

DANNY A. MATEO  
County Clerk



PC-28

JOSIAH K. NISHITA  
Deputy County Clerk

**OFFICE OF THE COUNTY CLERK**

COUNTY OF MAUI  
200 SOUTH HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
[www.mauicounty.gov/county/clerk](http://www.mauicounty.gov/county/clerk)

July 7, 2015

Honorable Don Couch, Chair  
Planning Committee  
Council of the County of Maui  
Wailuku, Hawaii 96793

Dear Chair Couch:

Respectfully transmitted is a copy of COUNTY COMMUNICATION  
NO. 15-196, from Councilmember Robert Carroll, that was referred to your  
Committee by the Council of the County of Maui at its meeting of July 7, 2015.

Respectfully,

A handwritten signature in black ink, reading "Danny A. Mateo".

DANNY A. MATEO  
County Clerk

/jym

Enclosure

cc: Director of Council Services

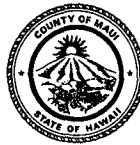
RECEIVED  
2015 JUL -8 AM 7:04  
OFFICE OF THE  
COUNTY COUNCIL

Council Chair  
Mike White

Vice-Chair  
Don S. Guzman

Presiding Officer Pro Tempore  
Michael P. Victorino

Councilmembers  
Gladys C. Baisa  
Robert Carroll  
Elle Cochran  
Don Couch  
Stacy Crivello  
Riki Hokama



Director of Council Services  
David M. Raatz, Jr., Esq.

**COUNTY COUNCIL**  
COUNTY OF MAUI  
200 S. HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
[www.MauiCounty.us](http://www.MauiCounty.us)

June 23, 2015

RECEIVED  
2015 JUN 23 PM 4:24  
OFFICE OF THE  
COUNTY CLERK

The Honorable Mike White  
Council Chair  
County of Maui  
Wailuku, Hawaii 96793

Dear Chair White:

**SUBJECT: AFFORDABLE ACCESSORY DWELLING**

May I request the attached proposed resolution, entitled "REFERRING TO THE LANAI, MAUI, AND MOLOKAI PLANNING COMMISSIONS DRAFT BILLS AMENDING CHAPTERS 19.08 AND 19.35, MAUI COUNTY CODE, RELATING TO RESIDENTIAL DISTRICTS AND ACCESSORY DWELLINGS, RESPECTIVELY", be placed on the next Council meeting agenda.

Sincerely,

ROBERT CARROLL  
Councilmember

CM:EM:afford\_hsg\_ohana\_referral2

Enclosures

Cc: JoAnn Ridao, Director, Housing and Human Concerns

COUNTY COMMUNICATION NO. 15-196

# Resolution

No. \_\_\_\_\_

REFERRING TO THE LANAI, MAUI, AND MOLOKAI  
PLANNING COMMISSIONS DRAFT BILLS AMENDING  
CHAPTERS 19.08 AND 19.35, MAUI COUNTY CODE,  
RELATING TO RESIDENTIAL DISTRICTS AND ACCESSORY  
DWELLINGS, RESPECTIVELY

WHEREAS, the Council is considering two draft bills that will permit accessory dwellings, within residential districts, on properties consisting of 5,000 square feet or more for the purpose of constructing affordable housing; and

WHEREAS, Sections 8-8.4 and 8-8.6 of the Revised Charter of the County of Maui (1983), as amended, require that the appropriate planning commissions review proposed land use ordinances and amendments thereto, and provide findings and recommendations to the Council; now, therefore,

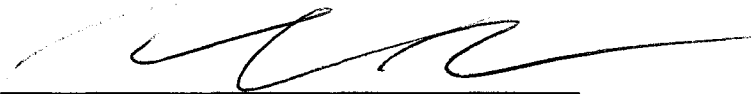
BE IT RESOLVED by the Council of the County of Maui:

1. That it hereby refers the draft bills entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.08, MAUI COUNTY CODE, RELATING TO RESIDENTIAL DISTRICTS" and "A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.35, MAUI COUNTY CODE, RELATING TO ACCESSORY DWELLINGS", copies of which are attached hereto and made a part hereof as Exhibits "1" and "2", to the Lanai, Maui, and Molokai planning commissions for appropriate action, pursuant to Sections 8-8.4 and 8-8.6 of the Revised Charter of the County of Maui (1983), as amended; and
2. That it respectfully requests that the Lanai, Maui, and Molokai planning commissions transmit their findings and recommendations to the Council as expeditiously as possible; and

**Resolution No. \_\_\_\_\_**

3. That certified copies of this resolution be transmitted to the Mayor, the Planning Director, the Lanai Planning Commission, the Maui Planning Commission, and the Molokai Planning Commission.

APPROVED AS TO FORM AND  
LEGALITY:

A handwritten signature in black ink, appearing to read 'Michael J. Hopper', is written over a horizontal line.

