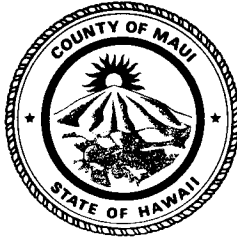


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RECEIVED

October 23, 2013

MEMO TO: Donald G. Couch, Chair
Planning Committee

F R O M: *Michael* J. Hopper, Deputy Corporation Counsel

SUBJECT: **A BILL FOR AN ORDINANCE AMENDING SECTION 19.04.040,
MAUI COUNTY CODE, AND CHAPTER 19.18, MAUI COUNTY CODE,
RELATING TO B-2 COMMUNITY BUSINESS DISTRICT (PC-5)**

Attached is the revised proposed bill entitled "A Bill For An Ordinance Amending Section 19.04.040, Maui County Code, And Chapter 19.18, Maui County Code, Relating to B-2 Community Business District," approved as to form and legality.

If you have any questions or concerns, please do not hesitate to contact me.

MJH:ma
Attachment

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ORDINANCE NO. _____

BILL NO. _____ (2013)

A BILL FOR AN ORDINANCE AMENDING SECTION 19.04.040,
MAUI COUNTY CODE, AND CHAPTER 19.18, MAUI COUNTY CODE,
RELATING TO B-2 COMMUNITY BUSINESS DISTRICT

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

SECTION 1. Section 19.04.040, Maui County Code, is amended
by adding new definitions to be appropriately inserted and to
read as follows:

"Entertainment establishment" means any indoor
and/or outdoor establishment where entertainment,
either passive or active, is provided for patrons,
either independently or in conjunction with another
use.

"Farmer's market" means the temporary use of a
specified land area managed by a single operator who
leases space/stalls for the outdoor sales of fresh
fruit and produce, meat and fish items, plants and
flowers grown, raised or caught within the State of
Hawaii, including value added products derived from
said products.

"Recycling collection center" means a structure
or site designated for collection, weighing, temporary
storage, and small-scale (low technology) segregation
of recyclable materials.

"Redemption center" means a facility that accepts
and redeems deposit beverage containers.

"Swap meet or open air market" means the
temporary use of a specified land area managed by a
single operator who leases space/stalls for the

outdoor sales of personal property, crafts, baked goods, produce, meat and fish items, plants and flowers which may or may not have been grown, raised, or caught within the State of Hawaii."

SECTION 2. Section 19.04.040, Maui County Code, is amended by amending the definition of "automobile services" to read as follows:

"Automobile services" means a facility providing fueling, greasing, lubrication, rental, and cleaning services (including car washing or detailing) for vehicles. Additional services may include, but are not limited to, minor engine repair, such as replacement of spark plugs, batteries and tires; minor repair of engine parts such as fuel pumps, oil pumps and lines, belts, carburetors, brakes, mufflers, and emergency wiring; radiator cleaning and flushing; towing; safety inspections; and motor adjustments not involving repair of head or crankcase. Services not included are tire recapping and regrooving; body work, such as straightening of frames or body parts; steam cleaning; welding; painting; and storage of automobiles not in operating condition."

SECTION 3. Section 19.04.040, Maui County Code, is amended by amending the definition of "eating and drinking establishments" to read as follows:

"Eating and drinking establishments" means a business engaged in the preparation and serving of food and beverages to customers, such as, but not limited to, restaurants, [fast food restaurants,] delicatessens, cafes, bars, and nightclubs."

SECTION 4. Section 19.04.040, Maui County Code, is amended by amending the definition of "education, specialized" to read as follows:

"Education, specialized. "Specialized education" means a facility that offers a specialized educational curriculum, such as, but not limited to, trade and vocational, language, research and learning, music, dance, [and] art [schools.], yoga, and martial arts."

SECTION 5. Section 19.04.040, Maui County Code, is amended by amending the definition of "general office" to read as follows:

"General office" means facilities used for the practice of a profession, the conduct of public administration, or the administration of business or industry. Examples include offices for government agencies, non-profit organizations, financial, insurance, and real estate companies, professional practices (except medical and dental), [and] television and radio stations[.], and data networking facilities."

SECTION 6. Section 19.04.040, Maui County Code, is amended by amending the definition of "personal and business services"

"Personal and business services" means establishments that offer specialized goods and services frequently purchased by individual consumers and businesses. Examples include, but are not limited to, barber shops and beauty salons[.]; medical, dental, or similar health care services[.]; massage services[.]; photography laboratories and studios[.]; financial institutions[.]; taxi services; tailor and seamstress [businesses,] services; post office and parcel delivery[.]; travel agencies[.]; laundromats[.]; and printing and duplicating shops."

SECTION 7. Chapter 19.18, Maui County Code, is amended to read as follows:

"Chapter 19.18

B-2 COMMUNITY BUSINESS DISTRICT

Sections:

- 19.18.010 [Generally.] Purpose and intent.
- 19.18.020 Permitted uses.
- 19.18.030 [Area regulations.] Accessory uses.
- 19.18.040 [Height regulations.] Special uses.
- [19.18.850] 19.18.050 [Yards.] Development standards.
- 19.18.060 Rule making authority.

