

ORDINANCE NO. 4921

BILL NO. 120 (2018)

A BILL FOR AN ORDINANCE REPEALING CHAPTER 19.36A, MAUI COUNTY CODE, ESTABLISHING A NEW CHAPTER 19.36B, MAUI COUNTY CODE, RELATING TO OFF-STREET PARKING AND LOADING, AND AMENDING RELEVANT SECTIONS OF THE MAUI COUNTY CODE TO INCORPORATE THE NEW CHAPTER 19.36B, MAUI COUNTY CODE

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

SECTION 1. Chapter 19.36A, Maui County Code, is repealed.

SECTION 2. Title 19, Maui County Code, is amended by adding a new chapter to be designated and to read as follows:

“Chapter 19.36B

OFF-STREET PARKING AND LOADING

Sections:

19.36B.010	Purpose and intent.
19.36B.020	Designated number of off-street parking spaces.
19.36B.030	Designated number of loading spaces.
19.36B.040	General requirements for parking areas.
19.36B.050	Location of parking spaces.
19.36B.060	Size or dimensions of parking spaces.
19.36B.070	Access and specifications.
19.36B.080	Landscaping.
19.36B.090	Paving and other surfaces.
19.36B.100	Off-site parking.
19.36B.110	Parking modification, reduction, or deferral.
19.36B.120	Temporary parking.

19.36B.010 Purpose and intent. The intent of this chapter is to ensure that onsite, off-street parking spaces, parking surfaces, and maneuvering areas are provided in sufficient quantities for each type of land use while maximizing safety and minimizing impacts on adjacent properties and the environment.

19.36B.020 Designated number of off-street parking spaces. Unless otherwise provided in this chapter, the following minimum numbers of accessible, onsite, off-street facilities for the parking of self-propelled motor vehicles shall be provided in connection with the use of any land or the construction, alteration or improvement of any building or structure. When reviewing a building permit application or proposed change of use, the department shall determine whether the applicant must submit a parking and landscaping plan to establish compliance with this chapter. If the department requires a plan, the department will not recommend approval of a building permit application or proposed change of use until it approves the plan and will not approve a certificate of occupancy or final inspection until the applicant has implemented the approved plan. The number of required parking spaces shall be based on the floor area of each use or component use except where otherwise specified. When calculating the total number of required parking spaces, a fraction less than one-half shall be disregarded, and a fraction of one-half or more shall require one parking space. The following chart establishes the general requirements for accessible, onsite, off-street parking. Compliance with the Americans with Disabilities Act, administered through the State department of health, disability and communications access board, and with State requirements for electric-vehicle parking is also required.

USE	MINIMUM NUMBER OF OFF-STREET PARKING SPACES	
1) HOUSING		
Dwelling units: apartment, duplex dwelling, farm dwelling, farm labor dwelling, multifamily dwelling, single-family dwelling. Note: A dwelling unit's parking spaces may be in tandem.	Floor area of dwelling unit in square feet: Under 3,000 3,000-3,999 4,000-4,999 5,000-5,999 6,000-6,999 7,000-7,999 8,000 and above	Minimum number of parking spaces: 2 3 4 5 6 7 8
Dwelling units: accessory dwelling.	1 for each accessory dwelling.	
Home business.	1 for each home business that is allowed to have clients, patrons, or customers on the premises, in addition to any other parking requirements under this chapter.	

<p>Transient accommodations.</p> <p>Note: A dwelling unit's parking spaces may be in tandem.</p>	<p>Type:</p>	<p>Minimum number of parking spaces:</p>
	<p>Bed and breakfast home</p>	<p>1 parking space for each bedroom used for bed and breakfast home use, plus 2 parking spaces for the operator of the bed and breakfast home or as required for a single-family dwelling, whichever is greater.</p>
	<p>Short-term rental home</p>	<p>2 if the short-term rental home has 4 or fewer bedrooms or as required for the dwelling, whichever is greater; 3 if the short-term rental home has 5 or more bedrooms, or as required for the dwelling, whichever is greater.</p>
	<p>Hotel, motel, other transient vacation rental, with or without kitchen facilities</p>	<p>1 per rental unit, except that a transient vacation rental in a single-family dwelling shall provide the same number of parking spaces as a single-family dwelling. Units capable of being utilized as 2 or more units are counted as separate rental units.</p>
<p>2) COMMERCIAL, BUSINESS, OR INDUSTRIAL</p>		
<p>Agriculture retail structure, agriculture product stand, bakery and catering (with no onsite eating or drinking), farmer's market, general merchandising, general office, personal and business services, personal services establishment, animal hospital.</p>	<p>1 per 500 square feet, provided that the minimum shall be 3.</p>	
<p>General merchandising of only large items such as</p>	<p>1 per 1,000 square feet for all areas including office, storage, and showroom.</p>	

furniture, flooring, mattresses, and appliances.	
Animal boarding facility.	3 plus 1 per 20 boarding units above 60 boarding units. The parking spaces may be shared with animal hospital parking space requirements.
Bank.	1 per 300 square feet, provided that the minimum shall be 3.
Eating and drinking establishment or agricultural food establishment as defined in section 19.30A.015 with dining areas.	1 per 100 square feet of amusement, serving, and dining areas (not counting drive-through uses), provided that the minimum shall be 4; 2 or more such establishments in a "food court" configuration may share amusement and dining areas.
Eating and drinking establishment or agricultural food establishment as defined in section 19.30A.015 without dining areas (such as take-out counters or "food retail")	1 per 500 square feet of serving area, provided that the minimum shall be 3 for each establishment.
Mobile food truck.	0 mobile food trucks shall not occupy any parking space required by this title.
Industrial or storage uses, warehouse.	1 per 1,500 square feet, provided that the minimum shall be 3.
SBR mixed-use establishment.	2 for each dwelling unit, plus 1 per 300 square feet of non-residential floor area.
SBR service establishment.	1 per 300 square feet.
Self-storage.	1 per 5,000 square feet.
Service station, repair shop, public garage, automobile services.	1 per 200 square feet, excluding drive-through fueling areas, which shall not be used for required parking, or 1 per 40 percent of lot area, whichever is greater. The storing and keeping of damaged vehicles or vehicle parts shall be within an enclosure bounded completely by a wall at least 6 feet in height.
Shopping center.	1 per 300 square feet of leasable or commercial area (not subject to component use requirements).
Swap meet.	1 per 500 square feet.
Vehicle and equipment rental or sales.	1 per 500 square feet for sales, showrooms, services, offices, and parts facilities, provided that the minimum shall be 3; 0 for outdoor storage of vehicles and equipment.
3) RECREATION OR ENTERTAINMENT (PUBLIC OR COMMERCIAL)	
Amusement center, entertainment establishment.	1 per 100 square feet.

Auditorium, theater, stadium, assembly area, arena, gymnasium.	1 per 300 square feet, 1 per 4 seats, or 1 per 8 feet of bleacher length, whichever is greater.	
Bowling alley.	3 per lane.	
Clubhouse, private club, fitness center, health club.	1 per 200 square feet.	
Golf course.	3 per hole. Parking spaces may be located on any lot occupied by the golf course if the golf course occupies multiple lots.	
Golf driving range	1 per tee.	
Miniature golf course.	1 per hole.	
Swimming pool.	1 per 600 square feet of pool and associated buildings.	
Tennis court.	4 for each court.	
Passive recreation.	0 for up to 2 acres; 4 for above 2 acres (paving not required).	
Active recreation.	Type:	Minimum number of parking spaces:
	Athletic field for baseball, football, soccer, other team sports (non-stadium)	50 per athletic field; 0 additional for adjacent practice field; 10 for practice field without a full-sized field.
	Outdoor basketball court	6 per court.
	Children's playground	0
	Skate park	1 per 500 square feet.
	Site for motor sports, paintball, zip lines, fitness course	1 per 2 participants at regular capacity.
Arboretum, botanical garden.	3 plus 1 per acre, except that the maximum number of required parking spaces shall be no more than 20.	
4) SOCIAL OR CIVIC SERVICE		
Airport, heliport, other public transportation.	Parking for terminal, hangars, and in-terminal operations to be determined by the government agency that operates the airport, heliport, or other public facility. Private support services, such as automobile rental and cargo, to be determined separately as component uses.	

Cemetery, mausoleum.	0; any offices or other accessory uses to be determined separately.
Church, including place of worship.	1 per 300 square feet, 1 per 5 seats, or 1 per 8 feet of bench length, whichever is greater.
Community center.	1 per 100 square feet.
Day care facility, nursing home, assisted living facility.	1 per 6 clients, plus 1 per employee onsite at one time.
Fire station, police station.	To be determined by the fire chief, police chief.
Library, museum.	1 per 500 square feet, provided that the minimum shall be 3.
Minor medical center, medical or dental clinic.	1 per 300 square feet, provided that the minimum shall be 3.
Major medical center.	1 per 2 beds.
Mortuary, funeral home.	1 per 100 square feet.
Public utility substation.	1
Recycling, redemption facility.	3
School, educational institution, general education, specialized education.	1 per classroom if all students are under 16 years of age; 8 per classroom if any student is 16 years of age or older.

