

**COUNCIL OF THE COUNTY OF MAUI**  
**PLANNING AND SUSTAINABLE LAND**  
**USE COMMITTEE**

October 22, 2021

**Committee**  
**Report No. \_\_\_\_\_**

Honorable Chair and Members  
of the County Council  
County of Maui  
Wailuku, Maui, Hawaii

Chair and Members:

Your Planning and Sustainable Land Use Committee, having met on July 22, 2021, September 16, 2021, and reconvened on September 22, 2021, makes reference to County Communication 21-156, from the Planning Director, transmitting a proposed bill entitled “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.”

The purpose of the proposed bill is to amend Title 19, Maui County Code, to establish zoning standards for properties within the Wailuku Redevelopment Area (“WRA”), and incorporate a process for variance procedures and standards.

Your Committee notes zoning and development standards are already identified in the WRA Zoning and Development Code, adopted by the Maui Redevelopment Agency (“MRA”) in 2002. These standards are not currently part of Title 19.

Your Committee further notes the Maui Planning Commission reviewed the proposed legislation on January 26, 2021, and recommended approval.

By correspondence dated June 23, 2021, the Department of the Corporation Counsel provided a status update on the lawsuit involving plaintiffs Wailuku Good Government Coalition and Maui Tomorrow Foundation against the MRA and the County, filed on February 10, 2020.

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The claim alleges “the MRA lacks authority to zone or rezone land on the island of Maui because zoning power is vested in the council after review by the Maui Planning Commission.”

By correspondence dated September 28, 2021, the Department of the Corporation Counsel said the litigation has not been resolved.

Your Committee discussed that the proposed bill would assist the County in resolving issues alleged in the lawsuit.

The Planning Director said incorporating the MRA’s Zoning and Development Code into Title 19 would:

1. Incorporate WRA’s zoning standards for consistency with the County’s overall zoning code;
2. Allow the Council to zone or rezone land, by ordinance, after review by the Maui Planning Commission; and
3. Require the Board of Variances and Appeals to determine zoning code variances.

Your Committee proposed amendments to various sections of the bill relating to the purpose and intent of Section 19.39.010, definitions, permitted uses and performance standards, and building height standards. Your Committee also amended various provisions of the bill to require conditional permits in place of MRA use permits.

Your Committee was concerned with the possible unintended impacts to the WRA’s development and economic revitalization, but nevertheless, expressed support.

Your Committee voted 6-1 to recommend passage of the revised proposed bill on first reading and filing of the communication. Committee

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# PLANNING AND SUSTAINABLE LAND USE COMMITTEE

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Chair Paltin and members Johnson, Lee, Molina, Rawlins-Fernandez, and Sinenci voted “aye.” Committee member Sugimura voted “no.” Committee Vice-Chair King and member Kama were excused.

Your Committee is in receipt of a revised proposed bill, approved as to form and legality by the Department of the Corporation Counsel, incorporating your Committee’s recommended revisions and nonsubstantive revisions.

Your Planning and Sustainable Land Use Committee RECOMMENDS the following:

1. That Bill \_\_\_\_\_ (2021), as revised herein and attached hereto, entitled “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 PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 21-156 be FILED.

This report is submitted in accordance with Rule 8 of the Rules of the Council.



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TAMARA PALTIN, Chair

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. 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 and street vending; and mixed-use zoning for residential, retail, office, entertainment, restaurants, and other similar uses.

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

**“Chapter 19.39**

**WAILUKU REDEVELOPMENT AREA**

**Sections:**

<b>19.39.010</b>	<b>Purpose and intent.</b>
<b>19.39.020</b>	<b>Definitions and types of uses.</b>
<b>19.39.030</b>	<b>WRA commercial mixed-use district.</b>
<b>19.39.040</b>	<b>WRA business/multi-family district.</b>
<b>19.39.050</b>	<b>WRA multi-family district.</b>
<b>19.39.060</b>	<b>WRA residential district.</b>
<b>19.39.070</b>	<b>WRA public/quasi-public district.</b>
<b>19.39.080</b>	<b>General requirements.</b>
<b>19.39.090</b>	<b>Building height.</b>
<b>19.39.100</b>	<b>Lots.</b>
<b>19.39.110</b>	<b>Yards.</b>

<b>19.39.120</b>	<b>Canopies, balconies, and sunshades.</b>
<b>19.39.130</b>	<b>Off-street parking and loading.</b>
<b>19.39.135</b>	<b>Temporary parking facilities.</b>
<b>19.39.140</b>	<b>Landscape planting and visual screening.</b>
<b>19.39.150</b>	<b>Nonconformities and legal existing uses.</b>
<b>19.39.160</b>	<b>General administrative procedures.</b>
<b>19.39.170</b>	<b>Urban design.</b>

**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 access to services, reduced reliance on the automobile, enhanced bicycle and pedestrian use, 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, multi-family and single-family housing, and public-use opportunities within the WRA.

E. Promote mixed-use development projects, capitalizing on 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. Promote cultural districts to encourage the development of walking tours and museums, and placement of statues, cultural art, interpretive signage, and other mediums to impart educational information to residents and visitors.

**19.39.020 Definitions and types of uses.** A. Definitions. The following definitions apply to this chapter. Terms not defined below have the meanings provided in section 19.04.040.