19.18.010 [Generally.] Purpose and intent. A B-2 community business district is intended to provide all types of goods and services for the community, with the exception of those uses more generally associated with an industrial district, but at a lower intensity of use than in the B-3 central business district.

19.18.020 Permitted uses. Within the B-2 community business district, the following uses shall be permitted:

[1. Any use permitted in a B-1 neighborhood business district; however, no living or sleeping quarters shall be permitted in any detached accessory building or structure on the same lot;

2. Amusement enterprises, including billiard or pool halls;

3. Antique shops;

4. Apartments;

5. Art galleries;

6. Auctioneer establishments;

7. Auditoriums and theaters;

8. Automobile parking lots and/or buildings;

9. Automobile parts stores;

10. Automobile service stations, with or without auto repairing; provided that, all auto repairing operations are conducted in enclosed buildings; and provided further that, tire rebuilding or battery manufacturing shall not be permitted within this district;

11. Automobile upholstery shops;

12. Awning or canvas shops;

13. Banks;
14. Baseball or football stadiums and other sport activities and amusements;
15. Bath houses, commercial (plunge);
16. Baths, Turkish and the like, including masseurs;
17. Block-printing establishments;
18. Bowling alleys;
19. Business offices and agencies;
20. Catering establishments employing not more than five persons;
21. Charity relief organizations;
22. Clinics, medical or dental;
23. Custom dressmaking or millinery shops;
24. Dancehalls;
25. Dancing and hula studios;
26. Dressmaking shops;
27. Dry goods and/or department stores;
28. Equipment rental and sales yards;
29. Feed stores;
30. Gymnasiums;
31. Haberdasheries and women's apparel shops;
32. Hardware and garden supply stores;
33. Ice cream and milk manufacturing plants employing not more than twenty-five persons;
34. Jewelry stores or fine art shops, including interior decorating;
35. Libraries;
36. Marinas;
37. Miniature golf courses;
38. Museums;
39. Music conservatories or music studios;
40. News and magazine stands;
41. Nurseries (flower or plants); provided that, all incidental equipment and supplies, including fertilizers and empty cans, are kept within enclosed buildings;
42. Nursing and convalescent homes;
43. Parcel delivery stations;
44. Pet shops not involving the treatment or boarding of animals;
45. Photo studios;
46. Physical culture studios;
47. Plumbing shops within wholly enclosed buildings and employing not more than five persons;

48. Printing, lithography or publishing shops;
49. Private clubs or fraternal organizations;
50. Private schools or business colleges;
51. Professional and financial buildings;
52. Public parking areas;
53. Radio and television stations;
54. Religious, benevolent, and philanthropic societies;
55. Restaurants, cafes or bars, including drive-throughs;
56. Sanitariums;
57. Shoe stores;
58. Sign-painting shops within wholly enclosed buildings and employing not more than five persons;
59. Skating shops;
60. Tailor shops;
61. Trade schools;
62. Used car lots; provided that, all repair and maintenance is conducted within a wholly enclosed building;
63. Mortuaries, subject to the approval of the commission;
64. Warehouses and yards which are adjunct to, and part of, the operation of the permitted uses listed above may be permitted by the commission; provided that, such uses are determined to conform to the intent of this article, and subject to such terms and conditions as may be warranted. Such uses shall be conducted wholly within a completely enclosed building or within an area enclosed on all sides by a solid fence or wall at least six feet in height; and provided that, no goods, materials, or objects shall be stacked higher than the fence or walls so erected;
65. Bed and breakfast homes, subject to the provisions of chapter 19.64 of this title;
66. Any other retail businesses or commercial enterprises that are similar in character of rendering sales of commodities or performance of services to the community and not detrimental to the welfare of the surrounding area; provided that, such uses shall be approved by the commission as conforming to the intent of this chapter; and
67. Short-term rental homes, subject to the provisions of chapter 19.65 of this title.]

<u>Permitted uses</u>	<u>Criteria or limitations</u>
<u>Amusement and recreational activities</u>	
<u>Animal hospitals including boarding</u>	
<u>Auditoriums, theaters, and gymnasiums including fitness centers, private clubs, and dance halls</u>	
<u>Automobile services</u>	<u>Provided all automobile repair operations are conducted wholly within a completely enclosed building; and provided further, that tire rebuilding or battery manufacturing shall not be permitted</u>
<u>Automobile upholstery shops</u>	
<u>Awning or canvas shops</u>	
<u>Baseball, football and other sports stadiums or activities</u>	
<u>Bed and breakfast homes, in a lawfully existing single-family dwelling</u>	<u>Subject to the restrictions and standards of section 19.64.030 of this code</u>
<u>Buildings and premises used, owned or operated by government agencies, including community centers</u>	
<u>Catering establishments</u>	
<u>Communication equipment, antenna or towers</u>	
<u>Day care facilities</u>	
<u>Drive-in restaurants</u>	
<u>Eating and drinking establishments</u>	
<u>Education, specialized</u>	
<u>Educational institutions</u>	
<u>Entertainment establishments</u>	
<u>Farmers markets</u>	
<u>General merchandising</u>	
<u>General office</u>	
<u>Ice cream and milk manufacturing</u>	

