

# Resolution

No. \_\_\_\_\_

REFERRING TO THE MAUI PLANNING  
COMMISSION A PROPOSED BILL TO AMEND  
CHAPTER 19.52, MAUI COUNTY CODE, RELATING  
TO PROTECTION OF TREES WITHIN  
HISTORIC DISTRICTS 1, 2, AND 3

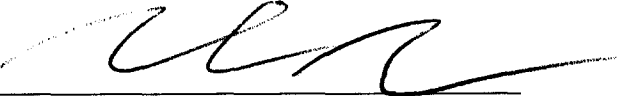
WHEREAS, the Council is considering a proposed bill to enhance the protection of trees within historic districts 1 and 2 in Lahaina, Maui, and historic district 3 in Wailuku, Maui; and

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 amendments thereto, and provide findings and recommendations to the Council; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That it hereby refers the proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.52, MAUI COUNTY CODE, RELATING TO PROTECTION OF TREES WITHIN HISTORIC DISTRICTS 1, 2, AND 3", a copy of which is attached hereto as Exhibit "1" and made a part hereof, to the Maui Planning Commission for appropriate action, pursuant to Sections 8-8.4 and 8-8.6 of the Revised Charter of the County of Maui (1983), as amended; and
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.

APPROVED AS TO FORM AND LEGALITY



Department of the Corporation Counsel  
County of Maui

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

BILL NO. \_\_\_\_\_ (2013)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.52, MAUI  
COUNTY CODE, RELATING TO PROTECTION OF TREES  
WITHIN HISTORIC DISTRICTS 1, 2, AND 3

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

SECTION 1. Section 19.52.090, Maui County Code, is amended  
to read as follows:

"19.52.090 Regulations for historic districts  
nos. 1 and 2. A. Establishment of plan. For  
historic district no. 1 and historic district no. 2,  
the plans, reports, manuals and guidelines set forth in  
[subsection] section 2.88.080 of this code, on file  
with the department of planning, shall be used as a  
guide for the determination of the required land use,  
height of buildings, style of architecture, parking  
requirements, yard spaces, and lot areas, and any other  
matter pertaining to that particular historic district.

B. Use regulations. Within historic district  
no. 1 and historic district no. 2, no building,  
structure, or premises shall be used, and no structure  
shall hereafter be erected, structurally altered,  
replaced or enlarged, except for one or more of the  
following uses:

1. Single-family dwellings. There may be  
accessory buildings located on the same lot, the  
use of which is customary and incidental to that  
of the residence. These may include servants'  
quarters or guest house; provided, that the  
servants' quarters or guest house shall not have a  
floor area of more than five hundred square feet,  
and the lot size shall be seven thousand five  
hundred square feet, or greater;

2. Greenhouses;

3. Parks and playgrounds—community, public,  
or privately operated. Recreation, refreshment,  
amusement, and service buildings or structures,  
may be permitted in public parks and playgrounds  
when under the supervision of a government agency  
charged with the duties and responsibilities of  
maintaining and operating the parks and  
playgrounds;

4. Churches and dwellings of the clergy connected as an incidental use to that of the church;
5. Schools;
6. Day care centers, nurseries, preschools, kindergartens;
7. Substations used by public utilities for the purpose of furnishing electricity, gas, or telephone services, which are not, and will not be, hazardous, dangerous, or a nuisance to the surrounding areas;
8. Buildings or premises used by the federal, state, or county governments for public purposes that are authorized by law;
9. Two-family dwellings (duplex);
10. Amusement enterprises, including pool halls;
11. Antique shops;
12. Art galleries;
13. Auditoriums and theaters;
14. Banks;
15. Barber or beauty shops;
16. Baths--Turkish and the like;
17. Automobile service stations, without auto repairing;
18. Book, stationery, or gift stores;
19. Business offices and agencies;
20. Catering establishments;
21. Clinics, medical or dental;
22. Clothes cleaning agencies or pressing establishments;
23. Custom dressmaking or millinery shops;
24. Dancing studios, hula studios;
25. Delicatessens;
26. Drugstores;
27. Dry goods and/or department stores;
28. Grocery stores and meat markets;
29. Haberdasheries and women's apparel shops;
30. Hardware and garden supply stores;
31. Hotels;
32. Jewelry stores or fine art shops, including interior decorating;
33. Laundry agencies or self-service laundries;
34. Museums;
35. Music conservatories or studios;
36. Newsstands and magazine stands;
37. Photography shops;
38. Physical culture establishments;
39. Private clubs or fraternal and sororal organizations;
40. Professional buildings;
41. Religious, benevolent, philanthropic societies or functions;