“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 that meet the general purpose and intent of the zoning district but that require administrative review by the planning director, or authorized representative, to mitigate the potential impacts of the use at the proposed location on adjacent uses, the physical setting, and public services.

“Administrative use” means a use that requires an administrative review permit.

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

“Automobile services” are as defined in section 19.04.040.

“Base yard” means a facility or site used for any combination of the following: storage, service, or repair of equipment or vehicles.

“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 extending outward from a building providing a protective shield for doors, windows, and other openings, supported by the building and ground supports directly under the canopy or cantilevered from the building.

“Cultural district” means an area with significance in the established traditions of the Hawaiian culture, retaining components of a traditional lifestyle, and widely recognized as important in maintaining the cultural identity of the community.

“Day care facility” means an establishment where persons 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 or licensed by the State of Hawai'i. Examples include day nurseries, pre-schools, kindergartens, and adult day care.

"Director of public works" means the director of the County department of public works or the authorized representative of that director.

"Eating and drinking establishment" which excludes "eating establishment, fast food" means a business engaged in preparing and serving food to customers on the premises, including internet cafes and restaurants that dispense alcoholic beverages where dining is a principal activity.

"Eating establishment, fast food" means an establishment, other than a bakery, bake shop, candy store, or ice cream store that 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 establishments may have sit-down seating, delivery service, drive-through service, and some outdoor dining, but do not provide dancing, live entertainment, the service of alcoholic beverages, or a bar. A fast food establishment's 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 the premises, or to an occupant of a motor vehicle while seated in the vehicle, such as through a drive-through 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 schools, and high schools.

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

“Energy systems, major” means transmission lines and substations.

“Energy systems, minor” means small-scale energy-saving and renewable systems, vent pipes, and fans.

“Entertainment” means businesses or commercial activities involving live 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, facilities offering live music, comedy clubs, street performers, and other similar activities. This excludes adult entertainment, as defined in section 19.85.020, or entertainment that features exotic dancers, strippers, topless entertainers, or other similar activities involving nudity.

“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 or licensed by the State of Hawai‘i.

“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 balconies, stairways, or elevator shafts. Excluded from floor area are the following: accessory parking, including driveways and access ways; attic areas with headroom less than seven feet; and 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, self-contained, portable structure, no larger than six feet wide by ten feet long that is designed as a cart and open at one or more sides, and that is used for the sale of food, beverage, or merchandise such as snack food items, arts and crafts, clothing, newspapers, magazines, and jewelry. Kiosks must not constrain or block safe pedestrian or vehicle traffic.

“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 serving carry-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 and grinding.

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

“General merchandising” 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, hardware stores, pet stores, garden nurseries, and equipment rental within enclosed buildings, but exclude 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; 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 under title 20.

“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; facilities for those recovering from illness or injury; hospices; and 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 as a dwelling.

“Hotel” means a facility containing lodging units, or dwellings where 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 services for registration and record-keeping relating to hotel guests.

“Joint lot use” means two or more adjoining lots in the same zoning district that 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 assembly plants and boat building, surfboard making, commercial laundries, carpet cleaning, crafts industries, and apparel manufacturing.

“Lodging unit” means a room or connected rooms constituting an independent living unit that 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 not 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 for ingress and egress in favor of other lots or land.

“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 that protrude no more than three feet above adjacent grade.

“Maui redevelopment agency use permit” means a permit required for uses that meet the general purpose and intent of the zoning district but that require 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, x-ray, or other similar health care services to the public without overnight accommodations, excluding substance abuse treatment centers.

“Maui redevelopment use” means a use requiring a Maui redevelopment agency use permit.

“Nonconforming building or structure” means a building or structure or portion of either one that was previously lawful but does not comply with the density, yard, setback, or height regulations of the zoning district in which it is located, either on the effective date of this chapter or following any subsequent amendment.

“Nonconforming lot” means a lot, the area, dimensions, or location that was lawful prior to the adoption, revision, or amendment of the zoning code, but 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 that was previously lawful but does not comply with the applicable use regulations of the zoning district in which it is located, either on the effective date of this chapter or following 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 private property, on public property, or on the sidewalk when 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 private or public property. Examples include outside farmer’s markets, craft fairs, street and sidewalk markets, and other similar activities.

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

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

“Park” means a tract of land intended for public non-commercial use as an active or passive recreation area, except commercial use may be allowed when conducted under the supervision of the County department of parks and recreation.

“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, whether or not fees are 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, dental, or similar health care services provided by sole practitioners or small group practices; massage services; photography labs and studios; financial institutions with teller windows; tailors; post offices and parcel delivery services; 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, intended

to be used, occupied, or 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, or storage of equipment associated with the facility.

"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 institutions, excluding substance abuse treatment centers.

"Radio or television broadcasting station" means an establishment engaged in transmitting audio or visual programs to the public and that consist 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, but not including facilities with large seating capacities intended for spectator sports events.

"Recreation, outdoor" means leisure activity areas, and accessory structures and facilities, designed primarily for recreational activity outside in the open-air. Examples of leisure activities include: hiking, fishing, hunting, clay shooting, camping, picnicking, equestrian activities, paragliding and hang gliding, skateboarding, rollerblading, cycling, and mountain biking. Examples of accessory structures and facilities include restrooms, play courts and fields, swimming pools, picnic grounds, tent campgrounds, arboretums, greenways, botanical gardens, petting zoos, and paint-gun and archery ranges; but exclude golf courses, ziplines, or canopy tours.

