and "height"; and to add a new definition for "underground parking area" ("definitions bill").

Your Committee notes that the Department of Planning is in the process of proposing a series of bills to update, streamline, and standardize Title 19, MCC. The bills are intended to expedite and standardize the County's zoning provisions and permitting processes. Many ordinances have not been updated in over 30 years.

Your Committee further notes that the planning commissions reviewed the proposed definitions bill, pursuant to Sections 8-8.4 and 8-8.6 of the Revised Charter of the County of Maui (1983), as amended, and recommended that it be passed.

Your Committee recommended passage of the proposed definitions bill. However, because another bill amending Section 19.04.040, MCC, which also defined "height", was pending before the Council (building height bill), your Committee Chair decided to defer the issuance of your Committee's report until the Council acted on the building height bill.

Your Committee notes that the building height bill was enacted on August 28, 2011 (Ordinance 3848 (2011)).

Your Committee questioned how building height would be measured under the proposed definition of "basement".

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A representative from the Department of Planning explained that buildings with basements would be measured from the exterior natural or finished grade, whichever is lower, to a maximum height of 30 feet. The proposed definition of basement requires a basement to be constructed at least 80 percent below the exterior grade on all sides.

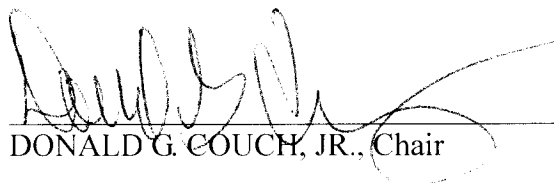
Your Committee also considered a concern that the proposed definition of "basement" is not consistent with the definition of "basement" in the 2006 International Building Code ("Building Code"). A Deputy Corporation Counsel confirmed that the Department of the Corporation Counsel is currently reviewing numerous amendments to the Building Code proposed by the Department of Public Works, and these amendments will be transmitted to the Council for review. Your Committee supported the definition of "basement" but acknowledged that the definition may need to be revised in the future.

Your Committee voted 4-1 to recommend passage of the proposed definitions bill on first reading. Committee Chair Couch, Vice-Chair Baisa, and members Cochran and Victorino voted "aye". Committee member White voted "no". Committee members Mateo and Pontanilla were excused.

Your Committee is in receipt of a revised proposed definitions bill, approved as to form and legality by the Department of the Corporation Counsel, incorporating revisions consistent with the definition of "height" in Ordinance 3848 (2011).

Your Planning Committee RECOMMENDS that Bill _____ (2011), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.04, MAUI COUNTY CODE, PERTAINING TO GENERAL PROVISIONS AND DEFINITIONS", be PASSED ON FIRST READING and be ORDERED TO PRINT.

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



DONALD G. COUCH, JR., Chair

ORDINANCE NO. _____

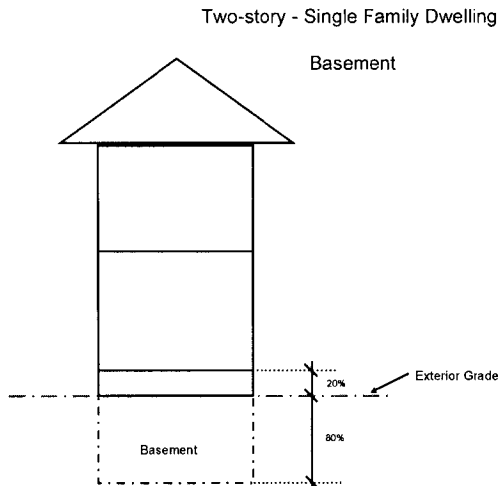
BILL NO. _____ (2011)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.04, MAUI COUNTY CODE, PERTAINING TO GENERAL PROVISIONS AND DEFINITIONS

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

SECTION 1. Section 19.04.040, Maui County Code, is amended by amending the following definitions to read as follows:

"Basement" means a portion of a building between floor and ceiling, at least eighty percent of which is [partly below and partly above grade, but so located that the vertical distance from the grade to the floor below is more than the vertical distance from grade to ceiling.] located below exterior grade on all sides, access to which is exclusively from the floor above.