19.36B.030 Designated number of loading spaces.

Loading spaces shall not be located in any public street, alley, or walkway. Each loading space shall be appropriately marked and provided in a readily accessible location within a building or on an exterior paved surface. Loading spaces shall be provided according to the following table for each building or use with a floor area two thousand square feet or greater within all zoning districts, excluding the dwelling floor area in each building containing one or more dwelling units:

	Minimum size		
	Small 8.5-feet wide 19-feet long 10 feet of vertical clearance	Medium 12-feet wide 25-feet long 14 feet of vertical clearance	Large 12-feet wide 35-feet long 14 feet of vertical clearance
Floor area (in square feet)	Number of required loading spaces		
2,000 – 5,000	1		
5,001 – 10,000		1	
10,001 – 20,000	1	1	

20,001 - 50,000		1	1
More than 50,000			2

19.36B.040 General requirements for parking areas. A.

This chapter shall apply to all off-street parking areas, whether or not required. Every off-street parking area shall be maintained to comply with the requirements of this chapter. Parking spaces or areas may be eliminated or reduced only to the extent that the remaining amount conforms to this chapter's requirements. Required parking spaces, aisles, driveways, and lanes, except for those accessory to any type of dwelling, shall be for active vehicle parking, meaning that no sales, merchandise displays, mobile food trucks, dead storage, repair work, dismantling, or servicing of any kind, including storage of damaged vehicles, shall be conducted in such areas. If required parking spaces for dwellings are used for storage, then alternative required parking must be provided onsite.

B. B-CT country town business district design guidelines adopted pursuant to chapter 19.15 of this code, if any, shall prevail over this chapter if there is a conflict.

C. Historic district parking standards adopted pursuant to chapter 19.52 of this code, if any, shall prevail over this chapter if there is a conflict.

19.36B.050 Location of parking spaces. Every required off-street parking space shall be located either on the same lot as the use it serves or on a different lot in accordance with section 19.36B.100.

19.36B.060 Size or dimensions of parking spaces. All parking spaces shall be standard-sized parking spaces. The size of each off-street parking space shall be not less than the following:

Size	Width	Length	Vertical clearance
Standard	8.5 feet	18 feet	7 feet
Standard (parallel)	8.5 feet	22 feet	7 feet

19.36B.070 Access and specifications. A. Unless otherwise provided by this code, off-street parking, including temporary parking, shall comply with the following specifications:

1. Every off-street parking space shall be readily accessible from appropriately constructed driveways, lanes, or aisles.

2. Tandem parking spaces may fulfill the requirements of this chapter only where allowed by sections

19.36B.020 and 19.36B.110(B). Tandem parking is allowed for parking spaces that are not required.

3. Paved parking areas with five or more parking spaces shall have individually striped spaces, except for single-family dwellings, accessory dwellings, farm dwellings, farm labor dwellings, duplex dwellings, bed and breakfast homes, and short-term rental homes.

4. Parking spaces shall be arranged so that no ingress to and egress from a parking space shall occur on any street, alley, or walkway; therefore, any parking space shall have a travel distance on the lot of at least 18 feet between any parking space and any street, alley, or walkway, except for single-family dwellings, accessory dwellings, farm dwellings, farm labor dwellings, duplex dwellings, bed and breakfast homes, and short-term rental homes.

5. Where eight or more spaces are provided on a lot, all vehicles shall enter the street in a forward direction, and a suitable turnaround area no less than twenty-four-feet deep and no narrower than the standard space aisle width, or another comparable configuration, shall be provided.

6. Parking areas shall be designed with sufficient lane and aisle length to provide safe ingress, egress, and maneuvering. Minimum aisle width required for loading spaces and parking spaces shall be according to the following table:

Parking angle (in degrees)	Aisle width	
	Loading spaces	Standard parking spaces
0—40	12 feet	12 feet
41—50	13 feet	13 feet
51—70	18.5 feet	18.5 feet
71—80	21.5 feet	21.5 feet
81—90	24 feet	24 feet

7. Each parking space shall be free from obstruction or encroachment, except where allowed by this code. Light poles, columns, and other structures are to be arranged to prevent encroachment into any parking space.

B. In addition to this chapter's requirements, ingress and egress to the parking area from the street shall be in conformance with standards and requirements of the department of public works.

C. Parking areas shall be developed and maintained to provide access to adjacent properties and sidewalks, where

appropriate and where applicable, to facilitate pedestrian access, improve aesthetics, and promote efficient land use.

19.36B.080 Landscaping. A. To provide shade, visual screening, and aesthetics, landscaping shall be provided for all parking areas in all zoning districts, excluding parking areas for single-family dwellings, accessory dwellings, farm dwellings, farm labor dwellings, and duplex dwellings. During review of a building permit application and prior to the issuance of a certificate of occupancy, the department shall require the submittal of a landscape plan that shows compliance with the following landscaping standards:

1. A planted area with a minimum size of four-feet wide in the front and two-feet wide on the sides and rear shall be provided around the area containing parking spaces, loading spaces, and aisles, except where vehicles access the property or where buildings are situated between the parking area and roadways or an adjacent lot.

a. For visual screening, the planted area shall have appropriate hedge material in linear masses that will reach at least four feet in height when mature.

b. A solid five-foot-high barrier or wall shall be erected along the abutting portion of the lot line wherever any portion of the planted area abuts a lot with:

i. Existing adjacent dwelling units, or

ii. A zoning designation based on chapter 19.08 (residential districts) of this code, 19.09 of this code (R-0 zero-lot line residential district), chapter 19.10 of this code (two-family (duplex) districts), or a project district containing a district or subdistrict with a residential principal permitted use.

iii. The director may waive the requirement for the barrier or wall to allow a sidewalk between parking areas and adjacent residential properties or if an adjacent residential property is designated for residential mixed use development.

2. One tree shall be provided in the parking area for every five parking spaces, distributed as evenly as practicable throughout the parking area and appropriately maintained to provide maximum shade to the extent practicable. The Maui County landscape planting plan, as defined in subsection 12.24A.020 of this code, shall be referenced in order to choose

appropriate trees, planting methods, and maintenance. The director shall grant the following exceptions upon request and a showing of reasonable cause:

a. Any parking space that is completely covered by another parking space located directly above it, such as in a parking garage, may be excluded from the count of parking spaces used in determining the number of required trees.

b. Required trees may be planted elsewhere on the lot if it is not practicable for them to be planted in the parking area, such as when parking spaces are partially covered or when solar or photovoltaic carports are present.

c. As an alternative means to provide visual relief, if solar or photovoltaic carports are situated in a manner that makes it impracticable to plant the required trees anywhere on the lot, appropriate additional hedge material may be planted elsewhere on the lot in linear masses that will reach at least four feet in height when mature.

d. Modifications recommended by the Maui County arborist committee, pursuant to chapter 12.24A of this code.

3. Each required tree and landscape planted area shall be maintained to comply with the requirements of this chapter and shall be regularly irrigated by an automated system. If any required tree or landscaping is removed, it shall be replaced by a tree or landscaping of the same species and maturity, or the department may require the submittal of a revised landscape plan.

4. In addition to any required landscaping, at the parking space terminus of standard-sized non-parallel parking spaces, up to two feet of the pavement may be replaced with landscaping as described below:

a. The area shall be planted with a low-growing ground cover or grass (no trees or hedges) so that the end of a vehicle can extend over the area.

b. The area shall be located at the same or a lower elevation than the adjacent parking spaces and designed to allow the surface water to flow into this area.

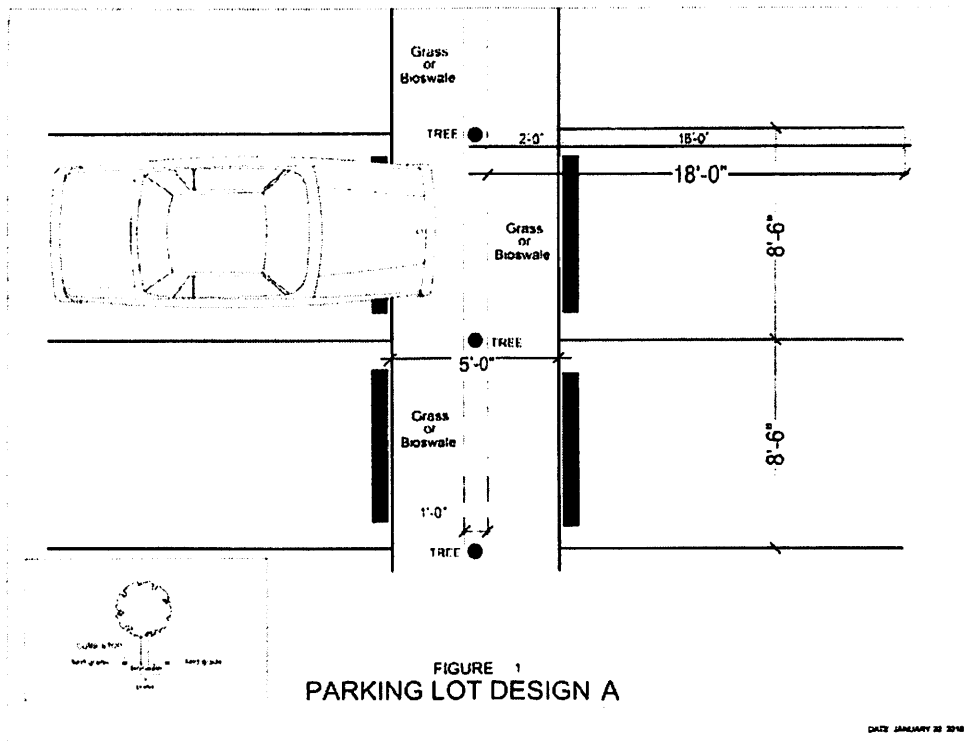
c. Tire stops or curbs with openings for the passage of water shall be installed on the pavement to protect the ground cover from vehicle tires.

d. The area shall not satisfy any front, side, or rear landscaping requirements.

