

ORDINANCE NO. _____

BILL NO. _____ (2021)

A BILL FOR AN ORDINANCE AMENDING TITLE 19, MAUI COUNTY CODE,
TO ESTABLISH A NEW CHAPTER 19.39, MAUI COUNTY CODE,
RELATING TO THE WAILUKU REDEVELOPMENT AREA, AND TO AMEND
CHAPTER 19.520, MAUI COUNTY CODE, RELATING TO VARIANCES IN THE
WAILUKU REDEVELOPMENT AREA

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

SECTION 1. Findings and purpose. The purpose of this ordinance is to reduce regulatory barriers to business creation and investment within the Wailuku Redevelopment Area, by providing flexible zoning, building, public works, and fire code standards; outdoor dining areas, street vendors, and entertainment; and mixed use zoning including but not limited to residential, retail, office, entertainment, specialty restaurants, cafes, and other similar uses.

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

“Chapter 19.39

WAILUKU REDEVELOPMENT AREA

Sections:

19.39.010	Purpose and intent.
19.39.020	Definitions and types of uses.
19.39.030	WRA Commercial mixed-use district.
19.39.040	WRA business/multi-family district.
19.39.050	WRA multi-family district.
19.39.060	WRA residential district.
19.39.070	WRA public/quasi-public district.
19.39.080	General requirements.
19.39.090	Building height.

19.39.100	Lots.
19.39.110	Yards.
19.39.120	Canopies, balconies, and sunshades.
19.39.130	Off street parking and loading.
19.39.135	Temporary parking facilities.
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19.39.150	Non-conformities and legal existing uses.
19.39.160	General administrative procedures.
19.39.170	Urban design.

19.39.010 Purpose and intent. The purpose of this chapter is to adopt zoning standards for properties in the Wailuku Redevelopment Area (“WRA”). This includes areas within the WRA commercial mixed-use district, WRA business/multi-family district, WRA multi-family district, WRA residential district, and WRA public/quasi-public district. This chapter is intended to:

A. Provide for a flexible and creative approach to development that considers physical, environmental, social, and economic factors in a comprehensive manner.

B. Provide for and encourage a mix of compatible land uses that create opportunities to live, work, and shop within the WRA.

C. Facilitate the efficient use of land capitalizing on a high level of services, reduced reliance on the automobile with enhanced bicycle and pedestrian relationships, and creative opportunities for the economical preservation and adaptive reuse of existing structures, most notably those that contribute to Wailuku’s unique traditional urban character.

D. Encourage a mixture of retail shops, restaurants, offices, personal and professional services, ~~boutique~~ hotel, multi-family, residential, and public-use opportunities within the WRA.

E. Promote mixed-use development projects capitalizing on the more flexible design and development opportunities.

F. Streamline the permit review process.

G. Stimulate economic revitalization of the core area of Wailuku Town.

H. Establish the means of implementing various provisions of the Maui County General Plan, Wailuku-Kahului Community Plan, and Wailuku Redevelopment Plan and Design Guidelines.

I. **Protect and preserve cultural, historical, environmental, and natural resources for present and future generations.** *(Cultural District)*

19.39.020 Definitions and types of uses. A. Definitions. The following definitions shall apply to this chapter. Terms not defined below shall have the meanings set forth in subsection 19.04.040 of this title.

“Accessory use” means a use meeting the following conditions:

1. It is conducted on the same lot or on a contiguous lot in the same ownership, whether in the same building or within an accessory building or structure, or as an accessory use of land.

2. It is clearly incidental to and customarily found in connection with the principal use.

3. It is operated and maintained substantially for the benefit or convenience of the owners, occupants, employees, customers, or visitors to the lot with the principal use.

“Administrative review permit” means a permit required for uses meeting the general purpose and intent of the zoning district but which require administrative review by the planning director, or authorized representative, to mitigate the potential impacts of that use at the proposed location on adjacent uses, the physical setting, and public services.

“Administrative use” means a use for which an administrative review permit is required.

“Adult establishment” means businesses or commercial activities primarily restricted to adult customers, including bars, nightclubs, and taverns, and other establishments that dispense alcoholic beverages.

“Balcony” means a platform that projects from the wall of a building and is surrounded by a railing or balustrade.

“Boarding home” means an establishment with a single kitchen that provides living accommodations for roomers in addition to the resident manager or owner and family, with or without meals, for remuneration or in exchange for services. This does not include uses defined as group living facilities.

“Canopy and other building entrances” means a roof structure such as a canopy, awning, and similar appurtenances constructed of rigid or other material designed to complement the streetscape of the area and to be placed so as to extend outward from a building providing a protective shield for doors, windows, and other openings, supported by the building and supports extended to the ground directly under the canopy or cantilevered from the building.

“County” means the County of Maui of the State of Hawaii. [Add definition of](#)

“Day care facility” means an establishment where persons ["Cultural District"](#) who are not members of the family occupying the premises are cared for on an intermittent basis, but not continuously over a twenty-four hour period, and the operation is monitored and/or licensed by the State of Hawaii. Examples include day nurseries, pre-schools, kindergartens and adult day care.

“Eating and drinking establishment” means a business engaged in the preparation and serving of food to customers on premises. This includes restaurants that also dispense alcoholic beverages, if dining is a principal activity, but not including eating establishment, fast food.

Include "internet cafe, as an example"

“Eating establishment, fast food” means an establishment, other than a bakery, bake shop, candy or ice cream store, which provides as a principal use the sale of foods or beverages in a ready-to-consume state, for consumption on or off the premises. Fast-food restaurants may have sit-down seating and delivery service, but not provide dancing, live entertainment, the service of alcoholic beverages, or a bar. Fast-food restaurants may have some outdoor dining and drive-up service. A fast food establishments design or principal method of operation includes two or more of the following characteristics:

1. Food or beverages are served in edible containers, or in paper, plastic, or other disposable containers. Eating utensils, if provided, are disposable.

2. The line of food or beverages is limited; and is usually prepared in advance of the customer’s order.

3. Food or beverages are served over a general service counter for the customer to carry to a seating facility within the restaurant, or carry-out off premises, or to an occupant of a motor vehicle while seated in the vehicles, such as through a drive-in window.

4. Carry-out sales, including delivery service, constitute over 10 percent of the food service business.

“Education, major” means facilities, typically in a campus setting, that offer a general educational curriculum and have an enrollment capacity for one thousand or more students. Examples include public and private colleges and intermediate and high schools.

“Education, minor” means facilities offering a general educational curriculum having an enrollment capacity of less than one thousand students. Examples include public and private elementary schools and small colleges, intermediate and high schools.

“Education, specialized” means a facility that offers a specialized educational curriculum. Examples include vocational, language, business, music, dance and art schools.

“Entertainment” means businesses or commercial activities involving live adult entertainment, whether for profit or not for profit, whether open to the public at large or whether entrance is limited by a cover charge or membership requirement. Examples include, but are not limited to, facilities offering live music, singing, comedy

clubs, street performers and other similar activities. This does not include establishments that feature exotic dancers, strippers, topless entertainers or other similar activities that provide entertainment where specified anatomical areas can be seen by patrons.

“Family” means one of the following:

1. An individual or persons related by blood, adoption or marriage;
2. Up to five unrelated persons; or
3. Up to eight unrelated persons living with a residential manager or supervisor in an adult residential care home, special treatment facility or similar facility monitored and/or licensed by the State of Hawaii.

“Floor area” means the combined area under roof of all floors of a building measured from the exterior faces of exterior walls or from the centerline of party walls separating portions of a building. Where there are no exterior walls, the floor area is the usable area under the horizontal projection of the roof, including but not limited to balconies, stairways or elevator shafts. Excluded from floor area are the following: (1) accessory parking, including driveways and access ways; (2) Attic areas with headroom less than seven feet; and (3) basements.

“Floor area ratio” means the total floor area on a lot divided by the total lot area.

“Food, beverage and merchandise kiosk” means a small structure no larger than six feet wide by ten feet long that is open at one or more sides, and used for the sale of merchandise such as arts and crafts, snack food items, clothing, newspapers, magazines, and jewelry, which is a self-contained portable structure, designed as a cart, and does not constrain or block safe pedestrian and or automobile traffic.

Kiosk: add
"aggressive sales
prohibited"

“Food and beverage retail” means businesses within permanent facilities engaged in the retail sale of food and beverage products. Examples include supermarkets, convenience stores, bake shops, liquor stores, delicatessens (take-out only), and catering establishments.

“Food processing” means facilities for the preparation of food products for distribution to retail, wholesale and eating establishments. Examples include bakeries, refrigerated storage, canning, bottling, and packaging plants, noodle manufacturing and coffee roasting grinding.

“Funeral home” means a building used for the preparation of the deceased for burial and the display of the deceased and rituals connected therewith before burial or cremation.

“General merchandise” means businesses within permanent facilities engaged in the retail sale or rental of goods other than food

and beverage products. Examples include department stores, drugstores, home furnishing stores, and hardware stores, pet stores, nurseries, and equipment rental (within enclosed buildings). This does not include new and used car lots.

“General office” means facilities used for the practice of a profession, the conduct of public administration, or the administration of a business or industry. Examples include administrative offices for government agencies and financial, insurance, and real estate companies; and professional practices (except medical and dental); and television and radio stations.

“Grade” means the site ground elevation of a building or structure before construction or after it has been prepared for construction according to a grading permit approved pursuant to title 20 of this code.

“Group living facility” means facilities providing congregate living accommodations, sometimes with care services. Examples include monasteries and convents; group homes for the elderly or disabled; residential counseling centers and shelters for battered children and adults and those recovering from illness or injury; hospices; intermediate-care and extended-care nursing homes.

“Home occupation” means an activity intended to produce income that is carried on within a dwelling or on a lot whose principal use is a dwelling.

“Hotel” means a facility containing lodging units or dwellings in which 50 percent or more of the units are lodging units, and where there is a lobby, clerk’s desk or counter with twenty-four hour clerk service of facilities for registration and keeping records relating to hotel guests.

“Joint lot use” means two or more adjoining lots in the same zoning district which are developed and used for a single, unified project and treated as a single lot for zoning purposes.

“Light manufacturing and processing” means enclosed facilities for the production or assembly of products, other than food or agricultural products, involving limited or minor emissions of odors, fumes, noise, vibrations, heat, glare or electrical interference to the exterior. Examples include small craft boat building, surfboard making, commercial laundries, carpet cleaning, crafts industries, apparel manufacture, and small craft assembly plants.

“Lodging unit” means a room or connected rooms constituting an independent living unit for a family which does not contain food preparation facilities. Unless specifically permitted in use regulations for a zoning district, lodging unit may be used as a transient unit but does not include use as a time-share unit.

“Lot” means a parcel of land considered as a unit and enclosed within defined boundaries, or a building site having the required area for a certain use, or occupied or intended to be occupied by a

use in compliance with the requirements of the applicable zoning district.

“Lot area” means the total area within the lot boundaries exclusive of easements and right-of-way in favor of others for ingress and egress.

“Lot coverage” means the area of a lot covered by all roofed structures; except parking areas, walkways and accessory equipment covered by trellises that are at least 50 percent open to the sky, and underground parking structures which protrude no more than three feet above adjacent grade.

“Maui redevelopment agency use permit” means a permit required for uses which meet the general purpose and intent of the zoning district but which requires review by the Maui Redevelopment Agency to mitigate the potential impacts of that use at the proposed location on adjacent uses, the physical setting and public services.

“Maui redevelopment agency – director” means the director of the Maui redevelopment agency or the authorized representative of that director, or the director of the department that provides administrative support for the agency if no director has been appointed.

“Medical center, major” means a facility established for in-patient maintenance, observation, medical and dental care and supervision, or convalescence of persons afflicted with or suffering from sickness, disease or injury. Examples include hospitals and nursing homes.

“Medical center, minor” means a facility established to provide medical, surgical, dental, laboratory and x-ray, or other similar health care services, but not including substance abuse centers, to the general public without overnight accommodations.

“Maui redevelopment use” means a use for which a Maui redevelopment agency use permit is required.

“Nonconforming building or structure” means a building or structure or portion thereof which was previously lawful but which does not comply with the density, yard, setback or height regulations of the district in which it is located, either on the effective date of these rules or as a result of any subsequent amendment.

“Nonconforming lot” means a lot, the area, dimensions or location of which was lawful prior to the adoption, revision or amendment of the zoning code, but which fails by reason of such adoption, revision or amendment to conform to the present requirements of the zoning district.

“Nonconforming use” means any use of a structure or zoning lot which was previously lawful but which does not conform to the applicable use regulations of the district in which it is located, either

on the effective date of these rules or as a result of any subsequent amendment.