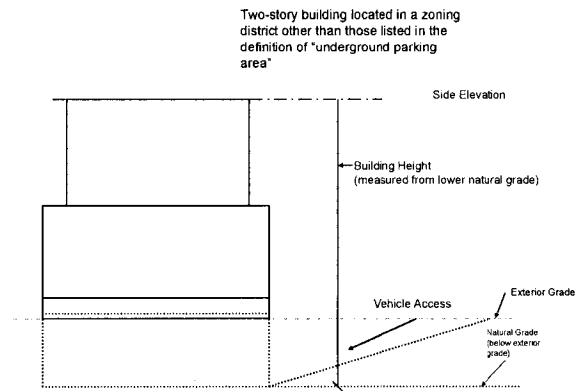
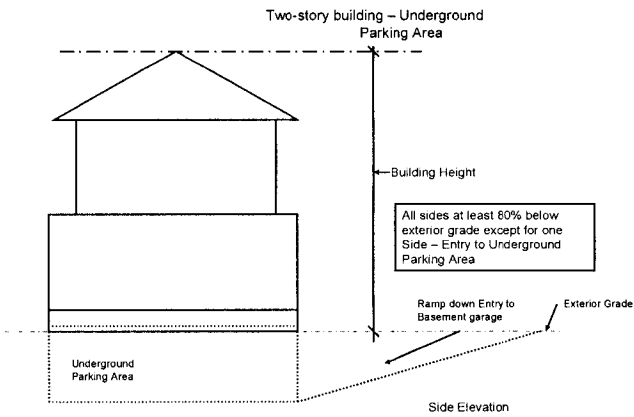
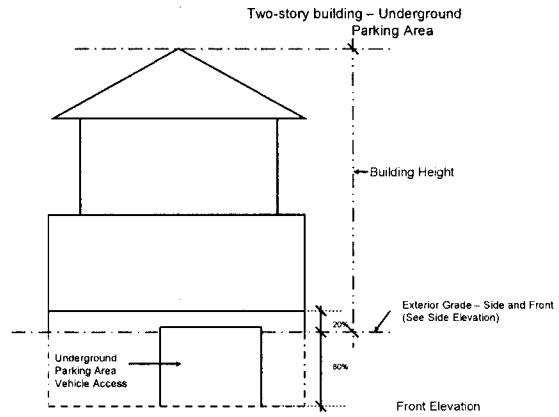
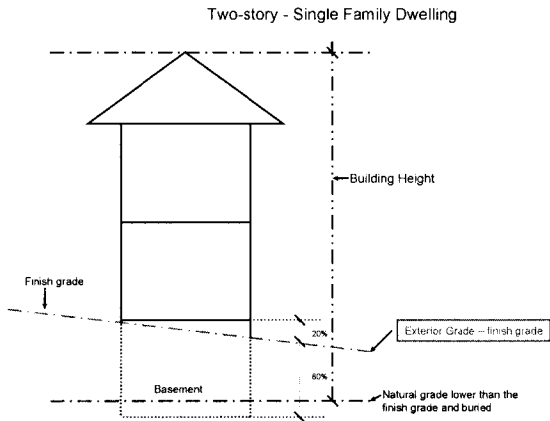
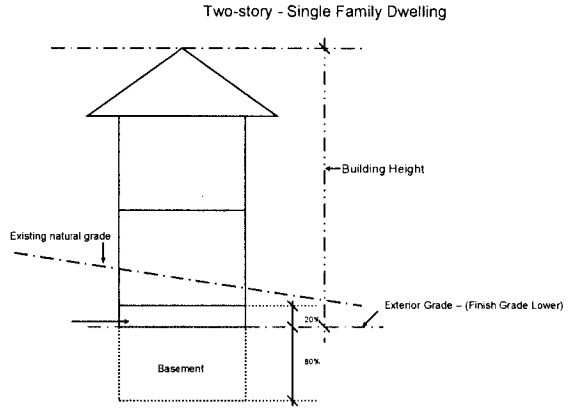
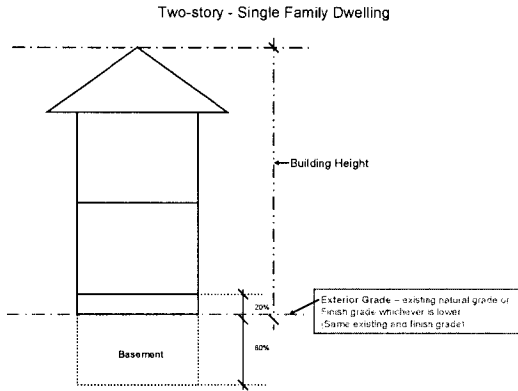
"Building" means any structure built for the support, shelter, housing, occupancy, storage or enclosure of persons, animals, [chattels,] or property of any kind.