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

"Repair, minor" means repair activities that have minor impacts 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; household

appliance repair, except those with gasoline engines; production and repair of eye glasses, hearing aids, and prosthetic devices; clothing and 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, post office and parcel delivery services, farm implement sales, self-storage lockers, markets where products are sold directly by their producers, construction supply businesses, and lumber yards.

“Structure” means anything above grade, including buildings, 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 pole, or monopole structure designed or intended to support wireless telecommunications and related facilities, including wireless antenna or towers constructed for the location of transmission or related equipment for the provision of commercial mobile radio or broadcasting services.

“Wailuku redevelopment area” means an area containing approximately sixty-eight acres centrally located within Wailuku, that includes the blocks surrounding the Vineyard-Market Street intersections, and 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 that is bounded on at least one side by a lot boundary and measured at right angles from the lot boundary or that is unobstructed by any structure, except as specifically permitted.

B. Types of uses and interpretation of use terms.

1. Types. For purposes of this chapter, there are four types of uses: principal use, accessory use, administrative use, and Maui redevelopment agency use. Except as provided in the section below, no use is permitted in a WRA 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 requires an administrative review permit or a Maui redevelopment agency permit, the applicable 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 in this chapter, the planning director will review the proposed use and, based upon the characteristics of the use, determine which listed or defined use is equivalent to that proposed; so long as such use is consistent with the purpose and intent of the applicable zoning district and land use designation, and the objectives and policies of the general plan and community plan provisions 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 and 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, and multi-family and single-family residential uses, to create a lively and aesthetically pleasing environment where people can live, work, dine, access services, and be entertained within a compact area.

**B. Permitted uses.**

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

<sup>1</sup> Unless otherwise noted, “sf” refers to square feet of floor area.

	Noise must not impact neighboring property owners or users.
4. Automobile services	Subsection 19.39.080(B).
5. Bed and breakfast home	Up to 6 bedrooms. More than 6 bedrooms requires a conditional permit.
6. Day care facility	
7. Dwelling	For multi-family or single-family.
8. Eating establishment	
9. Education, minor	
10. Education, specialized	Subsection 19.39.080(B).
11. Entertainment	Administrative review permit is required for “entertainment” uses on lots that front Maluhia Drive.
12. Food and beverage retail	
13. Food, beverage, and merchandise kiosk	Subsection 19.39.080(C). Administrative review permit is required for kiosks located on public property or along a public sidewalk.
14. Food processing	All activities must take place within completely enclosed buildings. Noise, odor, and other emission levels must not impact neighboring property owners or users.
15. Funeral home	
16. General merchandising	Limited to a maximum of 20,000 sf of gross floor area on the subject lot. Over 20,000 sf of gross floor area requires a conditional permit.
17. General office	Limited to a maximum of 20,000 sf of gross floor area on the subject lot. Over 20,000 sf of gross floor area requires a conditional permit.

18. Home occupation	
19. Hotel	Up to 20 rooms. More than 20 rooms requires a conditional permit.
20. Light manufacturing and processing	<p>All activities must take place within completely enclosed buildings. Noise, odor, and other emission levels must not impact neighboring property owners or users.</p> <p>Administrative review permit is required for “light manufacturing and processing” on lots that front Maluhia Drive.</p>
21. Medical center, minor	Subsection 19.39.080(B). Administrative review permit is required for “medical center, minor” uses on lots that front Maluhia Drive.
22. Outside open-air dining	Subsection 19.39.080(G).
23. Outside open-air markets	Subsection 19.39.080(H).
24. Outside open-air sidewalk sales	Subsection 19.39.080(I).
25. Park	Subsection 19.39.080(B).
26. Parking, commercial and public	Subsection 19.39.080(B).
27. Personal and business services	
28. Recreation, indoor	
29. Recreation, outdoor	
30. Repair, minor	Administrative review permit is required for “repair, minor” uses on lots that front Maluhia Drive.

31. Storage, wholesale, and distribution	Limited to less than 50 percent of the total floor area on the subject lot or 2,000 sf, whichever is less. Also, see subsection 19.39.080(B).
<b>B. Accessory uses:</b>	
1. Structures, accessory	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.
<b>C. Administrative review permit:</b>	
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 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.
9. Other uses	Other uses that are determined by the director of planning 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 that create no unusual impacts to neighboring property owners or 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 must be consistent with the Wailuku redevelopment area design guidelines and the proposed use must be mitigated so as not to have a deleterious impact on surrounding property owners or users. Warehousing, storage yards, and land extensive manufacturing facilities that are not ancillary or secondary to a permitted use are prohibited.
<b>D. Maui redevelopment agency use permit:</b>	
1. Eating establishment, fast food	
2. Medical center, major	Emergency rooms only.
3. Radio or television broadcasting station	
4. Telecommunication and broadcasting tower or antenna	Must be assessed for its mauka and makai visual impacts, with special consideration given to the visual impacts toward ‘Iao Valley.
<b>E. Conditional permit:</b>	
1. Bed and breakfast home	More than 6 bedrooms.
2. General merchandising	More than 20,000 sf of gross floor area on the subject lot.
3. General office	More than 20,000 sf of gross floor area on the subject lot.
4. Hotel	More than 20 rooms.

