

The Government Affairs Committee is pleased to announce recent changes to the law concerning accessory dwellings. Specifically, there have been a number of amendments to Maui County Code (“MCC”), Chapter 19.35, pursuant to Ordinance No. 4936. These changes apply to any zoning district that allows accessory dwellings in Maui County. Therefore, when considering the application of these rules in a given zoning district, it is important to review the permitted uses as defined by Title 19 of the MCC for the specific district to determine if accessory dwellings are a permitted use. For instance, these rules do not apply to agricultural districts, as accessory dwellings are not a permitted use in agricultural districts.<sup>1</sup>

Overall, the most significant change relates to the number of accessory dwellings per lot. On Maui, one accessory dwelling shall be permitted on any lot that is less than 7,500 square feet, and up to two accessory dwellings shall be permitted on any lot that is 7,500 square feet or greater. Molokai and Lanai will not be allowing for accessory dwellings on lots below 7,500 square feet, but one accessory dwelling shall be permitted a lot that is 7,500 square feet or greater.

In addition to the new law allowing for more accessory dwellings, the permissible sizes of accessory dwellings have increased along lot sizes. The following is a table that reflects the new maximum gross floor area of an accessory dwelling in relation to lot size:

| Lot Area in Square Feet | Maximum Gross Covered Floor Area in Square Feet |
|-------------------------|---|
| Up to 7,499             | 500   |
| 7,500 to 9,999          | 600   |
| 10,000 to 21,779        | 720   |
| 21,780 to 43,599        | 840   |
| 43,560 to 87,119        | 960   |
| 87,120 or more          | 1,200   |

Please note that these maximums are per accessory dwelling, and not the total for multiple accessory dwellings. Additionally, in this context “covered floor area includes any covered storage; excludes carports, parking spaces, and garages (including areas therein that contain laundry facilities and utility equipment such as water heaters); and covered walkways or landings up to four-feet wide under eaves or overhangs that are not part of an uncovered open deck, patio, lanai, or similar structure.”

The recent amendments to Chapter 19.35 also included changes to the maximum cumulative area of covered and uncovered decks or similar structures, and an increase in maximum size of off-street parking for use by residents of an accessory dwelling. The following is a table that outlines the maximum cumulative floor area for uncovered open decks, walkways, patios, lanais, or similar structures:

| Lot Area in Square Feet | Maximum Cumulative Floor Area in Square Feet |
|-------------------------|--|
| Up to 7,499             | 200  |
| 7,500 to 9,999          | 240  |
| 10,000 to 21,779        | 280  |
| 21,780 to 43,559        | 320  |
| 43,560 to 87,119        | 360  |
| 87,120 or more          | 400  |

Similarly, below is a table that outlines the new maximum cumulative floor area for covered decks, walkways, patios, lanais, or similar structures:

| Lot Area in Square Feet | Maximum Cumulative Floor Area in Square Feet |
|-------------------------|--|
| Up to 7,499             | 200  |
| 7,500 to 9,999          | 240  |
| 10,000 to 21,779        | 280  |
| 21,780 to 43,559        | 320  |
| 43,560 to 87,119        | 360  |
| 87,120 or more          | 400  |

For the purposes of both tables “cumulative floor area” excludes walkways or landings up to four feet wide under eaves or overhangs that are not part of a deck, patio, lanai, or similar structure.

Also of note is the inclusion of language in Chapter 19.35.010(D), which states: “No accessory dwelling shall be used as a bed and breakfast home, short-term rental home, or transient vacation rental.” The inclusion of such language makes sense, as the impetus behind this bill was largely to increase the inventory of available long term rentals for Maui residents.

Ordinance No. 4936 resulted in a number of additional amendments to the MCC, but they are generally less notable or were required to reduce conflicts in the language of the MCC. Nevertheless, all the changes can be seen by following this link:

[https://library.municode.com/hi/county\\_of\\_maui/ordinances/code\\_of\\_ordinances?nodeId=930874](https://library.municode.com/hi/county_of_maui/ordinances/code_of_ordinances?nodeId=930874) . When reviewing the ordinance remember that all language that is underlined is the language that has been added, and all language in brackets is language that has been removed. If you would like to review the previous language of MCC, Chapter 19.35, you can find it here: [https://library.municode.com/hi/county\\_of\\_maui/codes/code\\_of\\_ordinances?nodeId=TIT19ZO\\_ARTIIC\\_OZOPR\\_CH19.35ACDW](https://library.municode.com/hi/county_of_maui/codes/code_of_ordinances?nodeId=TIT19ZO_ARTIIC_OZOPR_CH19.35ACDW) .

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<sup>i</sup> For Agricultural Districts, permitted uses can be found in Chapter 19.30A.050: [https://library.municode.com/hi/county\\_of\\_maui/codes/code\\_of\\_ordinances?nodeId=TIT19ZO\\_ARTIICOZOPR\\_CH19.30AAGDI](https://library.municode.com/hi/county_of_maui/codes/code_of_ordinances?nodeId=TIT19ZO_ARTIICOZOPR_CH19.30AAGDI)