“Outside open air dining” means a restaurant or food service establishment with tables, dining facilities and activities located outside in the open air on a private property, on a public property or on the sidewalk when the open air market is used in conjunction with a business located within the building or structure located along and adjacent to the open air dining facility.

“Outside open air markets” means an outdoor area set aside for the display and sale of products and located on a private or public property. Examples include outside farmer’s markets, craft fairs, street and sidewalk markets and other similar activities.

“Outside open air side walk sales” means outdoor area set aside for the display and sale of products and located on the sidewalk provided the open air market is used in conjunction with a business located within the building or structure located along and adjacent to the side walk sales.

“Open space” means an area essentially free of structures.

“Park” means a tract of land used for public non-commercial use (except when the commercial use is conducted under the supervision of a government agency in charge of parks and playgrounds) as an active or passive recreation area.

“Parking, commercial” means an area of land or a structure used for the storage of vehicles for a fee when the purpose of parking the vehicle is not to support other uses on the same lot.

“Parking, public” means a parking area or facility on private or public property to be used by the public. Fees for the use thereof may or may not be involved.

“Personal and business services” means establishments that offer specialized goods and services frequently purchased by individual consumers and businesses. Examples include barber shops and beauty salons; medical or dental or similar health care services provided by sole practitioners or small group practices; massage services; photo lab and studio; financial institutions with teller windows; tailors; post offices and parcel delivery; travel agencies; laundromats; and printing and duplicating shops not involving mechanical printing presses.

“Planning director” means the director of the county planning department or the authorized representative of that director.

“Principal use” means the primary or predominant activity or purpose for which a lot or building is arranged, designed or intended to be or may be occupied and maintained. When listed as a permitted use in a zoning district, a principal use is limited only to the extent stated in the zoning district regulations and in special requirements that may result from the use’s location in an overlay design district.

“Public street or right-of-way” means vehicular and pedestrian circulation and access.

“Public works” means an improvement, for public purposes, within a right-of-way, easement or lot for transportation, drainage, public utilities purposes, or storage of equipment associated with the facility.

“Public works director” means the director of the county department of public works or the authorized representative of that director.

“Quasi-public use” means a use operated by a private nonprofit educational, religious, recreational, charitable, or philanthropic institution, such as churches, private schools, and similar uses but not including substance abuse treatment centers.

“Radio and television broadcasting station” means an establishment engaged in transmitting oral and visual programs to the public and that consists of facilities such as a studio, transmitter, and antennas.

“Recreation, indoor” means facilities under roof, but not necessarily fully enclosed, for recreational activities. Examples include bowling alleys; gymnasiums; health, massage and fitness spas; racquetball courts; amusement arcades; enclosed skating rinks and pool halls. Not included are facilities with large seating capacities intended for spectator sports events.

“Recreation, outdoor” means leisure time activities and areas and accessory structures designed primarily for recreational activity in the open air. Examples of leisure time activities include, but are not limited to, hiking, fishing, hunting, clay shooting, camping, picnicking, equestrian activities, paragliding and hang gliding, skateboarding, roller blading, and mountain biking. Examples of accessory structures and facilities include, but are not limited to, restrooms, play courts, swimming pools, play fields, picnic grounds, tent campgrounds, arboretums, greenways, botanical gardens, petting zoos and paint-gun and archery ranges. Golf courses, ziplines and canopy tours are not included.

“Repair, major” means repair activities which are likely to have some impact on the environment and adjoining land uses by virtue of their size, appearance, noise generation, traffic generation or operational characteristics. Examples include blacksmithing; boat cleaning and repair; electrical, gasoline and diesel motor repair and rebuilding; furniture repair; industrial machinery and equipment repair; heavy vehicle repair; automobile body and fender repair.

“Repair, minor” means repair activities which have relatively little impact on surrounding land uses and can be compatibly located with other businesses. Examples include interior upholstery repair and repainting of automobiles and motorized bicycles within enclosed buildings; non-motorized bicycle repair; production and

repair of eye glasses, hearing aids and prosthetic devices; garment repair; household appliance repair, except those with gasoline engines; shoe repair; and watch, clock and jewelry repair.

“Shopping center” means a group of retail stores and service establishments developed under a single or unified project concept on one or more zoning lots with five or more uses on a single parcel of land and a minimum of twenty-five thousand square feet of floor area.

“Storage, wholesale and distribution” means activities and facilities for the storage of goods and the bulk sale and distribution of products. Examples include warehouses, freight-forwarding and delivery operations, parcel delivery and postal stations, farm implement sales, self-storage lockers, markets in which products are sold directly by their producers, construction supply businesses and lumber yards.

“Structure” means anything, including buildings, above grade constructed or erected with a fixed location on the ground, or requiring a fixed location on the ground, or attached to something having or requiring a fixed location on the ground.

“Telecommunication and broadcasting tower or antenna” means a self-supporting lattice, guyed, or monopole structure which is designed or intended to support wireless telecommunication antenna and related facilities, including wireless antenna towers constructed for the location of transmission or related equipment to be used in the provision of commercial mobile radio services.

“Wailuku redevelopment area” means an area containing approximately 68 acres that is centrally located within Wailuku and includes the blocks surrounding the Vineyard-Market Street intersections, the housing areas west of Church Street to High Street and north of Vineyard Street to the Wailuku river and Happy Valley.

“Yard setback” means a set area, bounded on at least one side by a lot boundary and measured at right angles from the lot boundary or, which is unobstructed by any structure, except as specifically permitted.

B. Types of uses and interpretation of use terms.

1. Types. For purposes of this title, there are four types of uses: principal use, accessory use, administrative use, and Maui redevelopment agency use. Except as provided in the subsection below, no use shall be permitted in a zoning district unless it is included within the definition of the terms listed and is identified as a principal use or accessory use; meets all criteria identified for the use and if it is identified as a use which requires an administrative review permit or a Maui redevelopment agency permit, said permit is obtained and all conditions are complied with.

2. Interpretation of terms. If a proposed use does not appear in the list of terms or within the definitions of those terms or is not defined elsewhere in this title, the planning director, or authorized representative, will review the proposed use and, based upon the characteristics of the use, determine which listed and/or defined use is equivalent to that proposed; provided further that such use is consistent with the purpose and intent of the applicable zoning district and land use designation and objectives and policies of the community plan of the county and the Wailuku redevelopment area plan.

19.39.030 WRA commercial mixed-use district. A.

Purpose and intent. The purpose of the WRA commercial mixed-use district is to create a mixed-use commercial area to strengthen and enliven the core of Wailuku and its environs. New development should be pedestrian-oriented with buildings close to and oriented to the sidewalks of the public streets and compatible with the traditional architectural character and building heights of the district. The urban design of public spaces should emphasize an aggressive urban landscape planting program, including the design of more visually attractive streetscapes. The district allows for a full range of retail, service, and business uses within a local or regional market area, intermixed with arts, entertainment, multi-family and single-family residential uses to create a lively and aesthetically pleasing environment where people can live, work, dine, receive services, and be entertained within a compact area.

B. Permitted uses.

USES	PERFORMANCE STANDARDS
A. Principal Uses:	
1. Adult establishment	Administrative review permit required for adult establishments on lots that front Maluhia Drive.
2. Animal hospital	All activities shall take place within completely enclosed buildings. Noise, odor, and other emission levels shall not impact neighboring land users.
3. Assembly area	Noise shall not impact neighboring landowners.

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4. Automobile services	Subsection 19.39.080(B)
5. Bed and breakfast home	Up to six bedrooms. More than six bedrooms shall require a Maui redevelopment agency use permit. conditional
6. Day care facility	
7. Dwelling	
8. Dwelling unit, multi-family	
9. Eating Establishment	
10. Education, minor	
11. Education, specialized	Subsection 19.39.080(B)
12. Entertainment	Administrative review permit required for "entertainment" uses on lots that front Maluhia Drive.
13. Food and beverage retail	
14. Food, beverage and merchandise kiosk	Subsection 19.39.080(C). Kiosks located on public property or along a public sidewalk shall must obtain an administrative review permit.
15. Food processing	All activities shall must take place within completely enclosed buildings. Noise, odor, and other emission levels must not impact neighboring land users.
16. Funeral home	
17. General merchandise	Shall be limited Limited to a maximum of 20,000 square feet of gross floor area on the subject lot. Over 20,000 square feet of gross floor area

Add
"aggressive
sales
prohibited"

must obtain

	shall require the issuance of a Maui redevelopment agency use permit.	conditional
18. General office	SAME AS ABOVE	
19. Home occupation		
20. Hotel must obtain	Up to twenty rooms. More than twenty rooms shall require a Maui redevelopment agency use permit.	conditional
21. Light manufacturing and processing	All activities shall ^{must} take place within completely enclosed buildings. Noise, odor, and other emission levels must not impact neighboring land users. Administrative review permit required for "light manufacturing and processing" on lots that front Maluhia Drive.	
22. Medical center, minor	Subsection 19.39.080(B). Administrative review permit required for "medical center, minor" on lots that front Maluhia Drive.	
23. Outside open air dining	Subsection 19.39.080(G)	
24. Outside open air markets	Subsection 19.39.080(H)	
25. Outside open air sidewalk sales	Subsection 19.39.080(I)	
26. Park	Subsection 19.39.080(B)	
27. Parking, commercial and public	Subsection 19.39.080(B)	
28. Personal and business services		
29. Recreation, indoor		
30. Recreation, outdoor		

31. Repair, minor	Administrative review permit required for “repair, minor” on lots that front Maluhia Drive.
32. Storage, wholesale and distribution	Only if limited to less than 50 percent of the total floor area on the lot or 2,000 square feet, whichever is less. Also, see subsection 19.39.080(B).
B. Accessory uses:	
1. Structure	Structures that are directly accessory to a permitted principal use
2. Other uses	Other uses that are ancillary, secondary, and directly accessory to a permitted principal use.
C. Administrative review permit:	
1. Adult establishment	For “adult establishment” uses on lots that front Maluhia Drive.
2. Energy system, major	Transmission lines and substations only.
3. Energy system, minor	
4. Entertainment	For “entertainment” uses on lots that front Maluhia Drive.
5. Food, beverage and merchandise kiosk	For kiosks that are located on public property or along public sidewalks. Must also meet the requirements of subsection 19.39.080(C)
6. Group living facility	
7. Light manufacturing and processing	For “light manufacturing and processing” uses on lots that front Maluhia Drive.
8. Medical center, minor	For “medical center, minor” uses on lots that front Maluhia Drive.

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9. Other uses	Other uses not specifically enumerated in this section, which are determined by the director of planning, or authorized representative, to be substantially similar in character and use to one or more of the uses enumerated in this section and compatible with the purposes of the zoning district and which create no unusual impacts to neighboring land users.
10. Quasi-public use	
11. Repair, minor	For “repair, minor” uses on lots that front Maluhia Drive.
12. Storage, wholesale and distribution	For uses that do not meet the requirements of a principal use. Structures shall be consistent with the Wailuku redevelopment area design guidelines and the proposed use shall be mitigated so as not to have a deleterious impact on surrounding property owners. Warehousing, storage yards and land extensive manufacturing facilities that are not ancillary or secondary to a permitted use shall be prohibited.
D. Maui redevelopment agency use permit:	
1. Eating establishment, fast food	
2. General merchandise	More than 20,000 square feet of gross floor area on the subject lot.
3. Medical center, major	Emergency rooms only
4. Radio and television broadcasting station	
5. Telecommunications and broadcasting antenna	

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Require CUP for >20,000 sf

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	— Shall be assessed for its mauka and makai visual impacts, with special consideration given to the visual impacts toward Iao Valley.
6. Bed and breakfast home	More than six rooms
7. Hotel	More than twenty rooms

Conditional Use Permit

Conditional Use Permit

C. Development standards:

Type of standard:	Standard		
A. Single family dwellings and accessory structures:	For single family dwellings, the minimum setback and maximum height standards shall be the same as those in the WRA residential district (subsection 19.39.060(C)). The minimum lot size shall be 4,500 square feet and the minimum lot width shall be 45 feet.		
B. Commercial and multifamily structures:			
1. Minimum lot size	4,500 square feet (Smaller lot sizes may be permitted by the planning director for utility purposes; roadway or easement lots; lots created for a public purpose, as determined by the planning director; or when the lot is not to be used for a commercial or residential use)		
2. Minimum lot width	45 feet (Smaller lot widths may be permitted by the planning director for utility purposes; roadway or easement lots; lots created for a public purpose, as determined by the planning director; or when the lot is not to be used for a commercial or residential use)		
3. Minimum setback	up to 30 feet	greater than 30 feet to 45 feet	greater than 45 feet to 60 feet
			20'2

<p>a. Front, side and Rear</p>	<p>None¹ For lots whose front yard setback abuts the following streets: Wells Street; Main Street; Vineyard Street; High Street; Church Street between Wells Street and Vineyard Avenue; Market Street and Central Avenue.</p> <p>6 feet For lots whose front yard setback abuts all other streets and for landlocked lots</p>	<p>10'²</p>	
<p>4. Maximum height</p>	<p>30 feet³ / 2-story For lots whose greatest street frontage is along the following streets, or for the purposes of a landlocked lot, whose principle access is from the following streets: Nani; Loke; Church Street north of Vineyard Avenue and from Main Street to Pakahi; Maluhia and Alahee Drive; Wailani, Kapoai, Lani, and Holowai Place</p>		
	<p>45 feet³ / 2-1/2 story For lots whose greatest street frontage is along the following streets, or for the purposes of a landlocked lot, whose principle access is from the following streets: Wells; Vineyard; Hinano; High; Church Street from Vineyard Street to Main Street; Market Street; Central Avenue.</p>		
	<p>60 feet³ / 4-story For lots whose greatest street frontage is along Main Street, or for the purposes of a landlocked lot, whose principle access is from Main Street.</p>		

¹ If a side, rear or front yard property line adjoins a lot in the residential or apartment district that side, rear or front yard setback shall be the same as that of the adjoining district. **must**

² Where a conflict exists between this standard and applicable front, rear and side yard setback design guidelines for the third and fourth floors of buildings, the design guidelines shall apply.