<u>plants</u>	
<u>Libraries</u>	
<u>Marinas</u>	
<u>Multifamily dwellings, duplexes, and bungalow courts</u>	
<u>Museums</u>	
<u>New and used car lots</u>	<u>Provided all repair and maintenance is conducted wholly within a completely enclosed building</u>
<u>Nursing and convalescent homes</u>	
<u>Nurseries (flower or plants)</u>	<u>Provided, that all incidental equipment and supplies, including fertilizers and empty cans, are kept within enclosed buildings</u>
<u>Parking structures or lots</u>	
<u>Personal and business services</u>	
<u>Pet shops and boarding facilities</u>	
<u>Recycling collection center</u>	<u>Conducted wholly within a completely enclosed building or within an area enclosed on all sides by a solid fence or wall at least six feet in height; and provided, that no goods, materials, or objects shall be stacked higher than the fence or walls so erected</u>
<u>Redemption center</u>	
<u>Religious, benevolent, or philanthropic societies, civil organizations, and quasi-public uses</u>	
<u>Sanitariums</u>	
<u>Sign-painting shops</u>	<u>Conducted wholly within a completely enclosed building</u>
<u>Swap meet or open air market</u>	
<u>Taxicab, car rental, and U-drive stations and offices</u>	

<u>Transient vacation rentals</u>	<u>Not exceeding twenty bedrooms; except on Molokai, where a special use permit shall be required</u>
<u>Other similar businesses or commercial enterprises or activities that are not detrimental to the welfare of the surrounding area</u>	<u>Provided that such uses shall be approved by the appropriate planning commission as conforming to the intent of this article</u>

19.18.030 [Area regulations. The minimum lot area shall be six thousand square feet and the minimum lot frontage shall be sixty feet.] Accessory uses. The following uses, located on the same lot, are deemed accessory, customary, incidental, usual, and necessary to the permitted uses in the B-2 community business district.

<u>Accessory uses</u>	<u>Criteria or limitations</u>
<u>Energy systems, small-scale</u>	<u>Provided there will be no detrimental or nuisance effect upon neighbors</u>
<u>Warehouses and yards</u>	<u>Conducted wholly within a completely enclosed building or within an area enclosed on all sides by a solid fence or wall at least six feet in height; and provided, that no goods, materials, or objects shall be stacked higher than the fence or walls so erected</u>
<u>One or more dwelling units</u>	<u>Located above or below the first floor of a permitted use</u>
<u>Other uses that are determined by the director of planning to be clearly incidental and customary to a permitted use</u>	

19.18.040 [Height regulations. The maximum height of any building shall be limited by the total floor area which shall not exceed in square feet two hundred percent of the total lot area; and provided further, that no building be more than six stories in height.] Special uses. The following are special uses in the B-2 community business district, and approval of the appropriate planning commission shall be obtained, upon conformance with the intent of this article and subject to such terms and conditions as may be warranted and required:

<u>Special uses</u>	<u>Criteria or limitations</u>
<u>Mortuaries</u>	
<u>Transient vacation rentals</u>	<u>Twenty-one to fifty bedrooms; except on Molokai, where the maximum number of bedrooms and use shall be determined by the planning commission</u>
<u>Other uses that are similar in character to permitted and special uses and that are not detrimental to the welfare of the surrounding area</u>	

19.18.050 [Yards. No yard spacing shall be required, except such areas that shall be required for off-street parking; with the exception that where the side or rear of a lot in a B-2 community business district abuts a lot in any residential, apartment house or hotel district, the abutting side or rear yard shall have the same yard spacing as that required in the abutting residential, apartment house or hotel district, respectively; and provided further, that any apartment shall provide yard space in accordance with the requirements of the apartment district.] Development standards. The development standards in the B-2 community business district shall be as follows:


	B-2	Notes and exceptions
<u>Minimum lot area (square feet)</u>	<u>6,000</u>	
<u>Minimum lot width (in feet)</u>	<u>60</u>	
<u>Maximum building height (in feet)</u>	<u>90</u>	<u>Except that vent pipes, fans, chimneys, antennae, and equipment used for small-scale energy systems on roofs shall not exceed one hundred feet</u>
<u>Floor area ratio</u>	<u>200%</u>	
<u>Minimum yard setback (in feet)</u>		
<u>Front</u>	<u>None</u>	
<u>Side and rear</u>	<u>0 or the same as the adjoining zoning category whichever is greater</u>	
<u>Maximum height and minimum setback for free-standing antennae or wind turbine structures</u>	<u>Maximum height of 50 feet; minimum setback of 1 foot for each foot in height, from all property lines</u>	
<u>Accessory structures within setback area</u>	<u>Mail boxes, trash enclosures, boundary walls, and ground signs</u>	

19.18.060 Rule making authority. The director of planning may adopt rules to implement this chapter."

SECTION 8. 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 9. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM
AND LEGALITY:

A handwritten signature in black ink, appearing to read 'M. Hopper', is written over a horizontal line.

MICHAEL J. HOPPER
Deputy Corporation Counsel
County of Maui

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