

Chapter 19.52 REGULATIONS ON BUILDINGS AND USES

19.52.010 Architectural style.

A. The exterior of all new buildings constructed within a historic district must be in keeping with the architectural style of the district so as not to impair the value of other buildings in the immediate vicinity in order that the general character of the district shall not be injured.

B. For historic district no. 1 and historic district no. 2, the styles of architecture are defined as follows:

1. Native Hawaiian style characterized by thatched construction;
2. 19th century New England style, tempered by the availability of materials, tools and skills, as exemplified by the Baldwin house;
3. "Monterey" or western type, defined as one or two-story structure with wooden balcony or overhanging wooden or corrugated iron roof awning;
4. For single-family dwellings, any architectural style prevalent during the 19th century in Lahaina or which evolved from 1900 to the present in Lahaina, being unpretentious in style and painted in muted tones.

C. For historic district no. 3, all new buildings or structures shall be of an architectural style that shall be compatible with the architectural styles of those historic buildings listed in Section 19.50.030. The architectural style shall not be limited to any particular style or styles; however, certain architectural styles and certain architectural elements that shall not be allowed in historic district no. 3 are as follows:

1. European and Asian styles in general;
2. Excessively decorated styles;
3. Flat-roofed, modernistic styles;
4. Styles, forms, colors and lighting that is gaudy;
5. Large areas of reflective materials such as glass and aluminum, unless completely in the shade at all times. (Prior code § 8-3.13)

19.52.020 Review of plans.

A. Within any historic district established in this article, the commission shall have the power to approve all plans, and the superintendent of building inspection of the county

shall not issue a building permit until a certificate of approval has been issued by the historic commission.

B. Application for an appropriate permit to construct, alter, repair, move or demolish any structure, or modification of existing structures and appurtenances thereto, in the historic districts shall be made to the superintendent of building inspection, referred to in this article as the “superintendent.” The superintendent shall immediately notify the chairman or acting chairman of the historic commission of the receipt of such application and shall transmit it together with accompanying plans and other information to the commission.

C. The historic commission shall meet within fifteen days after notification by the superintendent of the filing, unless otherwise mutually agreed upon by the applicant and commission, and shall review the plans according to procedures as set forth in this article.

D. The commission shall approve or disapprove such plans and, if approved, shall issue a certificate of approval, which is to be signed by the chairman and attached to the application for a building permit, and immediately transmit it to the superintendent.

E. If the commission disapproves such plans, it shall state its reasons for doing so and shall transmit a record of such action and reasons therefor in writing to the council, the superintendent and the applicant. The commission may advise the applicant what it thinks is proper if it disapproves the plans submitted. The applicant, if he so desires, may make modifications to his plans and shall have the right to resubmit his application at any time after so doing.

F. The failure of the historic commission to approve or disapprove such plans within forty-five days from the date of application for the building permit, unless otherwise mutually agreed upon by the applicant and the commission, shall be deemed to constitute approval and the superintendent shall proceed to process the application without regard to a certificate of approval. (Ord. 757 § 1(b), 1973; prior code § 8-3.7)

19.52.030 Signs.

Within historic district no. 1 and historic district no. 2, no signs that blink, revolve, or contain lighting from within shall be allowed. Wall signs shall be no larger than twelve square feet. Marquee or hanging signs shall be no larger than eight square feet. All signs shall be rustic in design. (Prior code § 8-3.15)

19.52.040 Repairs.

Nothing in this article shall be construed to prevent ordinary maintenance or repair of any structure within the historic districts. (Prior code § 8-3.10)

19.52.050 Demolition or movement of structures.

A. The demolition or moving of structures of historic or architectural worth shall be discouraged, and the commission shall not issue a certificate for demolition except when a

structure is deemed a hazard to public health or safety by the superintendent or the state department of health's authorized representative. The commission may, at its own discretion, issue a certificate of approval for demolition or for moving a structure within the historic districts, but shall be guided by the following:

1. The superintendent or the state department of health deems such structure to be a hazard to public safety or health and repairs are impossible.
2. Such structure is a deterrent to major historic restoration or preservation program.
3. The retention of such structure would not be in the interest of the community as a whole.

B. For the purpose of this article, buildings and structures of historic significance shall be deemed to be those within any historic district constructed prior to the year 1910. (Prior code § 8-3.8)

19.52.060 Nonconforming uses.

Any lawful use of land and/or buildings or structures existing or under construction in any historic district at the time this article is adopted may be continued; provided, that such nonconforming use may not be enlarged, nor changed into a different nonconforming use. (Prior code § 8-3.17)

19.52.070 Variances.

In any particular case where strict compliance with the provisions of this article would cause practical difficulty or unnecessary hardship, the commission may grant a variance from the restrictions set forth in this article; provided, that such variance is approved by the county council. (Prior code § 8-3.16)

19.52.080 Appeals.

Any action of the commission may be appealed to the county council within a period of fifteen days from the date of notice to the aggrieved party. The council may override any action of the commission by a majority vote. (Prior code § 8-3.9)

19.52.090 Regulations for historic districts no. 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 2.88.080 of this code on file with the department of planning shall be used as a guide to 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. One-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 therewith 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 government for public purposes that are authorized by law;
9. Two-family dwellings (duplex);
10. Amusement enterprises, including billiard halls or poolhalls;
11. Antique shops;
12. Art galleries;
13. Auditoriums and theaters;
14. Banks;
15. Barber or beauty shops;
16. Baths--Turkish and the like, including masseurs;
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 organizations;
40. Professional buildings;

41. Religious, benevolent, philanthropic societies or functions;
42. Restaurants, cafes, or bars;
43. Shoestores;
44. Tailor, clothing or wearing apparel shops;
45. Apartments, boardinghouses or lodginghouses;
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;
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 subdivision, the following terms are defined:
 - a. "Historical tour" means a tour of all or any part of, and which 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, 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 one-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, including alcohol, brandy, whiskey, rum, gin, okolehao, sake, beer, ale, porter, wine or other spirituous, vinous, malt, or fermented liquor, liquids and compounds, 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 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 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. (Ord. 2576 § 2, 1997; Ord. 2390 § 1, 1994; Ord. 1265 § 1, 1982; Ord. 915 § 1, 1978; Ord. 892 § 1, 1978; Ord. 862 § 1, 1977; Ord. 817 § 1, 1975: prior code § 8-3.14(I))

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 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;
5. Buildings or premises used by the federal, State or county government for public purposes;

B. Special Uses. The following uses may be allowed with written approval of the county historic 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;
6. Other uses that will enhance the historical and cultural nature of this district.

C. Building Height and Special Spacing Regulations. The purpose of these regulations is to preserve the historical setting and the open space around the historic structures. All new construction shall be limited to 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. The purpose of this regulation is 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 county historic 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.

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 county historic commission and the responsible government agency having administrative authority over the park or open space. (Prior code § 8-3.14 (II))