³ Additional heights may be permitted, pursuant to the Wailuku Redevelopment Area Design Guidelines, for architectural elements such as false fronts, spires, motifs, etc.

5. Maximum floor area ratio	3.0
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19.39.040 WRA Business/multi-family district. A.

Purpose and intent. The purpose of the WRA business/multi-family district is to promote development that combines commercial and housing uses in a single building or allows for a separated mixture of such uses on a single lot or within a compact neighborhood setting. Development that combines commercial and housing uses in a single building where businesses are located on the ground floor and housing on the upper stories is promoted. It is the intent of the WRA business/multi-family district to establish land use patterns that facilitate pedestrian modes of travel, provide a buffer between busy streets and residential neighborhoods, and provide new housing opportunities in Wailuku. The emphasis on the nonresidential uses is on locally-oriented retail, service, and office uses. Development is intended to be pedestrian-oriented with buildings close to and oriented to the public sidewalk, especially at corners. The urban design of public spaces emphasizing an aggressive urban landscape planting program and the design of more visually attractive streetscapes is encouraged.

B. Permitted uses.

USES	PERFORMANCE STANDARDS
A. Principal uses:	
1. Bed and breakfast home	Up to six bedrooms permitted in detached single-family dwellings only. More than six bedrooms shall require Maui redevelopment agency approval.
2. Day care facility	
3. Dwelling(s)	
4. Dwelling unit, multi-family	
5. Eating establishment	Limited to specialty restaurants such as coffee and donut shops, delicatessens, noodle shops,

[Conditional Use Permit]

	etc., serving a neighborhood or local market area. Noise, odor, and other emission levels must not impact neighboring land users.
6. Food and beverage retail	Limited to uses serving a neighborhood or local market area. Noise, odor, and other emission levels shall not impact neighboring land users.
7. Food, beverage and merchandise kiosk	Subsection 19.39.080(C). Limited to uses serving a neighborhood or local market area. Noise, odor, and other emission levels must shall not impact neighboring land users. Kiosks located on public property or along a public sidewalk shall obtain an administrative review permit.
8. General office	Shall be limited ^{Limited} to a maximum of 20,000 square feet of gross floor area on the subject lot. Over 20,000 square feet of gross floor area shall require the issuance of a Maui redevelopment agency use permit.
9. General merchandise	Shall be limited ^{Limited} to a maximum of 20,000 square feet of gross floor area on the subject lot. Over 20,000 square feet of gross floor area shall require the issuance of a Maui redevelopment agency use permit.
10. Home occupations	Subsection 19.39.080(F)
11. Hotel	Up to twenty rooms. More than twenty rooms shall require a Maui redevelopment agency use permit.
12. Recreation, indoor	
13. Park	Subsection 19.39.080(B)
14. Personal and business services	All activities requiring the use of mechanical equipment shall take place within an enclosed building.
B. Accessory Uses:	
1. Structure	

must

8. General Ofc
Change to CUP

9. General
Merchandise
Change to CUP

11. Hotel
Change to CUP

must

	Structures that are directly accessory to a permitted principal use
2. Other uses	Other uses that are ancillary, secondary, and directly accessory to a permitted principal use.
C. Administrative review permit:	
1. Assisted living facility	
2. Entertainment	
3. Food, beverage and merchandise kiosk	For kiosks that are located on public property or along public sidewalks. Must also meet the requirements of subsection 19.39.080(C)
4. Group living facility	
5. Other uses	Other uses not specifically enumerated in this section, which are determined by the director of planning, or authorized representative, to be substantially similar in character and use to one or more of the uses enumerated in this section and compatible with the purposes of the WRA district and which create no unusual impacts to neighboring land users.
6. Outside open air dining	Subsection 19.39.080(G)
7. Outside open air markets	Subsection 19.39.080(H)
8. Outside open air sidewalk sales	Subsection 19.39.080(I)
D. Maui redevelopment agency use permit:	
1. Adult establishment	

Add "aggressive sales are prohibited"

2. Bed and breakfast home	More than six bedrooms Change to CUP
3. General merchandise	Uses that do not meet the criteria of a permitted use
4. General office	Uses that do not meet the criteria of a permitted use
5. Hotel	More than twenty rooms Change to CUP
6. Parking, public and private	
7. Quasi-public use	

C. Development standards

Type of standard:	Standard
A. Single family dwellings and accessory structures:	For single family dwellings, the minimum setback and maximum height standards shall be the same as those in must the WRA residential district (subsection 19.39.060(C)). The minimum lot size shall be 4,500 square feet and the must minimum lot width shall be 45 feet. must
B. Commercial and multifamily structures:	
1. Minimum lot size	4,500 square feet (Smaller lot sizes may be permitted by the planning director for utility purposes; roadway or easement lots; lots created for a public purpose, as determined by the planning director; or when the lot is not to be used for a commercial or residential use)
2. Minimum lot width	45 feet (Smaller lot widths may be permitted by the planning director for utility purposes; roadway or easement lots; lots created for a public purpose, as determined by the planning

	director; or when the lot is not to be used for a commercial or residential use)		
3. Minimum setback	up to 30 feet	greater than 30 feet – to 45 feet	greater than 45 feet to 60 feet
a. Front, side and rear	<p>None⁴</p> <p>For lots whose front yard setback abuts the following streets: Wells Street; Main Street; Vineyard Street; High Street; Church Street between Wells Street and Vineyard Avenue; Market Street and Central Avenue.</p> <p>6 feet⁵</p> <p>For lots whose front yard setback abuts all other streets and for landlocked lots</p>	10' ⁵	20' ⁶
4. Maximum height	<p>30 feet⁶ / 2-story</p> <p>For lots whose greatest street frontage is along the following streets, or for the purposes of a landlocked lot, whose principle access is from the following streets:</p> <p>Nani; Loke; Church Street North of Vineyard Avenue and from Main Street to Pakahi; Maluhia and Alahee Drive; Wailani, Kapoai, Lani, and Holowai Place.</p>		

⁴If a side, rear or front yard property line adjoins a lot in the residential or apartment district that side, rear or front yard setback ~~shall~~ be the same as that of the adjoining district. **must**

⁵Where a conflict exists between this standard and applicable front, rear and side yard setback design guidelines for the third and fourth floors of buildings, the design guidelines ~~shall~~ apply.

⁶Additional heights may be permitted, pursuant to the Wailuku Redevelopment Area Design Guidelines, for architectural elements such as false fronts, spires, motifs, etc.

	<p style="text-align: center;">45 feet⁶ / 2-1/2 stories</p> <p>For lots whose greatest street frontage is along the following streets, or for the purposes of a landlocked lot, whose principle access is from the following streets:</p> <p style="text-align: center;">Wells; Vineyard; Hinano; High; Church Street from Vineyard Street to Main Street; Market Street; Central Avenue.</p>
	<p style="text-align: center;">60 feet⁶ / 4-stories</p> <p>For lots whose greatest street frontage is along Main Street, or for the purposes of a landlocked lot, whose principle access is from Main Street.</p>
<p>5. Maximum floor area ratio</p>	<p>1.5</p>

19.39.050 WRA Multi-family district. A. Purpose and intent. The WRA multi-family district is intended primarily to support a concentration of single and multi-family residential uses, intermixed with parks, and limited commercial uses within walking distance of the commercial core of Wailuku. Development that combines commercial and housing uses in a single building where businesses are located on the ground floor and housing on the upper stories is allowed. Smaller sized bed and breakfast accommodations are also allowed in the district. Urban design of public spaces should emphasize an aggressive urban landscape planting program and the design of more visually attractive streetscapes.

B. Permitted uses.

USES	PERFORMANCE STANDARDS
A. Principal uses:	
1. Bed and breakfast home	Up to four bedrooms in detached single-family dwellings only. More than four bedrooms shall require Maui redevelopment agency approval. must conditional use permit
2. Boarding home	Uses that meet the definition of hotel or transient vacation rental or time-share unit are not permitted. conditional use permit
3. Day care facility	

4. Dwelling	For multi-family and single family	
5. Eating establishment	Permitted on the ground floor of multi-floor buildings. The floor area of any individual establishment shall not exceed 25 percent of the floor area of the building. Uses shall serve the neighborhood market area and be limited to such uses as coffee shops, delicatessens, noodle shops, etc.	must must
6. Food and beverage retail	Permitted on the ground floor of multi-floor buildings. The floor area of any individual establishment shall not exceed 25 percent of the floor area of the building. Uses shall serve the neighborhood market area.	must
7. General office	Must Shall not occupy more than 25 percent of the floor area of a building, and must be located on the first floor of a multi-floor building.	
8. Home occupations	Subsection 19.39.080(F)	
9. Indoor recreation		
10. Park	No commercial use, except when under the supervision of a government agency in charge of parks and playgrounds.	
11. Personal and business services	Floor area of any individual establishments shall not exceed 25 percent of the floor area of a building and shall only be allowed on the ground floor of a multi-level building.	must is
B. Accessory uses:		
1. Dwelling, accessory		
2. Structures, accessory		
C. Administrative review permit:		
1. Quasi-public use		
2. Group living facility		
	Other uses not specifically enumerated in this	

3. Other uses	section, which are determined by the director of planning, or authorized representative, to be substantially similar in character and use to one or more of the uses enumerated in this section and compatible with the purposes of the zoning district and which create no unusual impacts on neighboring land users.
D. Maui redevelopment agency use permit:	
1. Bed and breakfast home	More than four bedrooms no CP
2. Eating establishment	Uses that do not meet the criteria of a permitted use
3. Entertainment	
4. Food and beverage retail	Uses that do not meet the criteria of a permitted use
5. General office	Uses that do not meet the criteria of a permitted use
6. Parking, public	Uses that do not meet the criteria of a permitted use
7. Personal and business services	Uses that do not meet the criteria of a permitted use

C. Development standards.

Type of standard:	Standard
A. Single family dwellings and accessory structures:	For single family dwellings, the minimum setback and maximum height standards shall be the same as those in the WRA residential district (subsection 19.39.060(C)). The minimum lot size shall be 4,500 square feet and the minimum lot width shall be 45 feet. must
B. Multifamily & commercial structures:	

must
must

1. Minimum lot size	4,500 square feet (Smaller lot sizes may be permitted by the planning director for utility purposes; roadway or easement lots; lots created for a public purpose, as determined by the planning director; or when the lot is not to be used for a commercial or residential use)		
2. Minimum lot width	45 feet (Smaller lot widths may be permitted by the planning director for utility purposes; roadway or easement lots; lots created for a public purpose, as determined by the planning director; or when the lot is not to be used for a commercial or residential use)		
3. Minimum setback	Up to 30 feet	greater than 30 feet to 45 feet	greater than 45 feet 60 feet
a. Front	15	25' ⁷	35' ⁷
b. Side and rear	10	20' ⁷	30' ⁷
4. Maximum height (15 feet per story)	30 feet ⁸ For lots whose greatest street frontage is along the following streets, or for the purposes of a landlocked lot, whose principle access is from the following streets: Nani; Loke; Church Street North of Vineyard Avenue and from Main Street to Pakahi; Maluhia and Alahee Drive; Wailani, Kapoai, Lani, and Holowai Place.		
	45 feet ⁸ For lots whose greatest street frontage is along the following streets, or for the purposes of a landlocked lot, whose principle access is from the following streets:		

⁷ Where a conflict exists between this standard and applicable front, rear and side yard setback design guidelines for the third and fourth floors of buildings, the design guidelines shall apply.