5. To the extent practicable, the landscaping area shall be incorporated into any drainage or storm water management plans to increase recharge and percolation of storm water.

6. The application for a landscape plan shall include a site plan drawn to scale and shall provide the information as required by the director to show compliance with this title, including lot boundaries, parking area location and dimensions, planted area dimensions, and plant information such as plant species, sizes, quantities, locations, and irrigation details.

B. The following figures illustrate examples of compliance with this section:



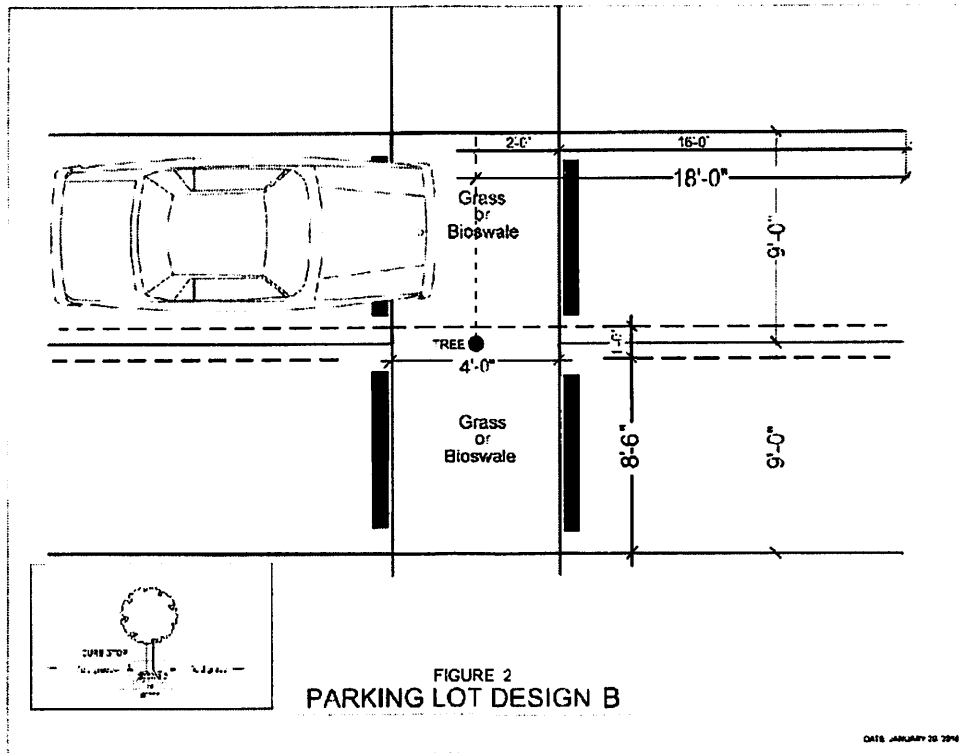


FIGURE 2
PARKING LOT DESIGN B

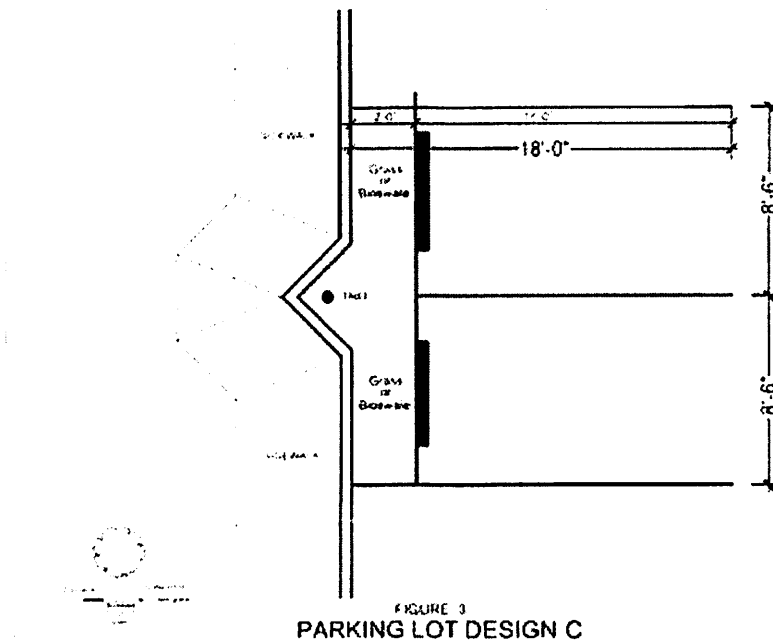


FIGURE 3
PARKING LOT DESIGN C

19.36B.090 Paving and other surfaces. A. Every required off-street parking space, aisle, driveway, and lane, except for those used for single-family dwellings, accessory dwellings, duplexes, farm dwellings, farm labor dwellings, and commercial agriculture structures, shall be paved with asphaltic or concrete surface. Colored or textured concrete or asphalt paving material may be used to improve aesthetics. Up to two feet of the pavement at the parking space terminus of standard-sized non-parallel parking spaces may be replaced with landscaping in accordance with subsection 19.36B.080(A)(4).

B. After considering frequency of use, the character of the area, surrounding and similar uses, durability, and need for maintenance, the director may allow or require surfaces other than asphalt or concrete, as follows:

1. Surface material other than asphalt or concrete may be allowed or required if it is consistent with the community plan, zoning district design guidelines, or approved conditional permit, or is in keeping with the character of a historic district or country town.

2. Up to ten spaces or 50 percent of the provided spaces, whichever is greater, may be located on grass, gravel, concrete mason grid pavers, or other appropriate surface.

3. In the State conservation district or the County agriculture district, up to 100 percent of the provided spaces may be located on grass, gravel, concrete mason grid pavers, or other appropriate surface.

4. In Maui County historic districts as set forth in title 19, up to 100 percent of the provided spaces may be located on grass, gravel, concrete mason grid pavers, or other appropriate surface if paving could result in harm to historic properties.

C. Parking spaces that are not required shall be paved or located on grass, gravel, concrete mason grid pavers, or other appropriate surface, and shall be maintained to comply with the requirements of this chapter.

19.36B.100 Off-site parking. A. The director may allow off-site parking for required parking spaces and may allow the designation of parking spaces that may be required in the future, subject to all of the following:

1. An off-site parking permit application is submitted containing any information required by the director to assess compliance with this title.

2. The straight-line distance to each of the off-site parking spaces from the benefiting lot's boundary line does not exceed five hundred feet.

3. The area to be used for off-site parking complies with the requirements of this title and is zoned to allow a stand-alone parking lot.

4. The off-site parking spaces are identified with signs or similar markings as reserved for the users of the benefiting lot.

5. A unilateral agreement that the off-site parking spaces shall be reserved for the dedicated, exclusive use of the benefiting lot, which shall run with the land and be recorded with the bureau of conveyances.

B. Off-site parking that is approved as part of a State special permit, County special use permit, or conditional permit does not require director approval. Off-site parking that is approved as part of a special management area use permit does not require director approval, and the location shall be zoned to allow a stand-alone parking lot. Off-street parking for spaces that are not required does not require director approval.

19.36B.110 Parking modification, reduction, or deferral.

A. For any proposed use, the director may reduce by up to 50 percent the number of the required parking spaces and loading spaces after making a written determination that adequate parking will be reasonably provided. The director shall consider the proposed use, any structures, lot configurations, industry standards, general plan, zoning and state land use designations, historic character and applicable design guidelines in considering the necessity and type of conditions. The director may seek the recommendation of the Molokai planning commission before acting on a request to reduce the number of required parking spaces and loading spaces on Molokai. At least one of the following criteria must be met for the director to determine that parking will be reasonably provided:

1. The sharing of parking spaces between two or more uses occurs at different times or days.

2. Duplicate parking is not needed for component accessory uses when parking has already been assessed for a principal use, such as a school that expands its cafeteria.