MICHAEL J. HOPPER  
Deputy Corporation  
County of Maui  
2015-3901

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

BILL NO. \_\_\_\_\_ (2015)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.08, MAUI COUNTY  
CODE, RELATING TO RESIDENTIAL DISTRICTS

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

SECTION 1. Section 19.08.020, Maui County Code, is amended to read  
as follows:

**"19.08.020 Permitted uses.** Within residential districts,  
the following uses shall be permitted:

- A. Single-family dwellings.
- B. Greenhouses, flower and truck gardens, and nurseries; provided that there shall be no retailing or transacting of business on the premises, except as provided in chapter 19.67 of this title.
- 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. Elementary, intermediate, and high schools, and colleges, publicly or privately owned, which may include on-campus dormitories.
- E. Buildings or premises used by the federal, State, or County governments for public purposes.
- F. Accessory buildings located on the same lot, the use of which is customary, incidental, usual, and necessary to that of the main building or to the use of the land.
- G. An accessory dwelling where the area of the lot on which the main house is located is seven thousand five hundred square feet or more. Chapter 19.35 of this title, pertaining to accessory dwellings, shall be applicable to any accessory dwelling.
- 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 shall serve six or fewer children at any one time on lot sizes of less than seven thousand five hundred square feet,

eight or fewer children at any one time on lot sizes of seven thousand five hundred or more square feet but less than ten thousand square feet, or twelve or fewer children at any one time on lot sizes of ten thousand or more square feet.

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

J. Home businesses, subject to the provisions of chapter 19.67 of this title.

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

L. An affordable accessory dwelling, pursuant to section 19.35.110 of this code, may be permitted where the area of the lot on which the main house is located consists of five thousand square feet or more."

SECTION 2. 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 3. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM  
AND LEGALITY:

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MICHAEL J. HOPPER  
Deputy Corporation Counsel  
County of Maui  
2015-3901

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

BILL NO. \_\_\_\_\_ (2015)

A BILL FOR AN ORDINANCE, AMENDING CHAPTER 19.35, MAUI COUNTY  
CODE, RELATING TO ACCESSORY DWELLINGS

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

SECTION 1. Section 19.35.020, Maui County Code, is amended to read  
as follows:

**"19.35.020 Maximum gross floor area.** A. The maximum  
gross floor area of an accessory dwelling shall be determined as  
follows:

Lot Area (in sq. ft.)	Maximum Gross Covered Floor Area
<u>5,000 to 5,999</u>	<u>400 square feet**</u>
<u>6,000 to 7,499</u>	<u>450 square feet**</u>
7,500 to 9,999	500 square feet
10,000 to 21,779	600 square feet
21,780 to 43,559	700 square feet
43,560 to 87,119	800 square feet
87,120 or more	1000 square feet

\*(Including any storage, covered decks, walkways, patios, lanais  
and similar structures but excluding a carport or parking space).

\*\* (Pursuant to section 19.35.110, of this chapter)."

SECTION 2. Section 19.35.060, Maui County Code, is amended to read  
as follows:.

**"19.35.060 Maximum cumulative area of open decks,  
etc.** A. An accessory dwelling may have uncovered open decks,  
walkways, patios, lanais or similar structures, subject to the  
following:

EXHIBIT " 2 "

B.[A.] The uncovered open decks, walkways, patios, lanais or similar structures shall not exceed the following respective cumulative total areas:

Lot Area (in sq. ft.)	Maximum Cumulative Floor Area*(in sq. ft.)
5,000 to 7,499	120 square feet**
7,500 to 9,999	200 square feet
10,000 to 21,779	240 square feet
21,780 to 43,559	280 square feet
43,560 to 87,119	320 square feet
87,120 or more	400 square feet

\*( Cumulative floor area of uncovered open decks, walkways, patios, lanais or similar structures).

\*\*(Pursuant to subsection 19.35.110, of this chapter)."

SECTION 3. Chapter 19.35, Maui County Code, is amended by adding a new section to be appropriately designated to read as follows:

"19.35.110 Affordable accessory dwellings. A. Affordable accessory dwellings will be permitted where the area of the lot on which the main house is located is 5,000 square feet or more, provided that the unit will be built to accommodate immediate family members, related to applicant by blood, adoption or marriage: spouse, children, brothers and sisters; or individuals of very low to gap incomes as described in section 2.96.020 of this code.

B. There shall be a deed restriction established on the subject property that is utilized consistent with subsection A of this section. The deed restriction shall include the following:

1. The affordable accessory dwelling must remain affordable in perpetuity.

2. The deed restriction shall run with the land, if sold, the new property owner will maintain the accessory dwelling consistent with this section.

3. The unit shall never be utilized for short term or market rate rentals.

4. The property owner must notify the director of the department of housing and human concerns of the intent to sell the property.

C. The applicant must sign an agreement with the department of housing and human concerns agreeing to rent the unit consistent with this section.



D. The monthly rental rates shall be set by the department of housing and human concerns consistent with HUD income limits for very low to gap group income limits.

E. The provisions of this section shall apply to lots only within residential districts.

F. An affordable accessory dwelling shall have a carport or other off-street parking space consistent with section 19.35.070 of this chapter.

**19.35.120 Non-conforming units.** Existing lots with accessory dwellings shall not become non-conforming as a result of provisions of this section."

SECTION 4. 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 5. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM  
AND LEGALITY:

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MICHAEL J. HOPPER  
Deputy Corporation Counsel  
County of Maui  
2015-3902