⁸Additional heights may be permitted, pursuant to the Wailuku Redevelopment Area Design Guidelines, for architectural elements such as false fronts, spires, motifs, etc.

	Wells; Vineyard; Hinano; High; Church Street from Vineyard Street to Main Street; Market Street; Central Avenue.		
	60 feet ⁸ For lots whose greatest street frontage is along Main Street, or for the purposes of a landlocked lot, whose principle access is from Main Street.		
5. Maximum floor area ratio	1.2		
6. Maximum lot coverage	Up to 30 feet / 2-stories (max)	greater than 30 feet to 45 feet	greater than 45 feet to 60 feet
	60%	50%	40%
	(For multifamily buildings)		

19.39.060 WRA Residential district. A. Purpose and intent. The purpose of the WRA residential district is to provide a harmonious neighborhood setting for single-family dwellings in a higher density setting within walking distance to the business core of Wailuku. It is the intent of the WRA residential district to promote a wide range of choices to consumers in terms of the type, size, design, and price of housing and to improve the character of the districts residential area by promoting safe pedestrian and bicycle travel. Urban design of public spaces should emphasize an aggressive urban landscape planting program and the design of more visually attractive streetscapes.

B. Permitted uses.

USES	PERFORMANCE STANDARDS
A. Principal uses:	
1. Agriculture	Green houses, flower and truck gardens, and nurseries for products grown on the site; provided that there shall not be retailing or business transactions occurring on the premises.
2. Day care facility	Subsection 19.39.080(D)
3. Dwelling	Maximum of one per lot, plus accessory dwellings pursuant to chapter 19.35 of this title.

must

4. Park	No commercial use, except when under the supervision of a government agency in charge of parks and playgrounds. See subsection 19.39.080(B)	
B. Accessory uses:		
1. Dwelling, accessory	Subsection 19.39.080(E)	
2. Assembly area	For use by resident community association members and their guests only.	
3. Home occupations	Subsection 19.39.080(F)	
C. Administrative review permit:		
1. Bed and breakfast home	Up to two bedrooms. The home shall include bedrooms, one kitchen, and living areas used by the family occupying the home.	must
D. Maui redevelopment agency use permit:		
1. Assembly area	Use must be operated by non-profit organization for services to the residential community, such as a church, community theater or recreation hall; 15,000 sf minimum lot size.	Conditional Use Permit
2. Bed and breakfast home	Short-term rental of three to four bedrooms shall requires a lot size of at least 7,000 sf; short-term rental of five to six bedrooms shall require a lot size of at least 10,000 sf; short-term rental of more than six bedrooms is prohibited. The home shall include bedrooms, one kitchen, and living areas used by the family occupying the home.	Conditional Use Permit must
3. Day care facility	Day care facilities that do not meet the standards of a permitted use.	Conditional Use Permit
4. Education, minor		
5. Education, major		
6. Education, specialized		

7. Group living facility	
8. Home occupation	Home occupations that do not meet the standards of an accessory use.

Conditional
Use Permit

C. Development standards

Type of standard	Zoning district	
	WRA R-1 residential (standard)	WRA R-2 residential (standard)
A. Minimum lot size	6,000 square feet	7,500 feet
B. Minimum lot width	60 feet	65 feet
C. Minimum yard setbacks		
1. Front	15 feet	15 feet
2. Side & rear	1 story / 6 feet 2 story / 10 feet	1 story / 6 feet 2 story / 10 feet
D. Maximum height	30 feet / 2-story	30 feet / 2-story

19.39.070 WRA Public/quasi-public district. A. Purpose and intent. The public facility zoning district is established to provide areas for public and quasi-public buildings and other uses of a non-commercial nature that serve the general community. The zoning district may be applied to both public and private lands. Urban design of public spaces should emphasize an aggressive urban landscape planting program and the design of more visually attractive streetscapes.

B. Permitted uses.

USES	PERFORMANCE STANDARDS
A. Principal uses:	
1. Assembly area	For public agencies and non-profit organizations only.
2. Base yard	
3. Day care facility	

4. Education, minor	
5. Education, major	
6. Education, specialized	
7. General office	For public agencies and non-profit organizations only.
8. Medical center, minor	
9. Medical center, major	
10. Parking, commercial	
11. Parking, public	
12. Public works	Subject to compliance with applicable public works standards; does not include storage facilities for potable water.
13. Public utility substations	Shall Must not be hazardous or a nuisance to surrounding areas.
14. Police and fire stations	
15. Quasi-public use	
B. Accessory uses	
1. Structure	Structures that are directly accessory to a permitted principal use
2. Other uses	Other uses that are ancillary, secondary and directly accessory to a permitted principal use

C. Development standards.

Type of standard	Standard
A. Minimum lot size	7,500 square feet for lots with an existing dwelling; otherwise, 4,500 square feet. (Smaller lot sizes may be permitted by the planning director for utility

	purposes; roadway or easement lots; lots created for a public purpose, as determined by the planning director)
B. Minimum lot width	45 feet (Smaller lot widths may be permitted by the planning director for utility purposes; roadway or easement lots; lots created for a public purpose, as determined by the planning director)
C. Minimum setback	
1. Front	15 feet
2. Side	10 feet
3. Rear	15 feet 30 ft / 2-story;
D. Maximum height	35 feet ⁹ up to 60 ft / 4-story, may be permitted with CP
E. Walls	A 6-foot high solid masonry wall shall must be constructed and maintained on any property line adjoining a WRA residential or WRA multi-family zoning district.

19.39.080 General requirements/specific use requirements. A. Purpose and applicability.

1. The purpose of this section is to establish special standards for certain land uses that may affect adjacent properties, the neighborhood, or the community. It is the intent of this subchapter to establish appropriate standards for the location, design and operation of the land uses covered herein, to avoid their creating problems and hazards, and to ensure their consistency with the general plan.

2. Applicability of standards. All land uses listed in this section shall conform to the minimum standards must established by this chapter. Such land uses shall also must conform to all other applicable requirements of these rules.

B. Specified uses abutting a WRA residential or WRA multi-family district.

1. The following uses shall maintain a six-foot high must solid masonry wall on any property line adjoining a WRA

⁹Up to 60 feet may be permitted with the approval of the MRA.

residential or WRA multi-family district:

- a. Automobile services.
- b. Education, specialized.
- c. Medical center, minor.
- d. Park.
- e. Parking, commercial.
- f. Parking, public.
- g. Police and fire substations.
- h. Storage, wholesale and distribution.

2. Automobile services. The fuel pump island ~~shall~~ **must** be located at least seventy-five feet from the property line of any lot in a residential, multi-family, or public/quasi public district.

3. Education, specialized. All buildings, parking lots and common activity areas, such as outdoor dining, playgrounds, tot lots and similar facilities ~~shall~~ **must** be located at least ten feet from the property line.

4. Park. All active recreation areas, such as playgrounds, play courts and similar facilities ~~shall~~ **must** be located at least ten feet from the property line of any lot in a WRA residential or WRA multi-family district.

C. Food, beverage and merchandise kiosks. Food, beverage and merchandise kiosks ~~shall~~ be subject to the following conditions:

1. The use is compatible with the aesthetics, site, urban design, and architectural character of the neighborhood.

2. No permanent fixtures, facilities or encroachments are affixed to the sidewalk, except for required utilities; or installed within public street or right-of-way.

3. No business, product, or advertising signage is placed on any encroaching item, except the kiosk itself.

4. The sidewalk is clean and free from litter, food products and other items.

5. No outdoor speakers are installed.

6. At least three feet from the edge of curb along the sidewalk is free from obstructions and the use does not impede pedestrian or automobile circulation.

D. Day care facility (WRA residential district). Day care facilities within the WRA residential district ~~shall~~ **must** serve six or fewer children at any one time on lot sizes of less than seven thousand five hundred square feet; ~~shall~~ **must** serve eight or fewer children at any one time on lot sizes of seven thousand five hundred or more square feet; ~~shall~~ **must** serve twelve or fewer children at any one time on lot sizes of ten thousand or more square feet.

E. Dwelling, accessory. Maximum of two per lot with size

limitations pursuant to chapter 19.35 of this title.

F. Home occupations.

1. Commercial/business WRA multi-family district. Home occupation activities ~~shall~~ take place within completely **must** enclosed buildings. Noise, odor, and other emission levels shall not impact neighboring land users.

2. WRA Residential and WRA multi-family districts. A home occupation is an accessory use so located and conducted that the average neighbor, under normal circumstances, would not be aware of its existence. The standards for home occupations in this section are intended to ensure compatibility with other permitted uses and with the residential character of the neighborhood. The home occupation ~~shall~~ clearly be secondary or incidental in relation **must** to the residential use of the main dwelling. Home occupation activities ~~shall~~ comply with the following requirements: **must**

a. No employee other than a resident of the dwelling.

b. The peace, quiet, and dignity of the neighborhood ~~shall~~ not be disturbed by electrical **must** interference, dust, noise, smell, smoke or traffic generated by the use.

c. No mechanical equipment shall be used except that which is normally used within a residential dwelling.

d. No more than 25 percent of floor area used for home occupation.

e. No on-site group instruction, sales meetings, sale of merchandise.

f. No sign, display or change in the exterior of the dwelling to advertise the home occupation.

g. All materials and supplies ~~shall~~ be stored **must** within the dwelling.

h. No clients or customers on premises except for one-to-one pupil-teacher sessions limited to eight pupils per day.

i. No on-site sheltering, training or raising of animals for commercial purposes.

G. Outside open air dining. Outside open air dining ~~shall~~ **is** be subject to the following conditions:

1. No permanent fixtures, facilities or encroachments are affixed to the sidewalk; or installed within the public right-of-way.

2. No business, product, or advertising signage is placed on any encroaching structure, except for a kiosk.

3. The sidewalk is clean and free from litter, food

products and other debris.

4. The activity is accessory to a restaurant or kiosk located adjacent to the principal use.

5. At least three feet from the edge of curb along the sidewalk is free from obstructions and the use does not impede pedestrian circulation.

6. No outdoor speakers are installed

7. Outdoor dining areas ~~shall~~ not be used after **must** 11:30 p.m.

8. Outdoor dining capacity ~~shall~~ not increase the **must** total seating capacity of the restaurant without adequate mitigation of the increased parking demand.

H. Outside open air markets. Open air markets ~~shall~~ be **must** subject to the following conditions:

1. No permanent fixtures, facilities or encroachments are affixed to the sidewalk; or installed within city right-of-way.

2. No business, product, or advertising signage is placed on any encroaching structure, except at the entrance to the market.

3. The sidewalk is clean and free from litter, food products and other debris.

4. At least three feet from the edge of curb along the sidewalk is free from obstructions and the use does not impede pedestrian circulation.

I. Outside open air sidewalk sales. Outside open air sidewalk sales ~~shall be~~ subject to the following conditions: **are**

1. No permanent fixtures, facilities or encroachments are affixed to the sidewalk; or installed within the public right-of-way.

2. No business, product, or advertising signage is placed on any encroaching structure.

3. The sidewalk is clean and free from litter, food products and other debris.

4. At least three feet from the edge of curb along the sidewalk is free from obstructions and the use does not impede pedestrian circulation.

5. During the special events, each open air sidewalk vendor may be limited in location, and sales, as well as duration of time by the Maui redevelopment agency.

19.39.090 Building height. A. Height measurement. The height of a building or structure ~~shall~~ be the vertical distance from **must** grade to the highest point of the parapet coping of a flat roof on all exterior walls, or to the deck line of a mansard roof, or the average height of the highest gable of a pitched or hipped roof. The height

of other structures shall be the vertical distance from grade to the highest point of the structure. **must**

B. Exceptions from building or structure height. The following structures and associated screening shall be exempt from zoning district height limits under the specified restrictions: **are**

1. Vent pipes, fans, roofs access stairwells, and structures housing rooftop machinery, such as elevators and air conditioning, not to exceed twelve feet above the governing height limit.

2. Chimneys.

3. Safety railings not to exceed forty two inches above the governing height limit.

4. Spires and flagpoles.

5. Any energy-savings device, including heat pumps and solar collectors, not to exceed five feet above the governing height limit.