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 are the same as those in the WRA residential district (subsection 19.39.060(C)).  The minimum lot size is 4,500 sf and the minimum lot width is 45 feet.		
B. Commercial and multi-family structures:			
1. Minimum lot size	4,500 sf.  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 yard	None. <sup>2</sup> For lots where front yard setback abuts the following streets: Wells	10 feet. <sup>3</sup>	20 feet. <sup>2</sup>

<sup>2</sup> If a front, rear, or side yard property line adjoins a lot in the residential or multi-family district, that front, rear, or side yard setback will be the same as that of the adjoining district.

<sup>3</sup> 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 Wailuku Redevelopment Area Design Guidelines will apply.

	<p>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 where front yard setback abuts all other streets and for landlocked lots.</p>		
4. Maximum height	<p>30 feet.<sup>3</sup></p> <p>For lots where the greatest street frontage is along the following streets, or for the purposes of a landlocked lot, where principal access is from the following streets: Nani Street; Loke Street; Church Street north of Vineyard Avenue and from Main Street to Pakahi Street; Maluhia Drive; Alahee Drive; Wailani Street; Kapoai Place; Lani Place; and Holowai Place.</p>		
	<p>45 feet.<sup>4</sup></p> <p>For lots where the greatest street frontage is along the following streets, or for the purposes of a landlocked lot, where principal access is from the following streets: Wells Street; Vineyard Avenue; Hinano Street; High Street; Church Street from Vineyard Street to Main Street; Market Street; and Central Avenue.</p>		
	<p>60 feet.<sup>3</sup></p> <p>For lots where the greatest street frontage is along Main Street, or for the purposes of a landlocked lot, where principal access is from Main Street.</p>		
5. Maximum floor area ratio	3.0		

**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

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<sup>4</sup> Additional heights may be permitted, under the Wailuku Redevelopment Area Design Guidelines, for architectural elements such as false fronts, spires, motifs, and similar features.

housing uses in a single building, where businesses are located on the ground floor and housing on the upper stories, or that provides for a mixture of commercial and housing uses on a single lot or within a compact neighborhood setting. The district should 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. Development should be pedestrian-oriented with buildings close to and facing the public sidewalk, especially at corners. The focus of nonresidential uses should be on locally-oriented retail, service, and office uses. The 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
<b>A. Principal uses:</b>	
1. Bed and breakfast home	Up to 6 bedrooms in detached single-family dwellings only. More than 6 bedrooms requires a conditional permit.
2. Day care facility	
3. Dwelling	For multi-family and single-family.
4. Eating establishment	Limited to specialty restaurants such as coffee and donut shops, delicatessens, noodle shops, and similar establishments, serving a neighborhood or local market area. Noise, odor, and other emission levels must not impact neighboring property owners or users.
5. Food and beverage retail	Limited to uses serving a neighborhood or local market area. Noise, odor, and other emission levels must not impact neighboring property owners or users.
6. 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 not impact neighboring property owners or users.

	Administrative review permit is required for kiosks located on public property or along a public sidewalk.
7. General merchandising	Limited to a maximum of 20,000 sf of gross floor area on the subject lot. Over 20,000 sf of gross floor area requires a conditional permit.
8. General office	Limited to a maximum of 20,000 sf of gross floor area on the subject lot. Over 20,000 sf of gross floor area requires a conditional permit.
9. Home occupation	Subsection 19.39.080(F).
10. Hotel	Up to 20 rooms. More than 20 rooms requires a conditional permit.
11. Recreation, indoor	
12. Park	Subsection 19.39.080(B).
13. Personal and business services	All activities requiring the use of mechanical equipment must take place within an enclosed building.
<b>B. Accessory Uses:</b>	
1. Structures, accessory	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.
<b>C. Administrative review permit:</b>	
1. Assisted living facility	
2. Entertainment	
3. Food, beverage, and merchandise kiosk	For kiosks 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 that are determined by the director of planning 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 that create no unusual impacts to neighboring property owners or 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).
<b>D. Maui redevelopment agency use permit:</b>	
1. Adult establishment	
2. Parking, public and private	
3. Quasi-public use	
<b>E. Conditional permit:</b>	
1. Bed and breakfast home	More than 6 bedrooms.
2. General merchandising	More than 20,000 sf of gross floor area on the subject lot.
3. General office	More than 20,000 sf of gross floor area on the subject lot.
4. Hotel	More than 20 rooms.

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 are the same as those in the WRA residential district (subsection 19.39.060(C)). The minimum lot size is 4,500 sf and the minimum lot width is 45 feet.		
B. Commercial and multi-family structures:			
1. Minimum lot size	4,500 sf.  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	None. <sup>5</sup> For lots where front yard setback abuts the following		20 feet. <sup>6</sup>

<sup>5</sup> If a front, side, or rear yard property line adjoins a lot in the residential or multi-family district, that front, side, or rear yard setback will be the same as that of the adjoining district.