"Court" means an open, unoccupied space other than a yard on the same lot with a building and bounded on [one] two or more sides by such building or buildings.

Court, apartment. "Apartment court" means one or more multifamily dwellings, occupied on a long-term residential basis, any of which may be more than one story in height and arranged around [one] two or more sides of a court or place from which court or place any dwelling unit therein has its principal means of access. An apartment court shall be deemed to include those multifamily dwellings which contain the principal means of access to any dwelling unit therein from a court or place or side yard.

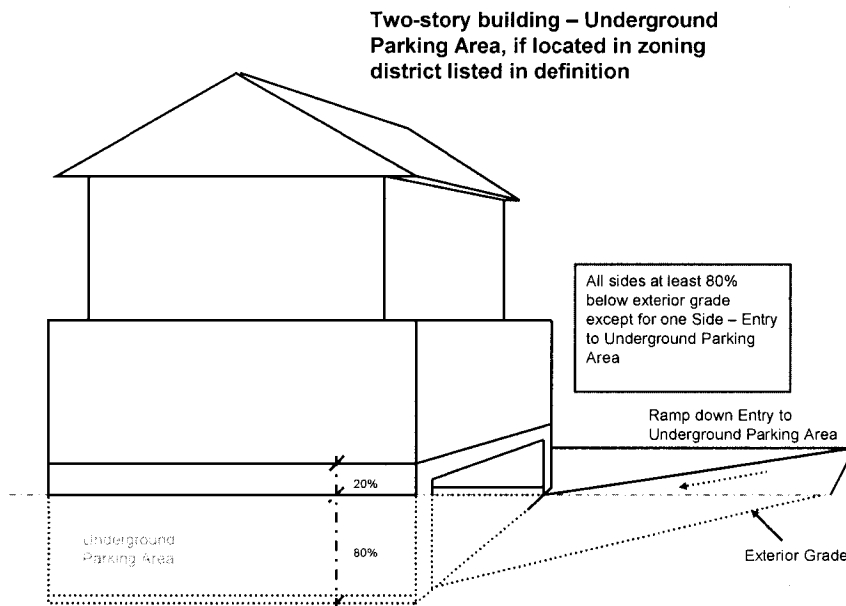
"Height" means the vertical distance measured from a point on the top of a structure to a corresponding point directly below on the natural or finish grade, whichever is lower. Height for buildings with basements shall be measured from the lowest exterior natural or finished grade. Height for buildings with underground parking areas shall be measured from the lowest exterior natural or finished grade, excluding the area used for vehicle access. For structures within projects that received site plan approval in association with a project district phase II approval, step II planned development approval, or final subdivision approval after September 4, 1991, building height shall conform to the elevation as indicated on the approved site plan, which may use finish grade to measure height. For structures within project districts that received phase II approval prior to September 4, 1991, finish grade shall be used to determine height."

Examples of Various Height Measurements:



SECTION 2. Section 19.04.040, Maui County Code, is amended by adding a new definition to be appropriately inserted and to read as follows:

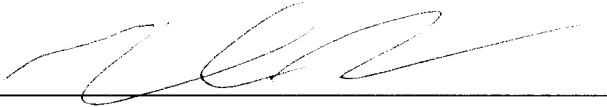
"Underground parking area" means a portion of a building at least eighty percent of which is located below exterior grade on all sides except one used for vehicle access, and which is in one of the following zoning districts: A-1 and A-2 apartment; H-1, H-2, and H-M hotel; B-R resort commercial; B-1, B-2, and B-3 business; M-1 and M-2 industrial; two-family (duplex); airport; and any mixed use, industrial, commercial, multi-family, and business districts within any project district."



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, and shall apply to building permits issued after the effective date of this ordinance.

APPROVED AS TO FORM
AND LEGALITY:



MICHAEL J. HOPPER
Deputy Corporation Counsel

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