42. Restaurants, cafes, or bars;
43. Shoe stores;
44. Tailor, clothing or wearing apparel shops;
45. Apartments, boardinghouses or lodging houses;
46. Auctioneer establishments;
47. Block printing establishments;
48. Printing, lithography, or publishing shops;
49. Public parking areas; provided, that none shall abut Front Street;
50. Radio transmitting and television stations; provided, that antenna is not located in this district;
51. Retail stores or businesses;
52. Sign-painting shops, if conducted wholly within completely enclosed buildings; or
53. Historical tours; provided, however, that only motor vehicle(s) shall be used, and the same parked or stored in an off-street parking area and that all customer transactions shall be conducted within an enclosed commercial building. As used in this subsection, the following terms are defined:

a. "Historical tour" means a tour of all or any part of, and that originates or ends in, historic district no. 1 or historic district no. 2.

b. "Motor vehicle" means motor vehicle as defined in section [10.04.610,] 10.04.030 of this code, and does not include any vehicle propelled by human or animal power.

c. "Off-street parking area" means a private parking area which meets the requirements of the County's off-street parking ordinance.

C. Height regulations. No building within historic district no. 1 and historic district no. 2 shall be more than two stories high, nor more than thirty-five feet in height. "Story" is defined as that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement or cellar is more than six feet above grade, such basement or cellar shall be considered a story.

D. Yard spacing. Within historic district no. 1 and historic district no. 2, no yard spacing shall be required, except that for single-family dwellings, duplexes, guest houses or servants' quarters, a front

yard of ten feet, a rear yard of fifteen feet, and a side yard of five feet shall be required.

E. Selling in public places. It is unlawful for any person to carry on or solicit business in any location on any street, highway, or sidewalk. The same is also unlawful in any location, in any park or open space that is owned or maintained by a government agency without the approval of the cultural resources commission, and the responsible government agency having administrative authority over the park or open space.

F. Drinking in public. It is unlawful to consume any intoxicating liquor, whether medicated, proprietary, patented, or not, in whatever form and of whatever constituency and by whatever name called, containing one-half of one percent or more of alcohol by volume, which are fit for use or may be used or readily converted for use for beverage purposes, in any public street, park, or open space that is owned or maintained by a governmental agency, without the expressed approval of the responsible government agency having administrative authority over the public street, park or open space, and the cultural resources commission, or in any street, park, or open space which is privately owned without the expressed approval of the owner of the property; provided, however, that recreational areas under the jurisdiction of the department of parks and recreation shall be excluded from the restrictions set forth in this subsection. Any person violating this subsection shall be fined not more than five hundred dollars, or imprisoned for not more than thirty days, or both.

G. Within historic district no. 1 and historic district no. 2, off-street parking facilities shall be provided in accordance with the requirements of chapter [19.36] 19.36A when any building or structure is:

1. Constructed or increased in size; or
2. Put to an intensified use that results in the need for additional parking space.

No off-street parking facility constructed in compliance with this section shall abut Front Street.

H. Protection of trees.

1. Any tree within historic district no. 1 and historic district no. 2 with a trunk circumference of thirty-six inches, or more, shall be identified as a significant tree.

2. A significant tree contributes a sense of place, historic character, and environment to historic districts and shall be preserved to the fullest extent possible.

