

# REQUEST FOR LEGAL SERVICES

**Date:** September 10, 2024  
**From:** Tasha Kama, Chair  
Housing and Land Use Committee

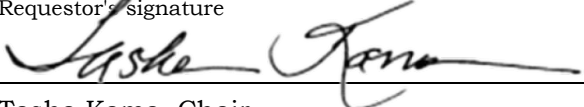
TRANSMITTAL

**Memo to:** DEPARTMENT OF THE CORPORATION COUNSEL  
Attention: Michael J. Hopper, Esq.

**Subject:** BILL 103 (2024), AMENDING CHAPTER 19.08, MAUI COUNTY CODE, RELATING TO DENSITY WITHIN RESIDENTIAL DISTRICTS (HLU-32)

**Background Data:** Please see attached proposed CD1 version of Bill 103. Please submit your response to [hlu.committee@mauicounty.us](mailto:hlu.committee@mauicounty.us) with reference to HLU-32.

**Work Requested:**  FOR APPROVAL AS TO FORM AND LEGALITY  
 OTHER:

Requestor's signature  Tasha Kama, Chair	Contact Person <u>James Krueger or Carla Nakata</u> (Telephone Extension: <u>7761 or 5519, respectively</u> )
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ROUTINE (WITHIN 15 WORKING DAYS)       RUSH (WITHIN 5 WORKING DAYS)  
 PRIORITY (WITHIN 10 WORKING DAYS)       URGENT (WITHIN 3 WORKING DAYS)

SPECIFY DUE DATE (IF IMPOSED BY SPECIFIC CIRCUMSTANCES): \_\_\_\_\_  
REASON: \_\_\_\_\_

## FOR CORPORATION COUNSEL'S RESPONSE

ASSIGNED TO:	ASSIGNMENT NO.	BY:
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TO REQUESTOR:  APPROVED  DISAPPROVED  OTHER (SEE COMMENTS BELOW)  
 RETURNING--PLEASE EXPAND AND PROVIDE DETAILS REGARDING ITEMS AS NOTED

COMMENTS (NOTE - THIS SECTION NOT TO BE USED FOR LEGAL ADVICE): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DEPARTMENT OF THE CORPORATION COUNSEL

Date \_\_\_\_\_

By \_\_\_\_\_

(Rev. 7/03)

hlu:ltr:032acc01:ebm

Attachment

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

BILL NO. 103, CD1 (2024)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.08, MAUI COUNTY CODE, RELATING TO DWELLING TYPES AND DENSITY WITHIN RESIDENTIAL DISTRICTS

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

SECTION 1. This Ordinance's purpose is to increase the allowable residential density in the R-1, R-2, and R-3 Residential Districts to provide additional housing opportunities in Maui County.

SECTION 2. Section 19.08.020, Maui County Code, is amended to read as follows:

**“19.08.020 Permitted uses.** Within residential districts, the following principal uses and structures are permitted:

- A. **[Single-family dwellings.] Long-term residential dwelling units, of the following dwelling types:**
  1. On Maui and Lāna‘i, single-family dwelling units, duplexes, and multifamily dwelling units.
  2. On Moloka‘i, single-family dwelling units.
- B. Greenhouses, plant nurseries, and the raising of plants, flowers, fruits, or vegetables for subsistence or commercial purposes[;], except for retailing or transacting of business on the premises, unless allowed by chapter 19.67.
- C. Parks and playgrounds, noncommercial; certain commercial amusement and refreshment sale activities may be permitted when under supervision of the government agency in charge of the park or playground.
- D. Publicly or privately owned and operated elementary, intermediate, and high schools, and colleges, which may include on-campus dormitories.
- E. Buildings or premises used by the federal, state, or county governments for public purposes.
- F. Accessory uses and structures located on the same lot, the use of which is customary, incidental, usual, and subordinate

to that of the main building or to the use of the land. The initiation of accessory uses and the erection of accessory structures are not contingent on the existence, and may be in advance of the main building or use of the land.