3. One of the following is located within two thousand five hundred feet of the proposed use and can provide parking for the proposed use:

a. A publicly owned off-street parking lot; or

b. Other parking that is available to the public and is not used to otherwise fulfill the parking requirements of this chapter.

4. Some employees commute via carpooling or van pooling, and the employer provides transit passes to some employees.

5. There is nearby transit, pedestrian, or bicycle access and bicycle parking, and safe access is provided for pedestrians.

6. The provision of required parking would necessitate the removal of mature and aesthetically valuable trees or other unique features of the property.

7. The use involves senior housing or other facilities for seniors and will not result in typical parking needs.

8. The parking is required because of an expansion of or change in use, the additional parking cannot be accommodated onsite, and the director determines that the existing parking is adequate.

9. The use is live/work mixed use where parking may be shared; the spaces required for dwelling use may be applied to the spaces required for business use.

10. The proposed use is in Lanai City.

B. Tandem parking may be allowed for all required parking if:

1. All vehicle parking and retrieval is performed by a valet or attendant at all times, and vehicles can be moved within the lot without entering any street, alley, or walkway; or

2. All user arrivals and departures are generally simultaneous and vehicle parking and vehicle retrieval is directed by an attendant who is onsite at all arrival and departure times.

C. Bicycle parking. The number of parking spaces required for non-dwelling uses may be reduced by up to two, at a ratio of one space for each ten provided bicycle parking spaces; provided that each bicycle parking space includes a stationary parking device to adequately secure the bicycle, each bicycle parking space is a minimum of two feet in width and is separated from motor vehicle access by at least five feet of open area, and bicycle parking spaces are conveniently located and close to the main entrance of a structure.

D. The director may allow the applicant to defer improvements otherwise required by this chapter, including paving, striping, and landscaping, for up to 50 percent of the required parking spaces and loading spaces. The director may seek the

recommendation of the Molokai planning commission before acting on a request to defer improvements on Molokai. The director may impose conditions on the deferral and shall require the following:

1. Evidence of a parking reserve in the form of a reserved unpaved open space area large enough to meet the balance of the parking requirements in excess of the minimum open space or landscape requirements.

2. A unilateral agreement, which shall run with the land and be recorded with the bureau of conveyances, to construct the improvements when and if warranted as determined by the director based on evidence of regular use of the reserved parking area or overflow parking on public streets, in fire lanes, or in other areas that are not improved for parking.

3. Evidence that all required spaces are not needed on a regular basis, such as industry standards or historical records.

19.36B.120 Temporary parking. A. For the purpose of this chapter, temporary parking means the providing of parking spaces and areas for a limited period of time, such as temporary employee parking; temporary construction worker parking; temporary displaced parking; and temporary sales offices, bazaars, fairs, festivals, recreation, parties, and sporting events.

B. After considering the use, duration, potential visual and physical impacts, public health, and public safety, the director shall determine if any of the requirements of this chapter may be waived for temporary parking.

C. In all zoning districts, the director may approve temporary parking on any lot for either a continuous period of up to one hundred eighty days in a twelve-month period, or a total of twelve nonconsecutive days in a twelve-month period. The director may seek the recommendation of the Molokai planning commission before acting on a request to approve temporary parking pursuant to this subsection.

D. In all zoning districts, the commission may approve temporary parking on any lot for either a continuous period of more than one hundred eighty days in a twelve-month period, or more than a total of twelve nonconsecutive days in a twelve-month period.

E. Temporary parking for events organized or sponsored by government agencies with associated parking located on government facilities shall not require director or commission approval and shall be allowed.

F. An applicant for temporary parking shall provide relevant information as required by the director or commission,

including a detailed description of the event or circumstances, days of parking use, hours of parking use, anticipated parking demand, description of how parking demand will be satisfied, and a description of how the parking area and any improvements to it will ensure public health, public safety, and visual relief.”

SECTION 3. Section 12.24A.020, Maui County Code, is amended by amending the definition of “Parking area” as follows:

““Parking area” means parking and loading spaces and any associated drive ways, lanes, and aisles needed to provide access to such spaces as required by chapter [19.36A] 19.36B of this code.”

SECTION 4. Section 12.24A.050, Maui County Code, is amended to read as follows:

“12.24A.050 Parking area trees. The planting of trees in parking areas shall be in accordance with chapter [19.36A] 19.36B of this code. The director of planning shall review all landscaping proposals for parking areas and approve those proposals that are consistent with the landscape planting plan's recommendations relating to planting methods, irrigation, and types of trees. The director of planning shall refer those proposals that are inconsistent with the landscape planting plan to the committee for their review and recommendations, which shall be submitted to the director of planning for approval or disapproval.”

SECTION 5. Section 14.72.010, Maui County Code, is amended to read as follows:

“14.72.010 Preamble. The purpose of this chapter is to obtain a needs assessment study relating to parking assessment fees in compliance with section 46-143, Hawaii Revised Statutes. Before the council may consider the enactment of an ordinance providing for parking assessments fees in lieu of the off-street parking and loading requirements contained in chapter [19.36, Maui County Code,] 19.36B of this code, state law requires the approval of a needs assessment study. The study shall seek to determine the appropriate level of parking assessment fees and the proper use of revenues derived from the fees and shall be conducted by a qualified professional.”

SECTION 6. Section 14.72.020, Maui County Code, is amended to read as follows:

“14.72.020 Needs assessment study relating to parking assessment fees. A. Before the council may consider the enactment of an ordinance providing for parking assessment fees in lieu of the off-street parking and loading requirements contained in chapter [19.36, Maui County Code,] 19.36B of this code, state law requires the approval of a needs assessment study. The purpose of this chapter is to approve obtaining an appropriate needs assessment study which the council may subsequently approve before considering the enactment of an ordinance providing for parking assessment fees. Pursuant to a subsequently enacted ordinance providing for the imposition of parking assessment fees, revenue derived from parking assessment fees levied upon developers (as defined in section 46-141, Hawaii Revised Statutes) could be dedicated to a special fund for the purpose of constructing public parking stalls and similar public facilities.

B. A needs assessment study shall be conducted in compliance with section [46.143,] 46-143, Hawaii Revised Statutes, with regard to the council's possible future enactment of parking assessment fees. The study shall be limited to the districts of Paia, Wailuku, Makawao, and West Maui in which order of priority the funding for the study shall be spent. The study shall be conducted by an engineer, architect, or other qualified professional and shall:

1. Identify the kinds of public facilities for which parking assessment fees may be imposed[;].
2. Identify service standard levels[;].
3. Project public facility capital improvement needs[;].
4. Differentiate between existing and future needs[;].
5. Set forth the data sources and methodology upon which needs assessments and impact fees are to be based[;].
6. Comply with all requirements of section 46-143, Hawaii Revised Statutes[; and].
7. Identify any other facts and make any other conclusions which may be relevant to the council's subsequent consideration of an ordinance to enact parking assessment fees.”

SECTION 7. Section 19.04.040, Maui County Code, is amended by amending the definition of “Entertainment establishment” as follows:

“[“Entertainment] “Amusement center” or “entertainment establishment” means any indoor [and/or] or outdoor establishment where entertainment, either passive or active, is provided for patrons, either as spectators or participants and either independently or in conjunction with [another] any other use. Examples of entertainment include presentations, performances, or activities that include music, dancing, acting, comedy, or other theatrical shows, whether live or recorded; nightclub activities; karaoke; the playing of games such as video games or darts; and other activities provided for the pleasure, diversion, or amusement of patrons.”

SECTION 8. Section 19.04.040, Maui County Code, is amended by amending the definition of “Eating and drinking establishments” 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, delicatessens, cafes, bars, and nightclubs[.], and also includes a mobile food truck if the vehicle or trailer is parked on the same lot for more than three consecutive days.”

SECTION 9. Section 19.04.040, Maui County Code, is amended by amending the definition of “Live/work mixed use” as follows:

““Live/work mixed use” or “mixed use” means a [combined residential and commercial use of a single-family, two-family, or multifamily dwelling unit, with a commercial activity.] combination of one or more dwelling units and one or more non-residential uses other than home occupations, home businesses, and transient accommodations conducted on a single lot in one or more buildings.”

SECTION 10. Section 19.04.040, Maui County Code, is amended by adding new definitions to be appropriately inserted and to read as follows:

““Component use” means an individual part or element of land, building, or structure that is utilized differently from other parts or elements.