	<p>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.<sup>5</sup> For lots where front yard setback abuts all other streets and for landlocked lots.</p>	10 feet. <sup>6</sup>	
4. Maximum height	<p>30 feet.<sup>7</sup></p> <p>For lots where the greatest street frontage is along the following streets, or for the purposes of a landlocked lot, where principal access is from the following streets: Nani Street; Loke Street; Church Street north of Vineyard Avenue and from Main Street to Pakahi Street; Maluhia Drive; Alahee Drive; Wailani Street, Kapoai Place; Lani Place; and Holowai Place.</p>		
	<p>45 feet.<sup>6</sup></p> <p>For lots where the greatest street frontage is along the following streets, or for the purposes of a landlocked lot, where principal access is from the following streets: Wells Street; Vineyard Avenue; Hinano Street; High Street; Church Street from Vineyard Street to Main Street; Market Street; and Central Avenue.</p>		
	feet. <sup>6</sup>		

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<sup>6</sup> 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 Wailuku Redevelopment Area Design Guidelines will apply.

<sup>7</sup> Additional heights may be permitted, under the Wailuku Redevelopment Area Design Guidelines, for architectural elements such as false fronts, spires, motifs, and similar features.

	For lots where the greatest street frontage is along Main Street, or for the purposes of a landlocked lot, where principal access is from Main Street.
5. Maximum floor area ratio	1.5

**19.39.050 WRA multi-family district.** A. Purpose and intent. The WRA multi-family district is primarily to support a concentration of single-family and multi-family residential uses, intermixed with parks, and limited commercial uses within walking distance of the commercial core of Wailuku. The district allows for 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. Smaller sized bed and breakfast accommodations are also allowed in the district. The 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
<b>A. Principal uses:</b>	
1. Bed and breakfast home	Up to 4 bedrooms in detached single-family dwellings only. More than 4 bedrooms requires a conditional permit.
2. Boarding home	Uses that meet the definition of hotel, transient vacation rental, or time-share unit are not permitted.
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 must not exceed 25 percent of the floor area of the building. Limited to specialty restaurants such as coffee and donut shops, delicatessens, noodle shops, and similar establishments, serving a neighborhood or local market area.

6. Food and beverage retail	Permitted on the ground floor of multi-floor buildings. The floor area of any individual establishment must not exceed 25 percent of the floor area of the building. Limited to uses serving a neighborhood or local market area.
7. General office	Must not occupy more than 25 percent of the floor area of the building, and must be located on the ground floor of a multi-floor building.
8. Home occupation	Subsection 19.39.080(F).
9. Recreation, indoor	
10. Park	Subsection 19.39.080(B). No commercial use, except when under the supervision of the County department of parks and recreation.
11. Parking, public	Subsection 19.39.080(B).
12. Personal and business services	The floor area of any individual establishment must not exceed 25 percent of the floor area of the building, and must be located on the ground floor of a multi-floor building.
<b>B. Accessory uses:</b>	
1. Dwelling, accessory	
2. Structures, accessory	Structures that are directly accessory to a permitted principal use.
<b>C. Administrative review permit:</b>	
1. Quasi-public use	
2. Group living facility	
3. Other uses	Other uses that are determined by the director of planning 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 that create no unusual impacts on neighboring property owners or users.
<b>D. Maui redevelopment agency use permit:</b>	
1. Eating	Uses that do not meet the criteria of a

establishment	permitted use.
2. Entertainment	
3. Food and beverage retail	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. Parking, public	Uses that do not meet the criteria of a permitted use.
6. Personal and business services	Uses that do not meet the criteria of a permitted use.
<b>E. Conditional permit:</b>	
1. Bed and breakfast home	More than 4 bedrooms.

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 are the same as those in the WRA residential district (subsection 19.39.060(C)). The minimum lot size is 4,500 sf and the minimum lot width is be 45 feet.
B. Multi-family and commercial structures:	
1. Minimum lot size	4,500 sf.  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	15 feet.	25 feet. <sup>8</sup>	35 feet. <sup>7</sup>
b. Side and rear	10 feet.	20 feet. <sup>7</sup>	30 feet. <sup>7</sup>
4. Maximum height	30 feet. <sup>9</sup> For lots where the greatest street frontage is along the following streets, or for the purposes of a landlocked lot, where principal access is from the following streets: Nani Street; Loke Street; Church Street north of Vineyard Avenue and from Main Street to Pakahi Street; Maluhia Drive; Alahee Drive; Wailani Street; Kapoai Place; Lani Place; and Holowai Place.		
	45 feet. <sup>8</sup> For lots where the greatest street frontage is along the following streets, or for the purposes of a landlocked lot, where principal access is from the following streets: Wells Street; Vineyard Avenue; Hinano Street; High Street; Church Street from Vineyard Street to Main Street; Market Street; and Central Avenue.		
	60 feet. <sup>8</sup> For lots where the greatest street frontage is along Main Street, or for the purposes of a landlocked lot, where principal access is from Main Street.		
5. Maximum floor area ratio	1.2		
6. Maximum lot coverage	Up to 30 feet.	Greater than 30 feet to 45	Greater than 45 feet to 60

<sup>8</sup> 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 Wailuku Redevelopment Area Design Guidelines will apply.