G. Accessory dwellings under chapter 19.35.

H. Day care nurseries, kindergartens, nursery schools, child care homes, day care homes, day care centers, nurseries, preschool kindergartens, babysitting services, and other like facilities located in private homes used for child care services. These facilities may serve six or fewer children at any one time on lot sizes of less than [seven thousand five hundred] 7,500 square feet, eight or fewer children at any one time on lot sizes of [seven thousand five hundred] 7,500 or more square feet but less than [ten thousand] 10,000 square feet, or twelve or fewer children at any one time on lot sizes of [ten thousand] 10,000 or more square feet, or as otherwise required under chapter 46, [Hawaii] Hawai'i Revised Statutes.

I. Bed and breakfast homes subject to the provisions of chapter 19.64.

J. Home businesses that meet the requirements of sections 19.67.030 and 19.67.040.

K. Short-term rental homes subject to the provisions of chapter 19.65.

L. Family child care homes, hospice homes, adult residential care homes, and adult family care homes, as required under chapter 46, [Hawaii] Hawai'i Revised Statutes.”

SECTION 3. Section 19.08.030, Maui County Code, is amended to read

as follows:

**“19.08.030 Special uses.** The following uses and structures require a County special use permit obtained under section 19.510.070, except that an application for a special use permit may not be denied based on [the basis of] the content of protected expression associated with the proposed use:

A. Churches, including any accessory buildings such as a parsonage, Sunday school, nursery school, thrift shop, or office, except that subsections 19.510.070(B)(4) and (5) do not apply.

B. Day care nurseries, kindergartens, nursery schools, child care homes, day care homes, day care centers, nurseries, preschool kindergartens, babysitting services, and other like facilities located in private homes used for child care services serving more than the number of children defined in subsection 19.08.020(H).

C. Hospitals, if written consent of 75 percent of the property owners within [five hundred] 500 feet of the property has been obtained.

D. Nursing or convalescent homes and domiciliary facilities operated and maintained to provide nursing or supporting care that do not meet the criteria of subsection 19.08.020(L).

E. Housing for the aged, operated by governmental or nonprofit organizations if the normal unit density is increased by more than 25 percent.

F. Housing for low- and moderate-income families, operated by governmental or nonprofit organizations that do not meet the criteria of subsection 19.08.020(L) or if the normal unit density is increased by more than 25 percent.

G. Public utilities substations that are not and will not be hazardous or a nuisance to the surrounding areas.

H. Domestic-type businesses in the home that do not meet the definition of home business or home occupation, including group instruction of traditional Hawaiian practices, such as lei making, ukulele classes, hula classes, and lomi, if there will be no detrimental or nuisance effect upon the neighbors, and further, if off-street parking is available to participants.

I. Home businesses that meet the requirements of sections 19.67.030 and 19.67.050.

J. [Two-family] On the island of Molokai, two-family dwelling units or duplexes beyond the density allowed under section 19.08.020, subject to the setback standards in section 19.10.050.

K. Retail food and beverage establishments, excluding liquor stores of [two thousand] 2,000 square feet or less gross covered floor area.

L. [Modification of the] The minimum lot area development standard of section 19.08.040 may be reduced to no less than [four thousand] 4,000 square feet, subject to the following requirements:

[i.] 1. The project is designed to meet the needs of low, below moderate, or moderate income families, and deed restrictions are recorded to ensure owner-occupancy and the prevention or limitation of speculation.

[ii.] 2. Shared use paths crossing through the subdivision are provided for bicycles and pedestrians to connect to adjacent lands on all sides of the project, such as existing shared use paths, roadways, parks, commercial areas, and vacant land that may be developed or further subdivided.

[iii.] 3. The commission may increase the impervious surface requirement to no more than 75 percent of the total lot area.”