“Floor area” means the roofed area of all floors of a structure measured from the exterior faces of the exterior walls or from the center line of party walls dividing a structure; the floor area of a

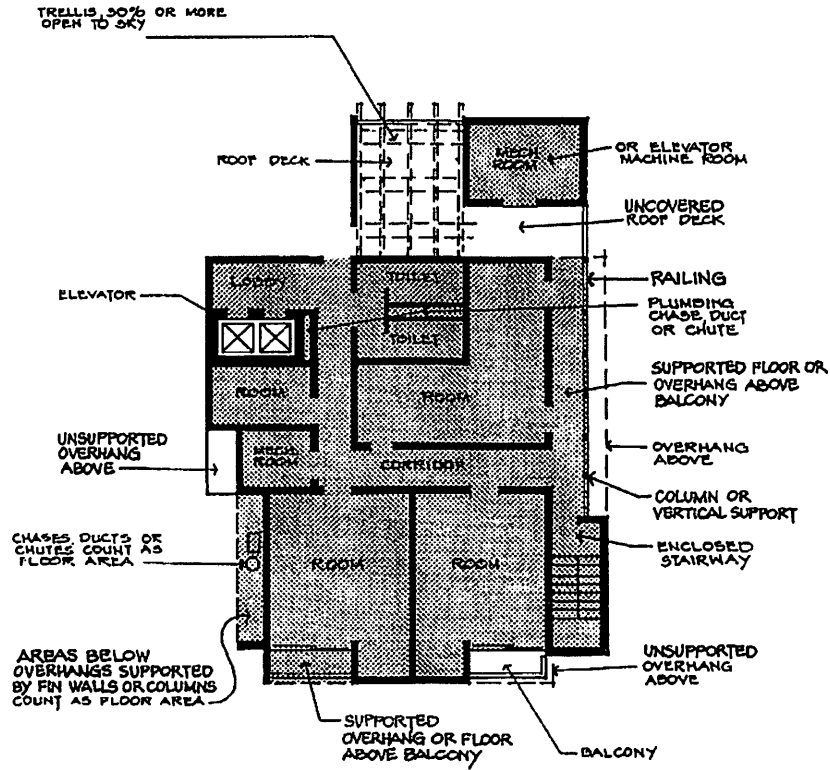
structure, or portion of the floor area, that is not enclosed by exterior walls shall be the area under the covering, roof, or floor that is supported by posts, columns, partial walls, or similar structural members that define the wall line.

Excluded from the floor area are:

1. Parking structures such as garages and carports, including covered driveways and accessways, porte cocheres, and parking attendant booths.
2. Attic areas with head room less than seven feet.
3. Projections such as sunshade devices and architectural embellishments that are decorative only.
4. Areas covered by roofing treatment to screen rooftop machinery only.
5. Areas underneath unsupported roof overhangs or cantilevered building overhangs, provided no portion of the area is enclosed except for a safety railing or wall not exceeding four feet in height.
6. Elevators and vent shafts.
7. Basements that are used exclusively for storage.
8. Common walkways and other exterior common areas in multi-family and commercial structures, such as stairways, breezeways, and fire escapes.
9. Exterior machinery and equipment enclosures such as for laundry, water heaters, air conditioning, and trash receptacles.

See figures below.

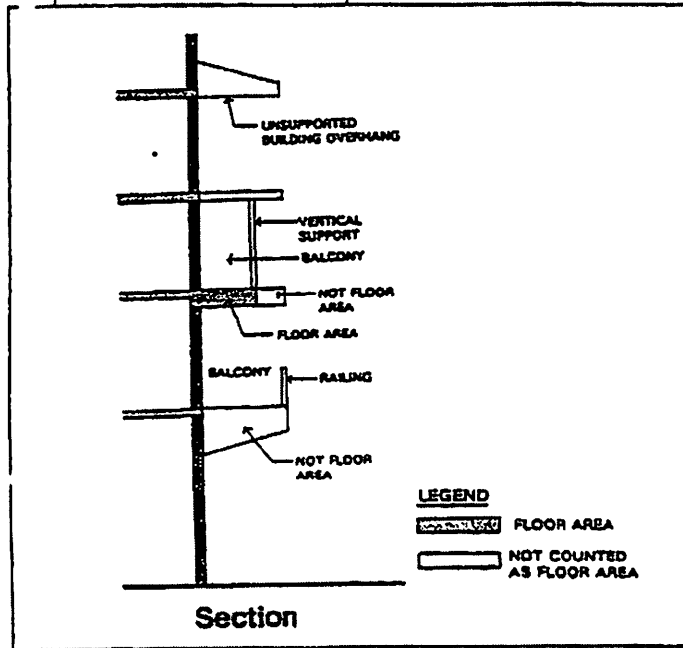
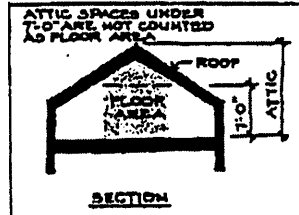
FLOOR AREA



LEGEND

- | | |
|--|--|
| | FLOOR AREA (See definition for exclusions) |
| | NOT COUNTED AS FLOOR AREA |

FLOOR AREA (Continued)



“Health club” means a facility where people use equipment or space for the purpose of physical exercise.

“Mobile food truck” means a motorized vehicle or vehicle-towed trailer in which food is cooked or prepared to order and is served to walkup customers, provided that the vehicle or trailer is not on the same lot for more than three consecutive days, in which case the use shall be considered an eating and drinking establishment.

“Nonconforming parking” or “nonconforming loading” means any parking or loading space or parking area, including the space’s or area’s dimensions and related requirements such as landscaping, that was previously lawful but does not comply with the requirements of this code, on the effective date of the ordinance establishing such requirements or as a result of subsequent amendments.

“Parking area” means parking and loading spaces and any associated driveways, lanes, and aisles needed to provide access.

“Tandem parking” or “tandem” means an arrangement of parking spaces such that one or more spaces must be driven across in order to access another space or spaces.”

SECTION 11. Section 19.30A.050, Maui County Code, is amended to read as follows:

“19.30A.050 Permitted uses. The following uses and structures are permitted in the agricultural district provided they also comply with all other applicable laws:

- A. Principal uses.
 1. Agriculture.
 2. Agricultural land conservation.
 3. Agricultural parks, pursuant to chapter 171, Hawaii Revised Statutes.
 4. Animal and livestock raising, including animal feed lots, and sales yards.
 5. Private agricultural parks as defined herein.
 6. Minor utility facilities as defined in section 19.04.040 of this [title.] code.
 7. Retention, restoration, rehabilitation, or improvement of buildings, sites, or cultural landscapes of historical or archaeological significance.
 8. Solar energy facilities, as defined in section 19.04.040 of this [title,] code, and subject to the restrictions of chapter 205, Hawaii Revised Statutes, that are less than fifteen acres, occupy no more than [thirty-five] 35 percent of

the lot, and are compatible with existing agricultural uses; except that land with soil classified by the land study bureau's detailed land classification as overall (master) productivity rating class D or E need not be compatible with existing agricultural uses.

B. Accessory uses. Uses that are incidental or subordinate to, or customarily used in conjunction with, a permitted principal use, as follows:

1. Two farm dwellings per lot, one of which shall not exceed one thousand square feet of developable area.

2. One farm labor dwelling per five acres of lot area. On the island of Maui, the owner or lessee of the lot shall meet two of the following three criteria:

a. Provide proof of at least \$35,000 of gross sales of agricultural [product(s)] products per year, for the preceding two consecutive years, for each farm labor dwelling on the lot, as shown by State general excise tax forms and federal form 1040 Schedule F filings.

b. Provide certification by the department of water supply that agricultural water rates are being paid if the subject lot is served by the County water system.

c. Provide a farm plan that demonstrates the feasibility of commercial agricultural production.

On the islands of Molokai and Lanai, the owner or lessee of the lot shall meet both of the criteria provided by subsections 19.30A.050(B)(2)(a) and 19.30A.050(B)(2)(b).

3. A maximum of two commercial agricultural structures per lot, subject to parking requirements of [section 19.36A.010.] chapter 19.36B of this code.

4. Storage, wholesale, and distribution, including barns; greenhouses; storage facilities for agricultural supplies, products, and irrigation water; farmer's cooperatives; and similar structures that are customarily associated with one or more of the permitted principal uses or, for the purpose of this section, are associated with agriculture in the County.

5. Processing of agricultural products, the majority of which are grown in the County; this includes the burning of bagasse as part of an agricultural operation.

6. Energy systems, small-scale.

7. Small-scale animal-keeping.

8. Animal hospitals and animal board facilities; if conducted on the island of Molokai, such uses shall have been

approved by the Molokai planning commission as conforming to the intent of this chapter.

9. Riding academies; if conducted on the island of Molokai, such uses shall have been approved by the Molokai planning commission as conforming to the intent of this chapter.

10. Open land recreation as follows: hiking; noncommercial camping; fishing; hunting; equestrian activities; rodeo arenas; arboretums; greenways; botanical gardens; guided tours that are accessory to principal uses, such as farm or plantation tours, petting zoos, and garden tours; hang gliding; paragliding; mountain biking; and accessory restroom facilities. If hiking, fishing, hunting, equestrian activities, rodeo arenas, hang gliding, paragliding, or mountain biking are conducted for commercial purposes on the island of Molokai, such uses shall have been approved by the Molokai planning commission as conforming to the intent of this chapter. Open land recreation uses or structures not specifically permitted by this subsection or by subsection 19.30A.060(A)(7) shall be prohibited; certain open land recreation uses or structures may also be required to obtain a special permit pursuant to chapter 205, Hawaii Revised Statutes.