<sup>9</sup> Additional heights may be permitted, under the Wailuku Redevelopment Area Design Guidelines, for architectural elements such as false fronts, spires, motifs, and similar features.

		feet.	feet.
	60%	50%	40%
	For multi-family 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 environment within walking distance to the business core of Wailuku. The district should promote a wide range of choices in the type, size, design, and price of housing, and facilitate safe pedestrian and bicycle travel to improve the character of the residential area. The 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
<b>A. Principal uses:</b>	
1. Agriculture	Green houses, flower and truck gardens, and nurseries for products grown on the site.
2. Day care facility	Subsection 19.39.080(D).
3. Dwelling	Maximum of one per lot, plus accessory dwellings under chapter 19.35.
4. Park	Subsection 19.39.080(B). No commercial use, except when under the supervision of the County department of parks and recreation.
<b>B. Accessory uses:</b>	
1. Dwelling, accessory	Subsection 19.39.080(E).
2. Assembly area	For use by resident community association members and their guests only.
3. Home occupation	Subsection 19.39.080(F).
<b>C. Administrative review permit:</b>	
1. Other uses	Other uses that are determined by the director of

	planning 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 that create no unusual impacts on neighboring property owners or users.
<b>D. Maui redevelopment agency use permit:</b>	
1. Education, minor	
2. Education, major	
3. Education, specialized	
4. Group living facility	
<b>E. Conditional permit:</b>	
1. Bed and breakfast home	Up to 2 bedrooms. The home must include bedrooms, 1 kitchen, and living areas used by owner-occupants.
2. Bed and breakfast home, 3 to 6 bedrooms	3 to 4 bedrooms require a lot size of at least 7,000 sf. 5 to 6 bedrooms require a lot size of at least 10,000 sf. More than 6 bedrooms is prohibited. The home must include bedrooms, 1 kitchen, and living areas used by owner-occupants.
3. Day care facility	Uses that do not meet the criteria of a permitted use.
8. Home occupation	Uses that do not meet the criteria of an accessory use.

C. Development standards.

TYPE OF STANDARD	ZONING DISTRICT	
	WRA R-1 residential (standard)	WRA R-2 residential (standard)
A. Minimum lot size	6,000 sf.	7,500 feet.
B. Minimum lot width	60 feet.	65 feet.
C. Minimum yard		

setbacks		
1. Front	15 feet.	15 feet.
2. Side and rear	1 story / 6 feet 2 story / 10 feet	1 story / 6 feet 2 story / 10 feet
D. Maximum height	30 feet.	30 feet.

**19.39.070 WRA public/quasi-public district.** A. Purpose and intent. The purpose of the WRA public/quasi-public district is to provide areas for public and quasi-public facilities, buildings, and other uses of a non-commercial nature that serve the general community. The district may be applied to both public and private lands. The 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
<b>A. Principal uses:</b>	
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	Must not be hazardous or a nuisance to surrounding areas.
14. Police and fire stations	
15. Quasi-public use	
<b>B. Accessory uses</b>	
1. Structures, accessory	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 sf for lots with an existing dwelling; otherwise, 4,500 sf.  Smaller lot sizes may be permitted by the planning director for utility purposes; roadway or easement lots; or 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; or 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.

D. Maximum height	35 feet. <sup>10</sup>
E. Walls	A 6-foot high solid masonry wall must be constructed and maintained on any property line adjoining a WRA residential or WRA multi-family zoning district.

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

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

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

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

1. The following uses must maintain a six-foot high solid masonry wall on any property line adjoining a WRA 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 must be located at least seventy-five feet from the property line of any lot in a WRA 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 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 must be located at least ten feet from the property line of any lot in a WRA residential or multi-family district.

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<sup>10</sup> Up to 60 feet may be permitted with the approval of the Maui Redevelopment Agency.

C. Food, beverage, and merchandise kiosks. Food, beverage, and merchandise kiosks are 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.
3. No permanent fixtures are installed within a public street or right-of-way.
4. No advertising signage is placed on any encroaching item, except the kiosk itself.
5. The sidewalk is clean and free from litter, food products, and other items.
6. No outdoor speakers are installed.
7. At least three feet from the edge of curb along the sidewalk is free from obstructions and the use does not impede pedestrian or vehicle access or circulation.
8. All sales activity is confined to the inside of the kiosk.

D. Day care facility. Day care facilities within the WRA residential district are allowed to serve six or fewer children at any one time on lot sizes less than seven thousand five hundred square feet; eight or fewer children at any one time on lot sizes less than ten thousand square feet; and twelve or fewer children at any one time on lot sizes of ten thousand or more square feet.

E. Dwelling, accessory. A maximum of two accessory dwellings per lot subject to size limitations provided in chapter 19.35.

F. Home occupation.

1. WRA commercial mixed-use and business/multi-family districts. Home occupation activities must take place within completely enclosed buildings. Noise, odor, and other emission levels must not impact neighboring property owners or users.

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

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

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

c. No mechanical equipment is used, except what is normally used within a residential dwelling.

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

e. No on-site group instruction, sales meetings, or 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 are stored within the dwelling.

h. No clients or customers on the 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 is 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 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 access or circulation.

6. No outdoor speakers are installed.

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

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

H. Outside open-air markets. Open-air markets are 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 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 access or circulation.

I. Outside open-air sidewalk sales. Outside open-air sidewalk sales are 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 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 access or circulation.