SECTION 4. Section 19.08.040, Maui County Code, is amended to read

as follows:

**“19.08.040 Development standards, height regulations, and setback lines.**

	R-1	R-2	R-3	Notes and exceptions
Minimum lot area (square feet)	6,000	7,500	10,000	
Single-family dwelling density on the island of Molokai	1 per 6,000 [SF] square feet	1 per 7,500 [SF] square feet	1 per 10,000 [SF] square feet	<u>Accessory dwellings under chapter 19.35 are permitted in all residential districts in addition to the density standard</u>
<u>Dwelling type on the islands of Maui and Lāna‘i</u>	<u>Single-family, duplex, and multifamily</u>			
<u>Maximum density on the islands of Maui and Lāna‘i</u>	<u>1 dwelling unit per 2,500 square feet of lot area</u>			
Minimum lot width (in feet)	60	65	70	
Maximum building height	Building height must not exceed 30 feet			

Setback lines [[For] (for any portion of a building up to and including 15 feet in height as measured from the natural or finish grade, whichever is lower)	
Front (in feet)	15
Side/[Rear] rear (in feet)	6
Setback lines [[For] (for any portion of a building more than 15 feet in height as measured from the natural or finish grade, whichever is lower)	
Front (in feet)	15
Side/[Rear] rear (in feet)	10
Surfaces	For dwellings constructed under building permits applied for after January 1, 2023, the impervious surface area of a zoning lot must not exceed 65 percent of the total zoning lot area

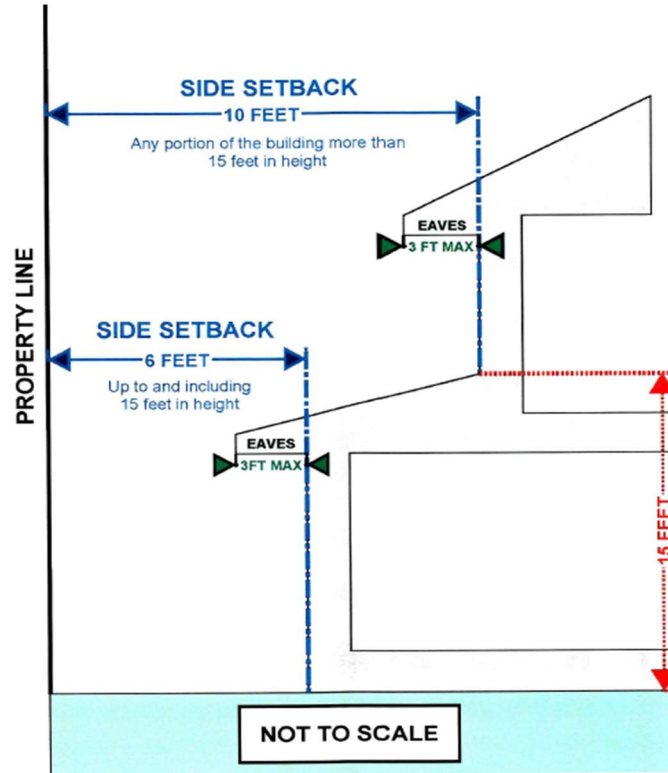


Figure 3 Example of rear and side setback areas for single-family dwelling >15 feet in height (not to scale)

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

SECTION 6. This Ordinance takes effect on approval.

APPROVED AS TO FORM AND LEGALITY:

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Department of the Corporation Counsel  
County of Maui

hlu:misc:032abill01:ebm

INTRODUCED BY:

A handwritten signature in cursive script, appearing to read "Chris Lee", written above a horizontal line.

Upon the request of the Mayor.



## HLU Committee

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**From:** HLU Committee  
**Sent:** Wednesday, September 11, 2024 2:21 PM  
**To:** CorpCounselRFLS@co.maui.hi.us  
**Cc:** HLU Committee; Tasha A. Kama; Carla M. Nakata; James G. Krueger; Ellen B. McKinley; Eric C. Arquero; Tammy Frias  
**Subject:** OCS - HLU: Bill 103 (2024), Relating to Density within Residential Districts (HLU-32); response due 10/02/2024 10:00 a.m.  
**Attachments:** 032acc01-s-TK.pdf  
**Importance:** High

Aloha Corporation Counsel,

Please see the attached Request for Legal Services from HLU Chair Kama, dated 09/10/2024, regarding the above-referenced matter.

Mahalo,  
HLU Committee Staff