6. Construction and improvements on building sites with special conditions, as provided in subsection 19.39.090(D).

C. Height of boundary fences and retaining walls. Unless specified elsewhere in these rules, boundary fences and walls shall not exceed a height of four feet above grade in the front yard for all zoning districts. Retaining walls containing a fill within required yards shall not exceed a height of six feet, measured from existing grade to the top of the wall along the exposed face of the wall. Heights of terraced walls or combinations of retaining walls shall be measured combining all walls located in the required yard. The public works director, or authorized representative, may adjust the maximum height of the retaining wall on a finding that additional height is necessary to retain earth, water, or both for health and safety purposes. The public works director, or authorized representative, may impose reasonable conditions when granting this additional height, such as type of materials and colors, landscape planting, terracing, setbacks and offsets, as may be necessary to maintain the general character of the area. **must**

D. Height adjustments for special site conditions. The public works director may adjust the building height envelope under the following conditions, provided that such adjustment is in accordance with the intent of the pertinent district regulations:

1. To permit reasonable building design on a site where unusual natural deviations in grade occur.

2. To allow up to five feet of additional height for dwellings on building sites with slopes of 40 percent or more on lots where there are no reasonable alternative building sites with less slope.

3. To allow up to five feet of additional height for

buildings in the residential districts where the floor level is required to be elevated above the design flood level as defined in Chapter 19.62 of the Maui County code, as amended.

19.39.100 Lots. A. Lots in two zoning districts. The following shall apply to lots within two or more zoning district categories:

1. For a use common to the zoning district categories, boundary lines may be ignored for the purpose of yard and height requirements.

2. For uses not common to the zoning district categories, yard and height regulations of each zoning district shall be applicable from the lot lines on the portions of the lot lying within that district category.

3. Where a lot lies in two zoning districts and a permitted use is common to both districts, but the floor area ratios differ, the floor area ratio (FAR) shall be calculated by the following formula, where:

a. $A = \text{FAR for total parcel in most intense district.}$

b. $B = \text{FAR for total parcel in least intense district.}$

c. $C = \text{Area of parcel in most intense district.}$

d. $\text{FAR} = (A - B) \times C / \text{Total lot area} + B$

B. Joint lot use. Two or more adjoining lots may be used and developed as a joint lot use provided that the following conditions are met:

1. The owner(s), duly authorized agents of the owner, or duly authorized agents of the lessee(s) holding leases with a minimum of thirty years remaining in their terms of the adjoining lots ~~shall~~ submit to the planning director an **must** agreement which binds themselves and their successors in title and lease, individually and collectively, to maintain the pattern of development proposed in such a way that there will be conformity with applicable zoning regulations. The right to enforce the agreement shall also be granted to the county.

2. If the planning director, or authorized representative, finds that the proposed agreement assures the future protection of the public interest and a more efficient use of land in accordance with the intent and purpose of this title, he ~~shall~~ recommend approval and forward it to the **must** corporation counsel for review and approval as to form and legality.

3. The agreement ~~shall~~ not take effect until it is filed **must** as a covenant running with the land with the State bureau of conveyances or the registrar of the land court. Proof of such

filing in the form of a copy of the covenant certified by the appropriate recording agency shall be submitted to the public works director before the issuance of any construction permits on the affected lots. must

C. Street-widening setback lines. No business, merchandising displays, uses or structures shall be located or carried on within any street setback area, as determined on a map adopted by the public works director pursuant to rules and regulations, except for the following: must

1. Poles, posts, wires.
2. Customary yard accessories.
3. Structures for newspaper sales and distribution.
4. Fences and retaining walls as provided in subsection 19.39.090(C).
5. Other structures not over thirty inches.
6. Temporary or portable structures.
7. Food, beverage, and merchandise kiosks, subject to the provisions of this chapter.
8. Outside open air markets, subject to the provisions of this chapter.
9. Outside open air sidewalk sales, subject to the provisions of this chapter.
10. Outside open air dining, subject to the provisions of this chapter.

D. Flag lots.

1. Flag lots are permitted when a parcel lacks sufficient street frontage for more than one lot or parcel. This parcel may be subdivided to create a flag lot, provided that the access drive for the flag lot shall be the sole access for only one lot and shall have a minimum width of twelve feet and that the parcel does not abut an existing flag lot. must must

2. The lot area excluding the access drive used for ingress and egress shall be not less than 80 percent of the minimum lot area required for the zoning district. The total lot area shall meet the minimum lot area standard for the zoning district. must must

19.39.110 Yards. Activities and structures in yards. No business, merchandising displays, discarded appliances and machinery (automobiles, refrigerators, etc.,) uses, structures or umbrellas, shall be located or carried on within any required yard except for the following:

- A. Poles, posts, wires.
- B. Customary yard accessories.
- C. Structures for newspaper sales and distribution.
- D. Fences and retaining walls as provided in subsection

19.39.090(C).

E. Other structures not more than thirty inches in height.

F. Displays for yard and garage sales of a temporary nature.

19.39.120 Canopy, balcony, and sunshade requirements.

A. The following guideline is provided to accommodate canopies, balconies, and sunshades over sidewalks compatible with historic precedent for new buildings and allow reconstruction of existing or previously existing deteriorated structures. Canopies, balconies, and sunshades, cantilevered or structurally attached to a building facade, may extend into a public street or right-of-way over the sidewalks and pedestrian ways, only. The front edge of canopies and balconies are permitted only within six inches of the front face of the curb. Canopies shall provide clearance of not less than eight feet above the sidewalk. A canopy or balcony may not be enclosed. No canopy, balcony, or sunshade shall be erected, enlarged, or altered over the public sidewalk without prior approval from the planning director, or authorized representative, for consistency with the Wailuku redevelopment area design guidelines.

B. Insurance required. No canopy or balcony projecting over county property shall be erected, re-erected, located or relocated, or enlarged or modified structurally or changed in ownership, without first receiving approval of the planning director or authorized representative, and submitting a hold harmless agreement and certificate of liability insurance against all claims for personal injuries and/or property damage in the standard amount determined by the corporation counsel. The County of Maui must be named in the certificate of insurance as an additional insured. A thirty-day written notice to the department of planning of cancellation or expiration must be included in the insurance certificate. The name of the owner of the canopy or balcony must be clearly identified on the application for a permit as an official corporation, partnership, or a sole proprietorship with appropriate names of individuals involved.

19.39.130 Off-Street parking and loading. A. Method of determining number of required off-street parking spaces.

1. Method of determining number of required off-street parking spaces. This section sets forth parking requirements for properties within the WRA, and shall apply instead of any other parking requirements in this title. To determine the required number of off-street parking spaces, floor area shall be as defined in subsection 19.39.020(A), except that for the purposes of this article, basement space shall be included as floor area for parking purposes when it is

devoted to uses having a parking requirement specified in this section. The following **shall** apply when determining parking **must** requirements:

a. 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 stall is greater than .5 and rounded down when a fraction of a stall is less than or equal to .5. **must**

b. In assembly areas in which patrons or spectators occupy benches, pews, or other similar seating facilities, each twenty-four inches of width **shall** be counted as a seat for the purpose of determining requirements for off-street parking. **must**

c. When a building or premise includes uses incidental or accessory to a principal use, the total number of spaces required **shall** be determined on the basis of the parking requirements of the principal use(s), unless otherwise noted. **must**

d. The minimum parking ratios indicated below may be increased or decreased when the use requires a ~~Maui redevelopment agency~~ use permit, based on the particular unique characteristics of the proposed use and/or site. **conditional**

e. If a use not listed below is permitted as a principal use in a zoning district category, the planning director **shall** determine the minimum required parking based on the closest equivalent use or waive the off-street parking requirement for the use. **must**

B. Required off-street parking spaces by use.

Use	Minimum parking ratio (sf refers to square feet of floor area unless otherwise noted)
Adult establishment	None
Animal hospital	One space per 500 sf of building
Assembly area	Church: One space per 100 sf of floor area of building, where the church is within 500 feet of a public parking lot with more than one hundred fifty stalls the Maui redevelopment agency may grant the church a waiver of up to 75 percent of the required stalls provided that service times are limited to weekends and after 6:00 p.m. on weekdays. Library, museum, art gallery: one space per 300 sf of

Use	Minimum parking ratio (sf refers to square feet of floor area unless otherwise noted)		
	floor area of building. Auditorium, theater, stadium, bleachers, place of assembly: one space per six seats. All other types of assembly: One space per 75 sf of floor area or one space per five fixed seats, whichever is greater		
Automobile services	One space per 200 sf of floor area or 40 percent of lot area, whichever is greater; for car wash facilities, ten standing spaces for waiting vehicles for each wash rack		
Base yard	One space per operating vehicle		
Bed and breakfast home	One space per bedroom used for short-term rental, in addition to any other spaces required pursuant to this section		
Beverage and service kiosk	None		
Boarding home	.75 spaces per lodging unit		
Day care facility	One space per ten care recipients, plus four pick-up/drop-off spaces for facilities with more than twenty-five care recipients		
Dwelling	Two spaces per unit for detached single-family dwellings and duplexes	Multifamily	
		Size (bedrooms)	Spaces
		Studio	1
		1	1
2 or more	2		
Dwelling, accessory	1 space per unit		
Eating establishment	None - drive through windows not permitted, except that drive through windows in existence prior to September 30, 2015 may be internally reconfigured to improve site circulation		
Education, major/ Education, minor	Each classroom with students less than sixteen years of age: one space per classroom.		

Use	Minimum parking ratio (sf refers to square feet of floor area unless otherwise noted)
	Each classroom with students sixteen years of age or older: eight spaces per classroom
Education, specialized	One space per each ten students of design capacity, plus one space per 400 sf of office floor space
Entertainment	See adult establishment
Food, beverage and merchandise kiosk	None
Food and beverage retail	None
Food processing	One space per 600 sf of floor area of building or 25 percent of the lot area, whichever is greater.
Funeral home	One space per six seats and one space per 1,500 sf of storage area
General merchandise	One space per 500 sf of floor area of building; provided, that the minimum shall be three parking spaces. One space per 600 sf of floor area of building for appliance, furniture, plumbing supply, automobile, marine supply and machinery stores requiring large floor spaces for product display
General office	One space per 500 sf of floor area of building; provided, that there shall be a minimum of three parking spaces for employees and patrons.
Group living facility	0.5 spaces per bed
Home occupation	One space per 750 sf of floor area used for home occupation
Hotel	One space per two lodging units
Light manufacturing and processing	One space per 1,500 sf of floor area for warehousing; One space per 600 sf of floor area for other uses
Medical center, major	One space per three beds; 0.5 spaces per bed for skilled nursing facilities
Medical center, minor	Same as personal and business services
Outside open air dining	None

must

must

Use	Minimum parking ratio (sf refers to square feet of floor area unless otherwise noted)
Outside open air markets	None if within 400 feet of a public parking lot with more than one hundred fifty parking spaces. Otherwise, one space per 500 sf of floor area; none required during County sponsored special events.
Outside open air sidewalk sales Park	None See standards for outdoor recreation and indoor recreation; for parks that primarily serve pedestrians this requirement may be reduced or waived by the planning director or authorized representative.
Personal and business services	One space per 300 sf of floor area of building for personal services such as medical and dental clinics, beauty salons, financial institutions and health spas; provided, that a minimum of three parking spaces are required for employees and patrons; One space per 400 sf of floor area of building for business services such as photocopy shops; provided, that a minimum of three parking spaces are required for employees and patrons. One space per 500 sf of floor area of building for all other business buildings; provided, that a minimum of three parking spaces are required for employees and patrons
Quasi-public use	As specified in this section; otherwise one space per 500 sf of floor area of building
Recreation, indoor	Bowling alley: five spaces per alley Swimming pool, gymnasium: one space per 600 sf of floor area of pool or building Tennis courts: six spaces per court All other types of indoor recreation and play courts one space per 300 sf or three spaces per play court, whichever is greater
Recreation, outdoor	Six spaces per tennis court One space per hole for miniature golf courses One space per 600 sf of swimming pool Two spaces per play court for other types of courts; twelve spaces per playing field if no bleachers are provided; parking spaces for other uses to be determined by the planning director or authorized

Use	Minimum parking ratio (sf refers to square feet of floor area unless otherwise noted)
	representative
Repair, major	One space per 1,500 sf of floor area for warehousing and one space per 700 sf of floor area of building or 20 percent of the lot area, whichever is greater, for other uses.
Repair, minor	One space per 1,500 sf of floor area for warehousing and one space per 600 sf of floor area of building or 20 percent of the lot area, whichever is greater, for other uses.
Shopping center	One space per 200 sf of floor area of building; except for assembly areas and eating establishments which shall be subject to the parking requirements for such uses as set forth herein.
Storage, wholesale and distribution	One space per 1,500 sf for storage facilities; One space per 600 sf for other uses.
Transient or time-share unit	One space per unit

C. Parking reductions. The existing compact mixed-use land use pattern within the redevelopment area fosters more pedestrian trips and fewer automobile trips than other more automobile dependent commercial districts in the County. As such, the following parking reduction ~~shall~~ apply to lots zoned for commercial, non-profit and public/quasi-public uses within the Wailuku redevelopment area. **must**

1. Commercial, non-profit and public/quasi public uses on lands zoned for such uses within the Wailuku redevelopment area ~~shall~~ receive a 30 percent reduction in the required number of parking stalls. **must**

2. 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. **must**

3. When the local conditions change or projects provide additional amenities for multi-modal transportation, additional parking reductions may be considered with a Maui redevelopment agency use permit. The applicant ~~shall~~ provide **conditional**. **must**

clearly presented and sound information on one or more of the following:

- a. Access to transit (the frequency and quality of the transit service will also be a factor);
- b. Experienced demographics for residential developments (age, income, other auto-ownership factors);
- c. Overall auto ownership rates in the community;
- d. Implementation of programs to reduce demand for parking such as parking cash out, unbundled parking, priority parking for carpools, bike parking spaces, or car sharing; or
- e. Project-specific parking studies including local area analysis providing data to support requests to reduce parking.