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

**19.39.090 Building height.** A. Height measurement. The height of a building or structure is the vertical distance from natural or finished grade, whichever is lower, 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 is the vertical distance from natural or finished grade, whichever is lower, to the highest point of the structure.

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

1. Vent pipes, fans, roof 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 otherwise in this chapter, boundary fences and walls must not exceed a height of four feet above existing grade in the front yard for all zoning districts. Retaining walls containing a fill within required yards must 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 must be measured combining all walls located in the required yard. The director of public works 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 director of public works may impose reasonable conditions when granting this additional height, such as type of materials and colors, landscape planting, terracing, and setbacks and offsets, as may be necessary to maintain the general character of the area.

D. Height adjustments for special site conditions. The director of public works may adjust the building height envelope under the following conditions, so long as the adjustment is consistent with the purpose and intent of the applicable zoning district:

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 and multi-family districts where the floor level is required to be elevated above the design flood level as defined in chapter 19.62.

**19.39.100 Lots.** A. Lots in two zoning districts. The following will 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 apply 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) is 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 if the following conditions are met:

1. The owners, duly authorized agents of the owner, or duly authorized agents of the lessees holding leases with a minimum of thirty years remaining in the terms, of the adjoining lots must submit to the planning director an agreement that binds them and their successors in title and lease, individually and collectively, to maintaining the pattern of development proposed in such a way that there is conformity with applicable zoning regulations. The right to enforce the agreement must be granted to the County.

2. If the planning director finds the proposed agreement ensures the protection of the public interest and a more efficient use of land consistent with the purpose and intent of this chapter, the planning director will recommend approval of the agreement and forward it to the County corporation counsel for review and approval as to form and legality.

3. The agreement will not take effect until it is filed 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 must be submitted to the director of public works before the issuance of any construction permits on the subject lots.

C. Street-widening setback lines. No business, merchandising displays, uses, or structures are allowed to be located or conducted within any street setback area, as determined on a map adopted by the director of public works in accordance with applicable rules and regulations, except for the following:

1. Poles, posts, and 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 no more than thirty inches in height.
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, so long as the access drive for the flag lot is the sole access for only one lot and has a minimum width of twelve feet, and the parcel does not abut an existing flag lot.

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

**19.39.110 Yards.** Activities and structures in yards. No business, merchandising displays, uses, structures, umbrellas, or discarded appliances or machinery, such as automobiles, refrigerators, or similar items, are allowed to be located or conducted within any required yard except for the following:

- A. Poles, posts, and 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 of a temporary nature for yard and garage sales.

**19.39.120 Canopy, balcony, and sunshade requirements.**

A. The following guidelines are provided to accommodate canopies, balconies, and sunshades over sidewalks compatible with historic precedent for new buildings and to allow reconstruction of existing or 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 a canopy and balcony is permitted only within six inches of the front face of the curb. A canopy must provide clearance of not less than eight feet above the sidewalk. A canopy or balcony must not be enclosed. No canopy, balcony, or sunshade is allowed to be erected, enlarged, or altered

over the public sidewalk without prior approval from the planning director, for consistency with the Wailuku redevelopment area design guidelines.

B. Insurance required. No canopy or balcony projecting over County property is allowed to be erected, re-erected, located, relocated, enlarged, modified structurally or changed in ownership, without prior approval of the planning director, and submitting a hold harmless agreement and certificate of liability insurance against all claims for personal injury and property damage in the standard amount determined by the County 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. This section establishes parking requirements for properties within the WRA, and will control over any other parking requirements in this title.

2. To determine the required number of off-street parking spaces, floor area is defined in subsection 19.39.020(A), except that basement space must be included as floor area when it is devoted to uses having a parking requirement specified in this section. The following will apply when determining off-street parking requirements:

a. When the computation of required parking spaces results in a fractional number of spaces, the number of spaces required must be rounded up to the nearest whole number when a fraction of a space is greater than 0.5 and rounded down when a fraction of a space is less than or equal to 0.5.

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

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

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 characteristics of the proposed use or site.

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

B. Required off-street parking spaces by use.

<b>USE</b>	<b>MINIMUM PARKING RATIO<sup>11</sup></b>
Adult establishment	None.
Animal hospital	1 space per 500 sf of building.
Assembly area	Church: 1 space per 100 sf of building, except where the church is within 500 feet of a public parking lot with more than 150 spaces, the Maui redevelopment agency may grant the church a waiver of up to 75 percent of the required spaces, if service times are limited to weekends and after 6:00 p.m. on weekdays.  Library, museum, art gallery: 1 space per 300 sf of building.  Auditorium, theater, stadium, bleachers, place of assembly: 1 space per 6 seats.  All other types of assembly: 1 space per 75 sf, or 1 space per 5 fixed seats, whichever is greater.
Automobile services	1 space per 200 sf, or 40 percent of the lot area, whichever is greater. Car wash facilities: 10 standing spaces for waiting vehicles for each wash rack.
Base yard	1 space per operating vehicle.
Bed and breakfast home	1 space per bedroom used for short-term rental, in addition to any other spaces required under this section.

<sup>11</sup> Unless otherwise noted, "sf" refers to square feet of floor area.