3. Written approval from the cultural resources commission is required prior to the removal of a significant tree within a historic district."

SECTION 2. Section 19.52.100, Maui County Code, is amended

to read as follows:

**"19.52.100 Regulations for historic district no.**

3. A. Use regulations. Within historic district no. 3, no building, structure, or premises shall be used, and no building or structure shall hereafter be erected, structurally altered, replaced, or enlarged, except for one or more of the following uses:

1. Single-family dwellings. Also, accessory buildings which are customary and incidental to that of the residence may be located on the same lot. Separate servants' quarters or a guest house with a floor area not more than four hundred square feet may be located on the same lot. The minimum allowable lot area shall be ten thousand square feet;

2. Greenhouses;

3. Parks and playgrounds--community, public, or privately operated;

4. Churches and dwellings of the clergy connected therewith; or

5. Buildings or premises used by the federal, state or county [government] governments for public purposes.

B. Special [Uses.] uses. The following special uses may be allowed with written approval of the cultural resources commission:

1. Museums, art galleries, and book or gift stores; provided, that the use is operated as an accessory to the exhibit and display of the historic structures designated in section 19.50.030;

2. Day care centers, nurseries, preschools, kindergartens;

3. Cultural societies, clubs, or fraternal organizations;

4. Off-street parking areas; provided, that none shall abut any public street;

5. Residential planned developments; and

6. Other uses that will enhance the historical and cultural nature of this district.

C. Building height and special spacing regulations. To preserve the historical setting and the open space around the historic structures, all new construction shall be limited to building heights of two stories and not more than thirty-five feet in height or one story and not more than twenty feet in height; provided, that they are separated from the historic buildings designated in section 19.50.030 by a distance of at least one hundred feet for two-story buildings and sixty feet for one-story buildings, respectively. The separation distances shall be

measured from exterior faces of the walls of each building. Also, all new buildings shall be required to be separated from the historic Kama ditch and aqueduct a distance of twenty feet from each side of said ditch and aqueduct.

D. Off-street parking regulations. Off-street parking facilities shall be provided in connection with the erection or increase in size of any building or structure in historic district no. 3, as provided for in article II of this title. Parking lots shall be properly landscaped, and one canopy tree shall be planted for every eight parking stalls.

E. Yard spacing. Within historic district no. 3, the required yard spacing shall be as follows:

1. For one-story buildings, a front yard of fifteen feet, side yards of six feet, and rear yard of six feet shall be required;

2. For two-story buildings, a front yard of fifteen feet, side yards of ten feet, and a rear yard of ten feet shall be required.

F. Protection of trees. [To preserve the many fine trees that now exist in the historic area and that are deemed invaluable to the historical setting of this district, written approval from the cultural resources commission shall be required before any large tree can be removed. A large tree shall be defined in this subsection as any tree with a trunk circumference greater than sixty inches.]

1. Any tree within historic district no. 3 with a trunk circumference of thirty-six inches, or more, shall be identified as a significant tree.

2. A significant tree contributes a sense of place, historic character, and environment to historic districts and shall be preserved to the fullest extent possible.

3. Written approval from the cultural resources commission is required prior to the removal of a significant tree within a historic district.

G. Signs. Within historic district no. 3, no signs that blink, revolve, or contain lighting from within shall be allowed. One sign no larger than six square feet in area shall be allowed for each legal business entity. The sign may be on a wall or mounted on the ground. All signs shall be compatible with the character of the historic structures, and shall be rustic in design.

H. Selling in public places. It is unlawful for any vendor, peddler, huckster, or group to either display merchandise or carry on or solicit business in any location on any public street, highway, or sidewalk. The same is also unlawful in any location, in any park or open space that is owned or maintained

by a government agency without the approval of the cultural resources commission and the responsible government agency having administrative authority over the park or open space."

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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MICHAEL J. HOPPER  
Deputy Corporation Counsel  
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