D. Shared parking. The planning director may permit shared use of required parking spaces where two or more uses on the same or separate sites are able to share the same parking spaces because their parking demands occur at different times. The planning director, or authorized representative, may permit shared parking subject to the following conditions and application requirements:

1. The names and addresses of the owners that will participate in the sharing of parking.

2. The location and number of parking spaces that will be shared.

3. An analysis showing that 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.

4. The distance of the entrance to the parking facility from the nearest principal entrance of the building occupied by the use which is served by the parking shall not exceed four hundred feet by customary pedestrian routes.

5. A written agreement assuring continued availability of the number of required spaces at the period indicated ~~shall~~ be drawn and submitted to the planning **must** director and County corporation counsel for review and approval. No change in use ~~shall be~~ permitted which **is** increases the requirements for off-street parking spaces unless such additional spaces are provided. A certified copy of the executed agreement ~~shall~~ be submitted to the planning **must** director or authorized representative.

6. Any other information required by the planning director to assess the application.

E. Off-site parking. Off-site parking may be permitted where a surplus of parking stalls exists on a commercial zoning lot

that allows for commercial parking facilities and those surplus stalls are available for long term lease to the owner and/or long-term lessee of a separate zoning lot situated within close proximity to the surplus stalls. Off-site parking may be approved by the planning director or authorized representative, subject to the following conditions and application requirements:

1. The names and addresses of the owners that are entering into an off-site parking agreement.

2. The location and number of parking spaces that are being leased for off-site parking.

3. Documents which identify the owner of the subject properties (lessees of the subject off-site parking stalls ~~shall~~ submit a copy of the recorded lease document for said stalls which ~~shall~~ have an unexpired term of at least five years from the date of filing of the application). **must must**

4. The distance of the entrance to the parking facility from the nearest principal entrance of the building occupied by the use which is served by the off-site parking ~~shall~~ not exceed four hundred feet by customary pedestrian routes. **must**

5. A written agreement assuring continued availability of the number of required spaces at the period indicated ~~shall~~ be drawn and submitted to the planning director and county corporation counsel for review and approval. No change in use ~~shall--be~~ permitted which increases the requirements for off-street parking spaces unless such additional spaces are provided. A certified copy of the executed agreement ~~shall~~ be submitted to the planning director or authorized representative. **must is must**

6. Any other information required by the planning director to assess the application.

F. ~~Parking abatement with approval of the Maui redevelopment agency. The Maui redevelopment agency may offer a partial or total abatement of parking spaces required pursuant to subsection 19.39.130(B), provided that criteria 1 and a majority of criteria 2 to 6 are met. The criteria are as follows:~~ **a conditional use permit, that**

1. The abatement will forward the vision, guiding principles, and objectives of the Wailuku redevelopment plan.

2. The majority of trips generated can be expected to be pedestrian oriented because the project's principal market area is the Wailuku commercial core as defined by the boundaries of the Wailuku redevelopment area.

3. The floor area of the proposed use is less than 1,000 square feet.

4. The applicant, for economic reasons, is not capable of providing cash in-lieu-of parking or participating in

other parking programs set forth herein.

5. It is impractical to provide parking at the proposed site.

6. The project will have little or no effect on the parking supply.

G. Design standards for off-street parking.

1. Configuration of parking spaces.

a. Except for landscape planting and irrigation requirements as provided under section 19.39.140, all spaces shall be unobstructed, provided that building columns may extend a maximum total of 6 inches into the sides of the parking space. A wall is not considered a building column. **must**

b. Where four or more parking spaces are required, other than for one- and two-family dwellings, the parking lot or area shall be designed or configured in a manner that no vehicle maneuvering into or from any street, alley, or walkway is necessary in order for a vehicle to enter or leave a space, and which allows all vehicles to enter the street in a forward manner. **must**

c. All spaces shall be configured so that any automobile may be moved without moving another except that tandem parking shall be permissible in any of these instances: **must**

i. Where two parking spaces are assigned to a single dwelling unit.

ii. For use for employee parking, except that at no time shall the number of parking spaces allocated for employees exceed 25 percent of the total number of required spaces. Also, for employee parking, "tandem" parking shall be limited to a configuration of two stacked parking stalls. **must**

iii. Where all parking is performed by an attendant at all times.

iv. For assembly areas and temporary events when user arrivals and departures are simultaneous and parking is attendant-directed.

2. Minimum dimensions for parking facilities.

a. Each parking space shall have a minimum width of 8.25 feet and a minimum length of eighteen feet at all points. **must**

b. Minimum aisle widths for parking bays shall be provided in accordance with the following: **must**

Parking Angle	Aisle Width
0° - 44°	12 ft
45° - 59°	13.5 ft
60° - 69°	18.5 ft
70° - 79°	19.5 ft
80° - 89°	21 ft
90°	22 ft

c. Ingress and egress aisles shall be provided to a street and between parking bays and no driveway leading into a parking area shall be less than twelve feet in width. **must**

3. Parking for the physically disabled. For all non-dwelling uses, the parking for the physically disabled shall be provided as follows: **must**

Total required parking spaces	Spaces allocated for physically disabled
11 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
Total required parking spaces	Spaces allocated for physically disabled
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	10
more than 1,000	10 plus 1 for each additional 500 or fraction thereof

Parking spaces for the disabled shall be identified by posted upright sign and blue paint on the curb or on the pavement edge of the space and shall be at least eight feet wide and shall have an adjacent access aisle a minimum of five feet. Parking access aisles shall be part of an accessible route to the building or facility. Surface slope shall not exceed 4 percent in any direction. Two adjacent spaces may share a common access aisle. Parked vehicle overhangs shall not

reduce the clear width of an accessible circulation route.

4. Paving of parking areas.

a. All off-street parking spaces, parking lots and driveways ~~shall~~ be provided and maintained with an all-weather surface. **must**

b. Parking areas for three or more automobiles ~~shall~~ have individually striped spaces. **must**

c. Illuminated parking lots or areas ~~shall~~ be illuminated with individual light poles not exceeding twelve feet in height and ~~shall~~ be shielded downward to prevent any direct illumination toward any zoning lot within a residential - MRA or multi-family - MRA district. **must**

d. All parking lots ~~shall~~ incorporate landscape planting and irrigation as specified in section 19.39.140. **must**

5. Compact car parking stalls. Parking stalls for compact cars may be permitted not to exceed 25 percent of the total off-street parking requirements; provided, that the stalls ~~shall~~ be grouped and properly identified and the compact stalls ~~shall~~ be at least seven feet six inches wide and sixteen feet in length. **must**

H. Required off-street loading spaces by use.

1. For businesses with a floor area less than five thousand square feet or less and within two hundred feet of an on-street loading zone, no off-street loading facility shall be required.

2. Adjacent uses may share off-street loading facilities.

3. Off-street loading requirements ~~shall~~ apply to all zoning lots exceeding five thousand square feet in area for the class or kind of uses indicated below. The minimum number of off-street loading spaces ~~shall~~ be as follows: **must**

Use or use category	Floor area (in sf) or units	Loading space(s)
General merchandise; eating establishments; storage, wholesale, and distribution; personal and business services; repair, major and minor; industrial and waste products processing; food	2,000 sf - 10,000 sf	1
	10,001 sf - 20,000 sf	2
	20,001 sf - 40,000 sf	3
	40,001 sf - 60,000 sf	4
	Each additional 50,000 sf or major fraction thereof	1

processing		
Hotel; medical facility, major; assembly area	5,000 sf - 10,000 sf	1
	10,001 sf - 50,000 sf	2
	50,001 sf - 100,000 sf	3
	Each additional 100,000 sf or major fraction thereof	1
General office	20,000 sf - 50,000 sf	1
	50,001 sf - 100,000 sf	2
	Each additional 100,000 sf or major fraction thereof	1
Dwelling (in multi-family building)	20 units - 150 units	1
	151 units - 300 units	
	Each additional 20 units or major fraction thereof	

4. Method of determining number.

a. To determine the required number of loading spaces, floor area ~~shall~~ be as defined in subsection 19.39.020(B), except that when a basement is devoted to a use having a loading requirement, loading spaces ~~shall~~ be required as specified above. **must**

b. When a building is used for more than one use, and the floor area for each use is below the minimum requiring a loading space, and the aggregate floor area of the several uses exceeds the minimum floor area of the use category requiring the greatest number of loading spaces, at least one loading space ~~shall~~ be required. **must**

c. The number of loading spaces required may be adjusted to 50 percent of the required number when such spaces are assigned to serve two or more uses jointly, provided that each use has access to the loading zone without crossing public streets or sidewalks.

I. Design standards for off-street loading spaces.

1. Minimum dimensions.

a. When only one loading space is required and total floor area is less than five thousand square feet, the horizontal dimensions of the space ~~shall~~ be nineteen feet by eight and one-half feet. It ~~shall~~ have a **must**

vertical clearance of ten feet.

b. When more than one loading space is required or total floor area is more than five thousand square feet, the minimum horizontal dimension of at least half of the required spaces shall be twelve feet by twenty feet and have a vertical clearance of at least fourteen feet. The balance of required spaces may have horizontal dimensions of nineteen feet by eight and one-half feet and vertical clearance of at least ten feet.

2. Location and Paving.

a. No required loading space shall be in any street or alley but shall be provided within or adjacent to the building it serves.

b. Where loading areas are illuminated, all sources of illumination shall be shielded to prevent any direct illumination toward any rural, residential, multifamily or hotel districts. **must**

c. Each required loading space shall be identified as such and shall be reserved for loading purposes, only. **must must**

d. No loading space shall occupy required off-street parking spaces or restrict access.

e. All loading spaces and maneuvering areas shall be paved or covered with an all-weather surface. **must**

f. Except in front and side yards in residential - MRA districts, no loading space or maneuvering area shall be located within a required yard, except if the area displaced by the loading space or maneuvering area is provided as open space immediately abutting the required yard, and the design is approved by the director of public works.

19.39.135 Temporary parking facilities. A. A temporary parking lot shall be any parking lot which does not contain any required parking spaces for a specific land use. Temporary parking facilities may be developed for the following purposes: **must**

1. To accommodate existing parking demand that may be displaced during construction.

2. To accommodate new parking demand anticipated to be temporary as a result of a construction activity (i.e. construction workers).

3. To accommodate existing parking demand on an existing vacant or under-developed lot for a period of time not to exceed two years.