11. Except on Molokai, bed and breakfast homes permitted under chapter 19.64 [of this title] of this code that are:

a. Operated in conjunction with a bona fide agricultural operation that produced \$35,000 of gross sales of agricultural products for each of the preceding two years, as shown by State general excise tax forms and federal form 1040 Schedule F filings; or

b. In compliance with all of the following criteria, provided that the bed and breakfast home is not subject to a condominium property regime pursuant to chapter 514A or chapter 514B, Hawaii Revised Statutes:

i. The lot was created prior to November 1, 2008.

ii. The lot is comprised of five acres or less.

iii. An approved farm plan has been fully implemented and is consistent with chapter 205, Hawaii Revised Statutes; or

c. Located in sites listed on the State of Hawaii [Historic] Register of Historic Places or the National Register of Historic Places.

12. Short-term rental homes permitted under chapter 19.65 of this code, provided that an approved farm plan has been fully implemented and is consistent with chapter 205, Hawaii Revised Statutes.

13. Parks for public use, not including golf courses, and not including commercial uses, except when under the supervision of a government agency in charge of parks and playgrounds.

14. Family child care homes as defined in section 46-15.35(b), Hawaii Revised Statutes, that are registered pursuant to chapter 346, Hawaii Revised Statutes, and located in a legally permitted farm dwelling.

15. Other uses that primarily support a permitted principal use; however, such uses shall be approved by the appropriate planning commission as conforming to the intent of this chapter.”

SECTION 12. Section 19.33.080, Maui County Code, is amended to read as follows:

“19.33.080 Performance standards. All building construction, alterations, and site improvements shall be prepared, reviewed, and approved in accordance with the design guidelines as approved by the [public works] director, and in accordance with [Section] section 19.33.120 and the following standards:

A. Building. The general objective of these standards is to encourage quality architectural and landscape architectural design of all facilities to be constructed within the research and technology park.

1. All buildings shall be designed to be an integral part of the overall site design concept as presented in the design guidelines.

2. Building design should address the following: views and vistas; solar orientation and climate control; orientation toward major streets and thoroughfares; the character of neighboring development; and energy conservation.

3. Design features shall include the following: an entrance drive; landscaped visitor parking areas; visitor entrance and entry plazas; pedestrian plazas and walkways; atriums and interior courts; and building and roof forms.

B. Landscape [Planting.] planting. A comprehensive landscape planting and irrigation plan shall be prepared for all developments in the research and technology park district. The plan shall be subject to the approval of the [planning] director.

Each development shall be buffered by landscaped areas, as follows:

1. From a parkway, arterial, or collector street right-of-way, a twenty-five foot wide landscaped area shall be provided between the parking area and the public right-of-way[;].

2. Along the front yard of a property other than that located on a parkway, arterial, or collector street, a twenty foot wide landscaped area shall be provided between the parking area and the public right-of-way[;].

3. Along the side yard of a property, a ten foot wide landscaped area shall be provided[; and].

4. Along the rear yard of a property, a ten foot wide landscaped area shall be provided.

The streetscape and project landscape shall be maintained by the project [occupant(s)] occupants individually or collectively through a [landowner's] landowners' association.

C. Parking [Requirements.] requirements. No parking shall be permitted on the internal streets or fronting half streets of the park. Each development shall provide off-street parking facilities in accordance with the requirements of [Chapter 19.36, Off-Street Parking and Loading, of the Maui County Code] chapter 19.36B of this code as it relates to industrial or storage uses in the M-1 and M-2 industrial zones, or as may be otherwise provided for in [Chapter 19.36.] chapter 19.36B of this code. Each development shall incorporate the following:

1. All parking shall be screened from public roads by earthen mounding [and/or] or heavy landscaping.

2. Parking areas shall be integrated with the project's [on-site] onsite pedestrian circulation system.

3. Parking areas shall not be permitted on the street side of a structure, except for areas designated as visitor, handicapped, or preferential parking.

D. Signage for the park and the individual parcel users therein shall conform to the requirements of [Chapter 16.12, Outdoor Signs,] chapter 16.12 of this code, except for the following provisions:

1. General research and technology park identification signs at the entry location shall be coordinated

with the master landscape planting plan and appropriately sized and illuminated to clearly denote the project name for the passing motorists entering the project.

2. The name of each business or parcel user in the research and technology park shall be clearly displayed and individually associated with its facilities when viewed from the street. The user's sign shall display the name [and/or] or symbol of the business only.

3. There may be one freestanding parcel user sign for each individual parcel's public street frontage. If the property frontage exceeds three hundred feet, an additional sign shall be allowed.

4. Detached business identification signs shall not exceed thirty-two square feet on each side, and no freestanding sign shall exceed four feet in height unless approved by the urban design review board.

5. Building identification signs shall be limited to displaying the building name or the name of the business occupying the site. Building signs may be mounted to any vertical surface of a building or building-related wall providing such signs appear as an integral part of the architectural concept.

6. A comprehensive signage plan in conformance with the design guidelines shall be submitted to the urban design review board for review and recommendation to the public works director, who shall approve, approve with conditions, or disapprove the comprehensive signage plan.

E. Onsite [Storage] storage and [Loading.] loading.

1. Unless otherwise approved by the public works director, no materials, supplies or equipment, including trucks and other motor vehicles, shall be stored upon a site except inside a closed building or in an enclosed area.

2. Provisions shall be made on each site for any necessary vehicle loading or unloading.

3. No on-street vehicle loading or unloading shall be permitted.

F. Screening fences and walls may be permitted by the public works director, in accordance with the approved design guidelines.

G. Access and [Driveway.] driveway.

1. The location and design of access [point(s)] points from public roadways and streets and internal driveways shall conform with requirements of the department of public works.

2. No direct access onto a state highway shall be permitted from individual lots of the research and technology park.

3. Landscaping shall be required at all entrances to the park.

H. Solid ~~[Waste Disposal.]~~ waste disposal. No refuse collection areas shall be permitted between a street and the front of the building.

I. Roof ~~[Equipment.]~~ equipment. Equipment pipes and ducts on roof tops shall be screened from view along adjacent public roadways or streets.

J. Utilities and ~~[Communication Devices.]~~ communication devices.

1. All ~~[on-site]~~ onsite utilities, including[, but not limited to,] drainage systems, sewers, gas lines, waterlines, and wires and conduits associated with street lighting, electrical power, telephone, and communication equipment, shall be installed underground.

2. Antennas, towers, or devices for transmission or reception of any signals or for energy generation shall be located and designed to be as unobtrusive as possible from neighboring lots and the public streets and shall be subject to approval by the public works director, following review and recommendation by the committee.

3. Lighting shall be required on all internal streets and within all parking lots in the research and technology park.

K. Grading.

1. All building pad elevations shall conform to the overall drainage program for the research and technology park project district.

2. Grading and drainage improvements shall be designed and constructed to minimize adverse dust and runoff impacts on adjacent and downslope properties.

L. Exterior ~~[Mechanical Equipment.]~~ mechanical equipment. All exterior components of electrical, plumbing, heating, cooling, and ventilating systems should not be visible from adjoining streets, lots, or buildings.”

SECTION 13. Section 19.38.090, Maui County Code, is amended by amending subsection E to read as follows:

“E. Parking requirements. The compact mixed-use land use pattern within the Maui Research & Technology Park fosters

more pedestrian and bicycle trips and less automobile trips than other more automobile dependent commercial districts in Maui County. Therefore, [the provision in] chapter [19.36A of this code] 19.36B of this code shall not apply to the Maui Research & Technology Park.”

SECTION 14. Section 19.52.090, Maui County Code, is amended by amending subsection G to read as follows:

“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] 19.36B of this code 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.”

SECTION 15. Section 19.60.030, Maui County Code, is amended to read as follows:

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

- A. Building height shall not exceed two stories.
- B. Total floor area of structures shall be limited to [fifty] 50 percent of the lot area.
- C. Construction shall be of new material and the relocation of old buildings will not be permitted.
- D. Construction and architectural styling of buildings and structures shall 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.
- F. Location of accessory uses shall be to the rear of interior of the lot.
- G. Signs and advertisements shall not be gaudy or excessive in size.

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

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

SECTION 16. Section 19.75.040, Maui County Code, is amended to read as follows:

“19.75.040 General standards of development. Any development within project district 1 at Kula, Maui, shall obtain the approval of the director [of the planning department] that the development complies with the following standards:

A. Steep [Slopes.] slopes.

1. Twelve to less than [fifteen] 15 percent slope: No more than [forty] 40 percent of such area shall be developed, regraded, or stripped of vegetation, unless approved by the director of public works [and waste management;] .

2. Fifteen to less than [thirty] 30 percent slope: No more than [thirty] 30 percent of such areas shall be developed, regraded, or stripped of vegetation, unless approved by the director of public works [and waste management;] .