B. Design standards.

1. All spaces shall be unobstructed **must**

2. Where four or more parking spaces are developed, the parking lot or area shall be designed or configured in a manner that no vehicle maneuvering into or from any street, alley or walkway is necessary, in order for a vehicle to enter or leave a space, and which allows all vehicles to enter the street in a forward manner. **must**

3. All off-street parking spaces, parking lots and driveways shall be provided and maintained with an all-weather surface. The parking and driveway surface shall consist of a minimum of two inches of a 90 percent compacted base, a treatment of bituminous material, or some other dustless and permeable surface approved by the planning director. Parking surfaces must be maintained regularly to assure the safe and efficient maneuverability of vehicle. Temporary parking facilities must remain water permeable to avoid installing storm drainage facilities. **must must**

4. Parking areas for twenty three or more automobiles shall have individually identified spaces. Spaces may be striped or marked with wheel stops. Adequate wheel stops shall be provided where parking spaces approach a property line, building wall or public sidewalk. **must must**

5. If temporary parking facilities will be operated as facilities that require a parking permit for individual users, the parking lot shall be appropriately marked and signed to indicate the permit requirements. **must**

6. Lighting shall be provided in conjunction with the nighttime use of the area. Lighting shall not glare onto adjacent or nearby properties or buildings. **must must**

7. There shall be a minimum four-foot landscape strip adjacent to any adjoining street right-of-way. This four-foot strip shall contain a perimeter hedge with hedge plants spaced at a maximum of sixteen inches on center. A minimum thirty six inch high wall or fence may be placed on the setback line with a street side flowering vine on the fence or wall and other landscape materials in lieu of a perimeter hedge. Perimeter hedges or walls/fences may not exceed four feet in height. **must must**

C. Temporary parking permit approval process.

1. The applicant shall be required to submit a scaled site plan of the proposed temporary parking facility illustrating the proposed layout and all structures, trees or other physical features of the site. **is**

2. The applicant shall be required to submit a narrative description of how the parking lot will be managed, i.e. permits, revenue control equipment, hours of operation, signage, lighting, security, etc. Specifications of any **is**

equipment, lighting or signage shall be submitted with the application. must

3. The planning department shall have the authority to approve such plans, and may also have the discretion to impose additional conditions upon the project for the protection of health, safety and welfare. has

19.39.140 Landscape planting and visual screening. A. Parking and loading areas.

1. Parking Areas. Parking lots, automobile service stations, service and loading spaces, trash enclosures and utility substations shall be visually screened with landscape planting or by other appropriate methods in all zoning districts as follows: must

a. Parking lots and automobile service stations shall provide a minimum four-foot landscape strip adjacent to any adjoining street right-of-way. This four-foot strip shall contain trees, groundcover and a perimeter hedge maintained at not less than four feet in height with hedge plants spaced at a maximum of sixteen inches on center. A minimum forty-eight inch high wall or solid fence may be placed on the setback line with a street side flowering vine on the fence or wall, and tree, shrub, and groundcover foundation planting in lieu of a perimeter hedge. One minimum six-foot tall large crown shade tree with a minimum of two-inch caliper depth, breadth and height (as measured six inches above the ground) shall be planted in the landscape strip for each fifty feet or major fraction of adjacent lineal street frontage. Also, a two-foot wide side and rear yard landscape strip shall be provided immediately adjacent and parallel with each property line where automobile parking abuts. must must

b. To provide shade within parking lots and minimize visibility of open paved surfaces, one minimum six-foot tall large crown shade tree with a minimum of two-inch caliper depth, breadth and height (as measured six inches above ground) shall be provided for every five parking stalls or major fraction thereof. The minimum mature spread of the crown specimen canopy tree shall be thirty feet. Each tree shall be located in a planting area and/or tree well no less than four feet square. If wheel stops are provided, continuous planting areas with low groundcover, and tree wells with trees centered at the corner of parking stalls may be located within the three-foot bumper must must

overhang space of parking stalls. Hedges and other landscape elements, including planter boxes over six inches in height, are not permitted within the bumper overhang space of the parking stalls. Trees ~~shall~~ **must** be sited so as to evenly distribute shade throughout the parking lot.

c. Parking lots ~~shall~~ **must** be screened from adjoining lots in residential and apartment districts by walls or continuous screening hedges at a minimum of sixty inches high adjacent to the abutting property line.

d. The ~~Maui redevelopment agency~~ shall have **MPC, with input from MRA** the authority to waive all or part of the requirements of this section to accommodate site conditions while always prioritizing the pedestrian experience on public streets and rights-of-way.

2. Parking Structures. Parking structures with open or partially open perimeter walls which are adjacent to zoning lots with side or rear yard requirements shall meet the following requirements:

a. A two-foot landscape strip along the abutting property line ~~shall~~ **must** be provided. The landscape strip ~~shall~~ **must** consist of a perimeter hedge at a minimum of forty-two inches in height. A solid wall forty-two inches in height may be substituted for this requirement.

b. A minimum two-inch caliper depth, breadth and height (as measured six inches above the ground) shade tree ~~shall~~ **must** be planted for every fifty linear feet of building length, abutting a required yard.

c. Each parking deck shall incorporate an architectural perimeter wall or planter at least two feet in height to screen vehicular lights.

3. Loading Areas. All service areas and loading spaces ~~shall~~ **must** be screened from adjoining lots in residential and apartment districts by a wall six feet in height.

B. Other areas.

1. Trash Enclosures. All outdoor trash storage areas, except those for one- or two-family dwelling use, ~~shall~~ **must** be screened on a minimum of three sides by a wall or hedge at least six feet in height. The wall ~~shall~~ **must** be painted, surfaced or otherwise treated to blend with the development it serves.

2. Utility Substations. Utility substations, other than individual transformers, ~~shall~~ **must** be enclosed by a solid wall or a fence with a screening hedge a minimum of five-feet in height, except for necessary openings for access. Transformer vaults for underground utilities and similar uses ~~shall~~ **must** be

enclosed by a landscape hedge, except for access openings.

19.39.150 Non-conformities and legal existing uses. A. Nonconforming lots may be continued, subject to the following provisions:

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

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. Non-conforming structures.

1. If a nonconforming structure is destroyed by any means to an extent of more than 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: **must**

a. A nonconforming structure which is a historic property as defined in chapter 6E of the Hawaii Revised Statutes and a nonconforming structure devoted to a conforming use which contains multifamily dwelling units owned by owners under the authority of chapters 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.

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. **must**

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

4. If the use of a nonconforming structure is discontinued, and or changes, the structure may be converted to a use permitted within the zoning district and repaired, expanded, or altered in any manner which does not increase its nonconformity.

C. Non-conforming uses.

1. A nonconforming use ~~shall~~ not extend to any **must** part of the structure or lot which 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. **must**

3. Work may be done on any structure devoted in whole or in part to any nonconforming use; provided, that work is limited to ordinary repairs, including repair or replacement of walls, fixtures, wiring or plumbing. Further, this work ~~shall~~ not exceed 50 percent of the current **must** 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 **must** increased.

4. No nonconforming use ~~shall~~ be changed to **must** another nonconforming use.

D. Non-conforming parking and loading.

1. If there is a change or intensification of use, the new use shall meet the off-street parking and loading requirement established in this title.

2. Except for expansion of individual dwelling units, any use that adds floor area ~~shall-~~ provide off-street **must** parking and loading for the addition as required by section 19.39.140.

E. Legal uses and structures existing prior to the enactment of this chapter.

1. Legal use(s) existing at the time of adoption of this chapter ~~shall~~ be grandfathered and may continue **must** without having to obtain administrative review permits, Maui redevelopment agency use permits, or variances until such **INSERT: conditional use permits** time as the use(s) are discontinued for twelve or more consecutive months.

2. Any dwelling or structure that was constructed with a building permit that was approved prior to the enactment of this chapter need not acquire an administrative review permit, Maui redevelopment use permit, or variances **INSERT: conditional use permits** and may be reconstructed as permitted by the original building permit(s), and such dwellings or structures may be expanded or modified with a building permit, subject to the

other provisions of this code.

19.39.160 General administrative procedures sections.

A. Purpose and intent.

1. Purpose. The purpose of this article is to protect the public health, safety, and welfare by establishing a process for the review of land uses throughout the WRA; prescribe the manner by which permits and approvals are processed and approved, approved with conditions, or denied; and to ensure that all developments within the WRA are in compliance with the provisions of the Wailuku-Kahului community plan, the WRA, the Wailuku redevelopment area design guidelines, the rules of practice and procedure for the Maui redevelopment agency and all other applicable laws.

2. Intent. It is the intent of this article to establish a development review process which will:

- a. Foster public participation.
- b. Encourage more informed and better decision making.
- c. Protect and preserve cultural, historical, environmental, and natural resources for present and future generations.
- d. Improve the quality of development throughout the WRA.
- e. Protect the public health and safety from natural and man-made hazards.
- f. Forward the implementation of the Wailuku redevelopment plan including the elimination of slum and blight.

3. The review of all applications under these rules ~~shall~~ be substantive - based on conformance with this title ~~shall~~ **must** and all other applicable laws.

4. Applicability. Any department or agency of the State or County or any person having a legal or equitable interest in the land for which a land use permit is sought may file an application in accordance with the provisions set forth herein. Except as otherwise provided, all permits and development approvals required by these rules ~~shall~~ **must** comply with the procedures specified herein.

B. Administrative duties.

1. Duties of the director of public works. The director of public works shall have the following duties to carry out the purpose of this chapter:

- a. Review and act on applications for subdivision, building, certificate of occupancy, grading, plumbing, electrical, or other development or

construction permits, which comply with the provisions of this title.

2. Duties of the planning director. The planning director shall have the following duties to carry out the purpose and intent of this title:

a. Interpret the provisions of this title as applied to specific land uses and activities.

b. Review and process applications required by this title.

c. Review all proposed land uses for consistency with all applicable laws and the provisions of this title.

d. Enforce the provisions of this title.

e. Prepare and initiate amendments to this title.

f. All other duties related to the administration of this title.

C. General application requirements.

1. Submittal and Acceptance of Applications. All applications required by this chapter shall be submitted to the must planning director. The planning director shall review the must application to determine if the application is complete or incomplete. If the application is determined to be complete, the planning director shall notify the applicant in writing and must process the application as set forth herein. If the application is determined to be incomplete the planning director shall give must the applicant written notification identifying the portions of the application determined to be incomplete or the additional information that is needed to process the application.

2. Fees. Except for applications filed by County agencies, applicants shall pay a fee in the amount specified must in the annual budget of the County. Checks issued to pay for application fees shall be made payable to the director of must finance of the County.

3. Types of applications.

a. Administrative review permit. Administrative review permit applications shall be must decided upon by the planning director. However, the planning director shall forward an administrative review permit application to the Maui redevelopment and MPC agency if the applicant submits a written request to do so to the planning director at the time the application is submitted, or as required by this chapter. The planning director may also refer an administrative review permit application to the Maui redevelopment and MPC agency when the planning director determines that and MPC

broader public review is warranted.

b. Maui redevelopment agency use permit. Maui redevelopment agency use permit applications ~~shall~~ require a final determination from the Maui **must** redevelopment agency.

c. Design review. Design review applications ~~shall~~ be subject to the application content **must** requirements of subsection 19.39.160(D), and ~~shall~~ be **must** processed pursuant to section 19.39.170.

D. Content of application.

1. All applications shall include the following **d. Conditional User Permit** information: **e. Special Use Permit**

a. Documents identifying the owner of the subject parcel of land and a letter bearing the signature and written authorization for the application by the owner.

b. Owner's name, address and telephone numbers.

c. Agent's name, address and telephone numbers, if applicable.

d. Property description, including the following elements:

i. Tax map key parcel number.

ii. Property address.

iii. Lot size.

iv. Location map identifying the site, adjacent roadways, and identifying landmarks.

v. Photographs of the site and surrounding properties.

vi. Site plan of the project site.

vii. Copies of all previously approved building permits and violation notices for the subject parcel, that applicants are aware of or have in their possession.

e. Proposed project description, including the following elements:

i. Narrative description of what is being proposed, why it is being proposed, and the project schedule.

ii. Preliminary schematic drawing showing project location, size, shape, materials and colors of proposed uses, structures and signs.

2. The following information ~~shall~~ be provided, if **must** applicable, as determined by the Maui redevelopment agency or director:

a. Floor plans, drawn to scale, of existing buildings.

b. Architectural plans, drawn to scale of at least 1/8" = 1', including site plans, floor plans, sections and elevations, exterior finish schedule, and any other detailed plans which may be necessary to completely identify the scope and design of the project. The plans ~~shall~~ identify the building materials, color scheme, exterior lighting and graphics, mechanical equipment and landscaping included in the project. **must**

c. Required off-street parking.

d. Description of future project expansions or additions.

e. Identification of all meetings held between the applicant and any community organization that may be impacted by the applicant's request, the issues raised at these meetings, and any measures proposed by the applicant to resolve or mitigate these issues.

f. Operation and management of the proposed use including, but not limited to, number of employees and hours of operation.

g. Location(s) and plans for all signs that are to be constructed or maintained in connection with the project or businesses which may occupy the property.

4. The Maui redevelopment agency or the director may request other information, as needed, to assess the application.

E. Public notification. The following public notification requirements shall apply to Maui redevelopment agency use permit applications. Said notification requirements ~~shall~~ not apply to applications for administrative review permits and design review. **and conditional use permits must**

1. Mail a notice of the date of the Maui redevelopment agency hearing on a form prescribed by the planning director by certified mail, return receipt requested, to each of the owners as listed in the County real property tax roll, adjacent to and across from the proposed use or project and any other person or organization that has requested notification of such application. The applicant ~~shall~~ mail the notice at least thirty calendar days before the Maui redevelopment agency hearing. **must**

2. Submit each of the return receipts for the certified mail to the director not less than ten business days before the date of the Maui redevelopment agency hearing.

3. Publish notice of the date, time, place, and subject matter of the Maui redevelopment agency hearing once in a newspaper which is printed and issued at least twice

weekly in the County and which is generally circulated throughout the County and shall transmit a copy of the notice to the director. The applicant ~~shall~~ publish the notice at least **must** thirty calendar days before the Maui redevelopment agency hearing.