3. [Thirty] 30 percent slope or more: No more than [fifteen] 15 percent of such areas shall be developed, regarded, or stripped of vegetation, unless approved by the director of public works [and waste management; or] .

4. “Steep slopes” are defined as lands where the inclination of the surface from the horizontal is [twelve] 12 percent or greater.

B. Other [Resources.] resources. Areas of important natural, historical, archaeological, or cultural resources or unique physical features, not otherwise mentioned in this section, shall be identified, and provisions shall be outlined to preserve or improve said resource or feature.

C. Design.

1. At least [twenty] 20 percent of the lot area of each development shall be in protected open space. This includes areas defined in this section but does not include roadways, streets, and parking lots[;] .

2. Each building and structure shall be designed by a registered architect to conform with the intent of the project district[; and] .

3. Sufficient off-street parking for tour bicycles and vans shall be provided.

D. Infrastructure. The development shall not burden governmental agencies to provide substantial infrastructural improvements.

E. Landscape [Planting.] planting.

1. Comprehensive landscaping of the entire development shall be provided, including along streets and in open spaces[; and] .

2. Landscape planting shall be considered an integral requirement of the development, [which] shall comply with [the off-street parking and loading ordinance codified in] chapter [19.36, Maui County Code, and which] 19.36B of this code, and shall provide shade, spatial definition, environmental control, and visual and noise screening for the development.

F. Signage. A comprehensive signage program shall be designed for the total development area and defined to at least include sizes, format, conceptual design, color schemes, and landscaping.

G. Lighting. Lighting shall be established in a manner [which] that does not adversely impact the surrounding area.”

SECTION 17. Section 19.90A.070, Maui County Code, is amended to read as follows:

“19.90A.070 Village [mixed use] mixed-use subdistrict.

The village [mixed use] mixed-use subdistrict envisions a community center comprised of a mix of residential, commercial, and recreational and community facilities serving the needs of residents and guests. The intent of the village [mixed use] mixed-use subdistrict is to create community identity and character with landmark buildings and a grouping of services within a central core that includes a mix of uses.

A. Permitted [Uses] uses and [Structures.] structures. The following uses and structures shall be permitted in the [mixed use] mixed-use subdistrict:

1. Principal uses and structures:

a. Any use or structure permitted in the single-family residential subdistrict or the multifamily residential subdistrict[;] .

b. Automobile service stations[;] .

c. Day care facilities[;] .

d. Eating and drinking establishments[;] .

e. Education, general[;] .

f. Education, specialized[;] .

- g. Eleemosynary organizations[;] .
- h. Food and beverage, retail[;] .
- i. General merchandising[;] .
- j. General office[;] .
- k. Medical center, minor[;] .
 - 1. Parking area, public; provided the parking lot [and/or] or building shall be appropriately screened in accordance with chapter [19.36 of this code,] 19.36B of this code, and exterior lighting shall be shielded from adjacent residential properties[;] .
- m. Personal and business services[;] .
- n. Private clubs or fraternal organizations[;] .
- o. Public facility or public use[;] .
- p. Quasi-public use or quasi-public facility[;] .
- q. Recreation, indoor[;] .
- r. Religious institutions[;] .
- s. Religious, benevolent, and philanthropic societies[;] .
 - t. Self-storage, provided it is within an enclosed building[;] .
 - u. Shopping center[;] .
 - v. Utility facilities, minor[; and] .
 - w. Other uses and structures as determined by the [planning] director as meeting the intent of this section.
- 2. Accessory [Uses] uses and [Structures.] structures. Accessory uses and structures located on the same lot and incidental and customarily found in connection with the principal uses, including[, but not limited to]:
 - a. Accessory uses or structures permitted in the single-family residential subdistrict or the multifamily residential subdistrict[;] .
 - b. One clubhouse for the golf course with snack bars, restaurants with bars, locker room facilities, weight rooms, pro shops for the sale and service of equipment and materials used for or relating to golf, tennis, or other recreational activities, and other accessory facilities as approved by the [planning] director[;] .
 - c. Other uses and structures as determined by the [planning] director as meeting the intent of this section.
- 3. Special [Uses.] uses. Uses and structures that are similar to, and compatible with, the principal uses or

structures and [which] that conform to the intent of this chapter may be approved by the Maui planning commission.

B. Development [Standards.] standards. The following development standards shall apply to the uses and structures in the village [mixed use] mixed-use subdistrict:

1. For those uses and structures permitted in the single-family residential subdistrict and incorporated by reference into other districts, the development standards for the single-family residential subdistrict shall apply.

2. For those uses and structures permitted in the [multifamily] multi-family residential subdistrict and incorporated by reference in other districts, the development standards for the [multifamily] multi-family residential subdistrict shall apply.

3. For those uses and structures permitted in the village [mixed use] mixed-use subdistrict, but not in the single-family residential subdistrict or the [multifamily] multi-family residential subdistrict, the following development standards shall apply:

a. Minimum lot area: six thousand square feet[;] .

b. Minimum lot width: sixty feet[;] .

c. Minimum yards: no yard setbacks shall be required, except:

i. That required for off-street parking[, and] .

ii. If the lot abuts a lot in the single-family residential subdistrict or the [multifamily] multi-family residential subdistrict, the side or rear yard setbacks of the abutting district shall apply[;] .

d. Maximum height: fifty feet or four stories, except that:

i. Elevator shafts, air conditioning equipment, vent pipes, fans, antennae, and solar collectors may exceed such height limitation by not more than ten feet[, and] .

ii. The golf clubhouse structure may have a height not to exceed fifty-five feet, subject to design approval by the [planning] director[;] .

e. Maximum lot coverage ratio: [thirty-five per cent;] 35 percent.

f. Maximum floor area-lot area ratio: [ninety per cent.] 90 percent.

4. A project development plan for the village [mixed uses] mixed-uses that is consistent with an approved phase II preliminary site plan shall be reviewed and approved by the [planning] director pursuant to section 19.510.090 of this code.”

SECTION 18. Section 19.93.050, Maui County Code, is amended to read as follows:

“19.93.050 Additional standards for all districts. Any tract of land or project site within the Pulelehua project district for which development is sought shall be subject to conditions imposed by the department of planning, the department of public works, the department of environmental management, and the State of Hawaii departments of health, transportation, and land and natural resources, pursuant to any applicable statute, ordinance, rule, or regulation, and shall be further subject to the following standards:

1. Density. No more than one thousand two hundred dwellings or dwelling units, including accessory dwellings, shall be developed in the Pulelehua project district.

2. Design. Each building or structure within Pulelehua shall be designed to conform to the Pulelehua design guidelines which shall be approved by the urban design review board.

3. Landscaping. A landscape planting plan shall be provided to specify plant species, sizes, quantities, and locations. Drought tolerant [and/or] or slow growing hardy grasses, native and indigenous plants, shrubs, ground covers, and trees appropriate for local conditions shall be used to minimize the need for irrigation. Each landscape planted area shall be irrigated and maintained as needed. Landscape planting and irrigation plans shall be reviewed and approved by the department of planning.

4. Signs. A comprehensive sign plan shall be submitted for Pulelehua, subject to review and approval by the department of planning. The department of planning may refer the comprehensive sign plan to the urban design review board.

5. Special building elements. Special building elements, such as awnings/marquees, balconies, colonnades/arcades, porches, and outside [open air] open-air dining, may project within the right-of-way, subject to [Chapter] chapter 16.26[, Maui County Code,] of this code, as amended.

6. Live/work mixed uses may be permitted only on live/work lots.

7. A dwelling or dwelling unit shall not be used for fractional ownership or as a transient vacation rental, time-share unit, or bed and breakfast home.

8. Parking requirements. The intent of these parking regulations is to encourage a balance between compact [pedestrian oriented] pedestrian-oriented development and necessary car storage. Notwithstanding any provision in [Chapter 19.36] chapter 19.36B of this [Code] code to the contrary, the off-street parking requirements shall be as follows:

a. The mixed-use land pattern within Pulelehua fosters more pedestrian trips and fewer automobile trips than other more [automobile dependant] automobile-dependent commercial districts in Maui County. Therefore, a thirty percent reduction in the required number of parking spaces stated below shall be applied to all non-residential uses.

b. When the computation of required parking spaces results in a fractional number of spaces, the number of spaces required shall be rounded up to the nearest whole number when a fraction of a space is greater than or equal to .5 and rounded down when a fraction of a space is less than .5.

Required Parking Spaces by Use	
Assembly area	*Church: 1 space per 100 [sq. ft.] <u>square feet</u> of floor area *Library, community center, museum: 1 space per 300 [sq. ft.] <u>square feet</u> of floor area *All other types of assembly: 1 space per 75 [sq. ft.] <u>square feet</u> of floor area or 1 space per 5 fixed seats, whichever is greater
Accessory dwelling units	1 [on-site] <u>onsite</u> space per unit
Automobile services	1 space per 200 [sq. ft.] <u>square feet</u> of floor area or [40%] <u>40 percent</u> of lot area, whichever is greater

Day care facility	1 space per 10 care recipients; 4 pick-up/drop-off spaces for facilities with more than 2 care recipients
Dwelling	2 [on-site] <u>onsite</u> spaces per unit
Dwelling unit, multifamily	Studio: 1 [on-site] <u>onsite</u> space per unit One-bedroom: 1 [on-site] <u>onsite</u> space per unit Two or more bedrooms: 2 [on-site] <u>onsite</u> spaces
Eating and drinking establishment	1 space per 100 [sq. ft.] <u>square feet</u> of serving and dining areas
Education, specialized	1 space per each 10 students, plus 1 space per 400 [sq. ft.] <u>square feet</u> of office floor space
Food and beverage retail	1 space per 500 [sq. ft.] <u>square feet</u>
Food processing	1 space per 600 [sq. ft.] <u>square feet</u> or [25%] <u>25 percent</u> of the lot area, whichever is greater
General merchandise	1 space per 500 [sq. ft.]; <u>square feet</u> ; 1 space per 600 [sq. ft.] <u>square feet</u> for appliance, furniture, plumbing supply, automobile, marine supply and machinery stores requiring large floor spaces for product display
Outside [open air] <u>open-air</u> dining	1 space per 500 [sq. ft.] <u>square feet</u>
Personal business and services	* 1 space per 300 [sq. ft.] <u>square feet</u> for personal services such as medical and dental clinics, beauty salons, financial institutions and health spas * 1 space per 400 [sq. ft.] <u>square feet</u> for business services such as photocopy shops

	* 1 space per 500 [sq. ft.] <u>square feet</u> for all other business buildings
Recreation, indoor	* 1 space per 600 [sq. ft.] <u>square feet</u> for swimming pool, gymnasium, Wellness Center * 1 space per 300 [sq. ft.] <u>square feet</u> for all other types of indoor recreation
Repair, minor	1 space per 1,500 [sq. ft.] <u>square feet</u> for warehousing; 1 space per 600 [sq. ft.] <u>square feet</u> or [20%] <u>20 percent</u> of the lot area, whichever is greater, for all other <u>uses</u>
Storage, wholesale and distribution	1 space per 1,500 [sq. ft.] <u>square feet</u> for storage facilities; 1 space per 600 [sq. ft.] <u>square feet</u> for all other uses
Workshop/loft	1 space per 1,500 [sq. ft.] <u>square feet</u> for warehousing; 1 space per 600 [sq. ft.] <u>square feet</u> for all other uses

c. [On-site] Onsite parking shall be located in the rear, accessed by an alley. If a lot is not accessible by an alley, the parking location must be twenty feet minimum beyond the front facade of the principal building.

d. Off-site parking: Parking spaces located on-street and in commonly-owned lots may be used to meet parking requirements. Parking spaces identified for a particular use shall be located on the same lot [it serves] they serve or within a distance of four hundred feet at the nearest point on the lot, and as approved by the department of planning.

e. Joint-use parking: The planning director may permit joint-use of required parking spaces where two or more uses on the same lot are able to jointly use the same parking spaces because their demands occur at different times. The applicant shall submit an analysis showing the peak parking times of the uses occur at different times and that the parking area will be large enough for the anticipated demands of both uses.”

SECTION 19. Section 19.500.110, Maui County Code, is amended to read

as follows:

“19.500.110 Nonconformities. Nonconforming lots, structures, uses, and parking may be continued, subject to the following provisions:

A. Nonconforming [~~Lots.~~] lots.

1. A nonconforming lot shall not be reduced in area, width, or depth, except by government action to further public health, safety, or welfare[; and] .

2. Any nonconforming structure or use may be constructed, enlarged, extended, or moved on a nonconforming lot as long as all other requirements of this title are met.

B. Nonconforming [~~Structures.~~] structures.

1. If a nonconforming structure is destroyed by any means to an extent of more than [~~fifty~~] 50 percent of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this title; except, that:

a. [Notwithstanding the foregoing provision, a] A nonconforming structure [~~which~~] that is an historic property as defined in chapter 6E of the Hawaii Revised Statutes and a nonconforming structure devoted to a conforming use [~~which~~] that contains [~~multifamily~~] multi-family dwelling units owned by owners under the authority of [~~chapters~~] chapter 514A [~~and 421G~~] of the Hawaii Revised Statutes, [~~or units owned by a "cooperative housing corporation" as defined in section 403-98(b) of the Hawaii Revised Statutes,~~] and whether or not the structure is destroyed by accidental means, including destruction by fire, other calamity, or natural disaster, may be restored to its former condition; provided, that such restoration is permitted by the building code and flood hazard regulations and is started within two years[;] .

b. The burden of proof to establish that the destruction of a structure was due to accidental means as described above and that the structure was legally nonconforming shall be on the owner[; and] .

c. Except as otherwise provided in this title, no nonconforming structure that is voluntarily razed or required by law to be razed by the owner [~~thereof~~]

may thereafter be restored except in full conformity with the provisions of this title[;] .

2. If a nonconforming structure is moved, it shall conform to the provisions of this title[; and] .

3. Any nonconforming structure may be repaired, expanded, renovated, or altered in any manner [which] that does not increase its nonconformity.

C. Nonconforming [Uses.] uses.

1. A nonconforming use shall not extend to any part of the structure or lot [which] that was not arranged or designed for such use at the time the use became nonconforming[;] .

2. Any nonconforming use that is discontinued for twelve consecutive months shall not be resumed[;] .

3. Work may be done on any structure devoted in whole or in part to any nonconforming use[; provided, that] if the work is limited to ordinary repairs, including repair or replacement of walls, fixtures, wiring, or plumbing. Further, [this] the work shall not exceed [fifty] 50 percent of the current replacement cost of the structure within a twelve-month period, and the floor area of the structure, as it existed at the time the nonconforming use was created, shall not be increased[; and,] .

4. No nonconforming use shall be changed to another nonconforming use.

D. Nonconforming [Parking] parking and [Loading.] loading.

1. If there is a change in use[,] of a structure or lot or any portion of a structure or lot, the area of the new use shall meet the off-street parking and loading requirement established in chapter [19.36 of this title; and,] 19.36B of this code.

2. [Except for expansion of individual dwelling units, any] Any use that adds floor area shall provide off-street parking and loading for the [addition] additional area as required by chapter [19.36 of this title.] 19.36B of this code.

3. Any nonconforming parking or nonconforming loading may be repaired, expanded, or altered in any manner that does not increase its nonconformity."

SECTION 20. Material to be repealed is bracketed. New material is underscored. In printing this ordinance, the County Clerk need not include the brackets, the bracketed material, or the underscoring.

SECTION 21. This ordinance shall take effect upon its approval, except that applications for development, such as building permits and special management area use permits, submitted to the County and deemed substantially complete by the department processing the application on or before March 31, 2019, shall be subject to the requirements in effect prior to the effective date of this ordinance if elected by the applicant.

APPROVED AS TO FORM AND LEGALITY:



MICHAEL J. HOPPER
Department of the Corporation Counsel
County of Maui

lu:misc:065abil02

WE HEREBY CERTIFY that the foregoing BILL NO. 120 (2018)

1. Passed FINAL READING at the meeting of the Council of the County of Maui, State of Hawaii, held on the 21st day of December, 2018, by the following vote:

Michael B. WHITE Chair	Robert CARROLL Vice-Chair	Alika ATAY	Eleanora COCHRAN	S. Stacy CRIVELLO	Donald S. GUZMAN	G. Riki HOKAMA	Kelly T. KING	Yuki Lei K. SUGIMURA
Aye	Excused	Aye	Aye	Aye	Aye	Aye	Aye	Aye

2. Was transmitted to the Mayor of the County of Maui, State of Hawaii, on the 24th day of December, 2018.

DATED AT WAILUKU, MAUI, HAWAII, this 24th day of December, 2018.

RECEIVED
2018 DEC 26 AM 8:24
OFFICE OF THE COUNTY CLERK

MICHAEL B. WHITE, CHAIR
Council of the County of Maui

DENNIS A. MATEO, COUNTY CLERK
County of Maui

THE FOREGOING BILL IS HEREBY APPROVED THIS 24 DAY OF December, 2018.

ALAN M. ARAKAWA, MAYOR
County of Maui

I HEREBY CERTIFY that upon approval of the foregoing BILL by the Mayor of the County of Maui, the said BILL was designated as ORDINANCE NO. **4921** of the County of Maui, State of Hawaii.

DENNIS A. MATEO, COUNTY CLERK
County of Maui

Passed First Reading on December 13, 2018
Effective date of Ordinance December 24, 2018

I HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. **4921**, the original of which is on file in the Office of the County Clerk, County of Maui, State of Hawaii.

Dated at Wailuku, Hawaii, on

County Clerk, County of Maui

RECEIVED
2018 DEC 26 AM 8:24
OFFICE OF THE COUNTY CLERK