4. Notice ~~shall~~ be considered validly given if the **must** applicant has made a good faith effort to comply with the procedures set forth in this subsection.

F. Review Process. Applications for administrative review **must** permits ~~and~~ Maui redevelopment agency use permits, ~~shall~~ be **INCLUDE:** processed as follows: **conditional use**

1. No application ~~shall~~ ^{is} be deemed complete until the Director has received comments from all applicable agencies; and all other requirements set forth herein and in subsection 19.39.160(D) "content of application" have been met. **permits, and special use permits**

2. Within ten days after deeming that an application for a Maui redevelopment agency use permit is complete, the director ~~shall~~ forward the application to the Maui **must** redevelopment agency for the Maui redevelopment agencies' scheduling of a hearing on the application.

3. Within forty-five days of determining the application for an administrative review permit or Maui redevelopment agency use permit is complete, the director ~~shall~~ do one of the following: **must**

a. Approve, deny or approve with conditions or modifications an administrative review permit application.

b. Prepare and provide the Maui redevelopment agency a written report and recommendation to approve, deny or approve with conditions or modifications a Maui redevelopment agency use permit refer the application to the Maui redevelopment agency for its review prior to the hearing.

c. The planning director ~~shall~~ transmit a **must** report on the application to the Maui redevelopment agency, the applicant, the appropriate State and County agencies, and all interested persons not less than six business days prior to the date of the hearing.

4. The Maui redevelopment agency ~~shall~~ forward its **must** decision and order or letter of approval, as the case may be, to the applicant and other parties within one hundred twenty days from the later of:

a. The date the application is deemed complete by the director; or

b. The closing of the Maui redevelopment agency meeting on the application, provided that, if a

contested case proceeding is conducted pursuant the rules of practice and procedure of the Maui redevelopment agency, the decision ~~shall~~ be rendered **must** within the time specified by the applicable rules. This time period ~~shall~~ be extended in the event of a national **must** disaster, state emergency, or union strike, which would prevent the authority from reviewing and making a decision within the specified time period.

G. Review criteria for administrative review permits and Maui redevelopment agency use permits. No application required by this chapter shall be approved unless each of the following criteria have been met:

1. The proposed request complies with Hawaii Revised Statutes chapter 53, the urban renewal law; the Wailuku-Kahului community plan; the Wailuku redevelopment plan; and the rules of practice and procedure for the Maui redevelopment agency; and all other applicable federal, state and county laws. See section 5, "redevelopment area project scorecard" for specific criteria.

2. The proposed request is consistent with and supports the implementation of the Wailuku redevelopment plan.

3. The proposed request meets the purpose and intent of the applicable zoning district.

4. The proposed request is consistent with the Wailuku redevelopment area design guidelines.

5. The proposed request or the cumulative impact generated by the proposed request does not adversely impact the character of the WRA; or cultural and historic resources. Measures ~~shall~~ be employed to mitigate any of the above or **must** other identified impacts and to protect the public health, safety and welfare.

19.39.170 Urban design. A. The Maui redevelopment agency ~~shall~~ review plans for each structure to be constructed or **must** rehabilitated or remodeled as set forth herein. In approving the design of the structure(s), the Maui redevelopment agency will be guided by the appropriateness of the design to the immediate area and the city as a whole. The following activities and structures ~~shall~~ be exempt from Maui redevelopment agency review:

1. Repair and maintenance of existing structure(s).

2. The construction, rehabilitation or remodeling of single-family dwellings and related accessory structures, such as garages and greenhouses, that are used principally for residential use; however, single-family dwelling owners ~~shall~~ **must** be encouraged to follow the design guidelines so that

renovated and new residences complement and are compatible with Wailuku Town's historic character.

3. Temporary structures for special events that are erected for not more than fourteen consecutive calendar days per year. Temporary structures erected for more than fourteen consecutive calendar days per year ~~shall~~ be reviewed **must** pursuant to subsection 19.39.170(c).

B. Design guidelines. Criteria for design review are found in the Wailuku redevelopment area design guidelines, prepared by the department and dated October 1997, as amended, incorporated by reference herein. These design guidelines ~~shall~~ be used by the **must** Maui redevelopment agency for review of plans for construction, rehabilitation, or remodeling, in accordance with the Wailuku redevelopment plan, prepared by the department and dated December 2000.

C. Review process.

1. Applications for construction of accessory structures or rehabilitation or remodeling of existing structures involving any exterior elevation of the structure ~~shall~~ be processed as follows: **must**

a. Upon receipt of the application, the director ~~shall~~ review the plans for compliance with the Wailuku **must** redevelopment area design guidelines.

b. If the design elements are in accord with the checklist for the pertinent district found in the design guidelines, the director ~~shall~~ issue the Maui **must** redevelopment agency use permit within thirty days of receipt of the applications.

c. The director may submit any application to the Maui redevelopment agency if there are outstanding questions of compliance with the design guidelines.

d. The director ~~shall~~ forward the application, **must** on a routine and timely basis, to individuals and organizations that have requested, in writing, to provide comments on projects.

e. The director ~~shall~~ provide a report to the **must** Maui redevelopment agency no less than six calendar days prior to its regularly scheduled meetings, summarizing all administrative approvals granted pursuant to this section.

2. Applications for new principle structures ~~shall~~ be **must** processed as follows:

a. Upon receipt of the application, the director ~~shall~~ forward the application to the next available **must** meeting date of the Maui redevelopment agency. The Maui redevelopment agency ~~shall~~ review the application **must**

for compliance with the Wailuku redevelopment area design guidelines.

b. The director or the Maui redevelopment agency may also refer the plans to the urban design review board for comments and recommendations.

c. The Maui redevelopment agency shall must forward its decision and order or letter of approval, as the case may be, to the applicant and other parties within sixty days of receipt of the application or receipt of all information requested by the department.

3. Sign reviews. Signs within the Wailuku redevelopment area shall be in accordance with the Wailuku must redevelopment plan and Wailuku redevelopment area design guidelines. Signs shall be processed in accordance with the must provisions of chapter 16.13 of this code, as amended. Variances from chapter 16.13 may be processed through the Maui redevelopment agency.

4. Streetscape projects shall be processed in must accordance with subsection 19.39.170(c)(2).”

SECTION 3. Section 19.06.010, Maui County Code, is amended to read as follows:

“19.06.010 Districts designated. The County shall be divided into the following use zone districts:

- A. Open space districts:
 - 1. OS-1.
 - 2. OS-2.
- B. Residential districts:
 - 1. R-1.
 - 2. R-2.
 - 3. R-3.
- C. R-0 zero lot line residential district.
- D. Two-family districts:
 - 1. D-1.
 - 2. D-2.
- E. Apartment districts:
 - 1. A-1.
 - 2. A-2.
- F. Hotel districts:
 - 1. H-1.
 - 2. H-M.
 - 3. H-2 and hotel.
- G. Business districts:
 - 1. SBR service.

2. B-CT country town.
 3. B-1 neighborhood.
 4. B-2 community.
 5. B-3 central.
 6. B-R resort commercial district.
- H. Industrial districts:
1. M-1 light.
 2. M-2 heavy.
 3. M-3 restricted.
- I. Park districts:
1. PK.
 2. GC.
- J. Airport district.
- K. Agricultural district.
- L. Rural districts:
1. RU-0.5.
 2. RU-1.
 3. RU-2.
 4. RU-5.
 5. RU-10.
 6. County rural.
- M. Public/quasi-public - districts:
1. P-1.
 2. P-2.
- N. Kihei research and technology park district.
- O. Maui research and technology park district.
- P. Napili Bay civic improvement district.
- Q. Urban reserve district.
- R. Interim.
- S. Maui County historic districts.
- T. Project districts.
- U. Districts in the Wailuku Redevelopment Area,

including:

1. WRA Business/multi-family (currently designated as "Business Multi Family - MRA" on the digital zoning map).
2. WRA Commercial mixed-use (currently designated as "Commercial Mixed Use - MRA" on the digital zoning map).
3. WRA Multi-family (currently designated as "Multi Family - MRA" on the digital zoning map).
4. WRA Public/quasi-public (currently designated as "Public/Quasi Public - MRA" on the digital zoning map).
5. WRA Residential (currently designated as "Business Multi Family - MRA" on the digital zoning map)."

SECTION 4. Section 19.520.050, Maui County Code, is amended to read

as follows:

“19.520.050 Variance procedure and standards. A. At the time of filing the application, the applicant [shall] must provide notice of application pursuant to section 19.510.020.B.3.f[.]of this title.

B. Not less than thirty calendar days prior to the public hearing date on an application for a variance, the applicant [shall] must give notice by certified mail, return receipt requested, of the date, time, place, and subject matter of the public hearing, in a form prescribed by the director of public works, to the owners and lessees of record adjacent to the subject property and shall submit any updated names and addresses of these owners and lessees derived from the return receipts received on the notices of application previously mailed to these owners and lessees. Not less than ten business days prior to the date of the public hearing, the applicant [shall] must submit all certified mail receipts received for the certified mail sent out. For purposes of this section, notice [shall] will be considered validly given upon compliance to the following provisions:

1. The applicant [shall] must make a good faith effort to mail a copy of the notice of public hearing in a form approved by the director of public works by certified mail, return receipt requested, to all of the owners and lessees of record located adjacent to and across the street from the subject parcel[; and].

2. The applicant [shall] must publish a copy of the notice of public hearing in a form approved by the director of public works once per week for three consecutive weeks prior to the public hearing date in a newspaper which is printed and issued at least twice weekly in the [county] County and which is generally circulated throughout the [county.] County.

C. Pursuant to the charter of the [county] County of Maui (1983) as amended, and in accordance with the provisions of this article and the procedures established in this chapter, variances from the provisions of this title may be granted by the board of variances and appeals if the board finds that due to the particular physical surroundings, shape or topographical condition of the subject property, compliance to the provisions of this chapter would result in hardship to the owner which is not mere inconvenience or economic hardship on the applicant. The board shall grant a variance if the board finds the following:

1. For all areas of Maui County outside the Wailuku redevelopment area, the following criteria shall apply:

a. That there is an exceptional, unique, or unusual physical or geographical condition existing on the subject property which is not generally prevalent in the neighborhood or surrounding area and the use sought to be authorized by the variance will not alter the essential character of the neighborhood[;].

[2]b. That strict compliance with the applicable provisions of this title would prevent reasonable use of the subject property[; and].

[3]c. That the conditions creating a hardship were not the result of previous actions by the applicant.

2. Within the Wailuku redevelopment area: Variances from the strict compliance with this title or design guidelines adopted by the Maui Redevelopment Agency or as part of the Wailuku redevelopment plan may be permitted when the variation is consistent with the objectives of conservation (the preservation, maintenance, and management of natural or manmade resources) or economic revitalization and when one or more of the following conditions justify the variation:

a. Site topography makes full compliance impossible or impracticable.

b. Local practices and customs that are long established in the area ensure the continued market acceptance of the variation.

c. The design and plans for the site incorporate improved or compensating features that will provide equivalent desirability and utility.

d. The project will further the elimination of slum and blight and forward the vision, principles, and objectives of this Wailuku redevelopment plan. The board shall not grant use variances for parcels designated for single-family use in the Wailuku-Kahului community plan. Mitigative measures shall be incorporated into the project, as required, to protect public health and safety.

D. The board of variances and appeals [shall] must comply with the general plan and the community plan provisions of the [county.]County. The board [shall] will not grant an application for a variance [which] that requests a use [which] that does not conform with the applicable community plan designation for the subject property.

E. On every application for a variance, the board of variances and appeals [shall] must review the report submitted by the director of public works and hold a public hearing. At the close of the public hearing, the director of public works shall submit a written recommendation to the board which recommends that the board either grant, grant subject to conditions identified by the director, or deny the application for a variance. Unless a formal, contested case hearing on the application has been approved by the board, the board [shall] must take action on the application within not more than sixty calendar days from the date of the public hearing.”

SECTION 5. Material to be repealed is bracketed. New material is underscored. In printing the bill, the County Clerk need not include the brackets, the bracketed material, or the underscoring.

SECTION 6. This ordinance takes effect upon its approval. All approvals of any kind granted by the Maui Redevelopment Agency, Planning Department or other agency prior to the effective date of this ordinance in accordance with the Wailuku Redevelopment Area Zoning and Development Code, dated September 2002, including variances, shall remain in full force and effect and shall not be impaired by this ordinance.

APPROVED AS TO FORM
AND LEGALITY:

/s/ Michael J. Hopper

MICHAEL J. HOPPER
Department of the Corporation Counsel
County of Maui
2020-0737
2021-02-19 Ord Chapter 19.39 WRA (final)

Wailuku Redevelopment Area Boundary