Boarding home	0.75 spaces per lodging unit.		
Day care facility	1 space per 10 care recipients, plus 4 pick-up/drop-off spaces for facilities with more than 25 care recipients.		
Dwelling	2 spaces per unit for detached single-family dwellings and duplexes.	Multi-family buildings	
		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 and Education, minor	Each classroom with students less than 16 years of age: 1 space per classroom. Each classroom with students 16 years of age or older: 8 spaces per classroom.		
Education, specialized	1 space per each 10 students within design capacity, plus 1 space per 400 sf of office floor space.		
Entertainment	None.		
Food, beverage, and merchandise kiosk	None.		
Food and beverage retail	None.		
Food processing	1 space per 600 sf of floor area of building, or 25 percent of the lot area, whichever is greater.		
Funeral home	1 space per 6 seats, plus 1 space per 1,500 sf of storage area.		
General merchandising	1 space per 500 sf of building, with a minimum of 3 spaces required.		
	1 space per 600 sf of building for appliance, furniture, plumbing supply, automobile, marine supply, and machinery stores requiring large floor spaces for product		

	display.
General office	1 space per 500 sf of building, with a minimum of 3 spaces required for employees and patrons.
Group living facility	0.5 spaces per bed.
Home occupation	1 space per 750 sf used for home occupation.
Hotel	1 space per 2 lodging units.
Light manufacturing and processing	1 space per 1,500 sf for warehousing and
Medical center, major	1 space per 3 beds. 0.5 spaces per bed for skilled nursing facilities.
Medical center, minor	Same as personal and business services.
Outside open-air dining	None.
Outside open-air markets	None, if within 400 feet of a public parking lot with more than 150 spaces; otherwise, 1 space per 500 sf. None required during County sponsored events.
Outside open-air sidewalk sales	None.
Park	See standards for recreation. For parks that primarily serve pedestrians, this requirement may be reduced or waived by the planning director.
Personal and business services	1 space per 300 sf of building for personal services such as medical and dental clinics, beauty salons, health spas, and financial institutions, with a minimum of 3 spaces required for employees and patrons.  1 space per 400 sf of building for business services such as photocopy shops, with a minimum of 3 spaces required for employees and patrons.  1 space per 500 sf of building for all other business buildings, with a minimum of 3 spaces required for employees and patrons.
Quasi-public use	If not otherwise specified in this section, 1 space per 500

	sf of building.
Recreation, indoor	Bowling alley: 5 spaces per alley. Swimming pool and gymnasium: 1 space per 600 sf of floor area of pool or building. Tennis courts: 6 spaces per court. All other types of indoor recreation and play courts: 1 space per 300 sf, or 3 spaces per play court, whichever is greater.
Recreation, outdoor	Miniature golf courses: 1 space per hole. Tennis courts: 6 spaces per court.  Play fields: 12 spaces per play field, if no bleachers are provided.  Parking requirements for all other uses to be determined by the planning director.
Repair, major	1 space per 1,500 sf for warehousing and 1 space per 700 sf of building or 20 percent of the lot area, whichever is greater, for other uses.
Repair, minor	1 space per 1,500 sf for warehousing and 1 space per 600 sf of building or 20 percent of the lot area, whichever is greater, for other uses.
Shopping center	1 space per 200 sf of building, except for assembly areas and eating establishments subject to the parking requirements for such uses specified in this section.
Storage, wholesale, and distribution	1 space per 1,500 sf for storage facilities and 1 space per 600 sf for other uses.
Transient or time-share unit	1 space per unit.

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

1. Commercial, non-profit, and public/quasi-public uses on lands zoned for such uses within the WRA will receive a 30 percent reduction in the required number of parking spaces.

2. When the computation of required parking spaces results in a fractional number of spaces, the number of spaces required must be rounded up to the nearest whole number when a fraction of a space is greater than or equal to 0.5 and rounded down when a fraction of a space is less than 0.5.

3. When the local conditions change or projects provide additional amenities for multimodal transportation, additional parking reductions may be considered with a Maui redevelopment agency use permit. The applicant must provide clearly presented and sound information on one or more of the following:

- a. Access to transit, including the frequency and quality of the transit service.

- b. Demographics for residential developments, including age, income, or 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.

- e. Project-specific parking studies including local area analysis providing data to support request 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 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 that is served by the shared parking must

not exceed four hundred feet by customary pedestrian routes.

5. A written agreement assuring continued availability of the number of required spaces during the period indicated must be submitted to the planning director and County corporation counsel for review and approval. A certified copy of the executed agreement must be submitted to the planning director. No change in use will be permitted that increases the requirements for off-street parking spaces unless such additional spaces are provided.

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

E. Off-site parking. The planning director may permit off-site parking where a surplus of parking spaces exists on a commercial zoning lot that allows for commercial parking use and those surplus spaces are available for long-term lease to the owner or long-term lessee of a separate zoning lot situated within close proximity to the surplus spaces. The planning director may permit off-site parking, 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 that identify the owner of the subject properties. Lessees of the subject off-site parking spaces must submit a copy of the recorded lease document with an unexpired term of at least five years from the date of filing of the application.

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

5. A written agreement assuring continued availability of the number of required spaces during the period indicated must be submitted to the planning director and County corporation counsel for review and approval. A certified copy of the executed agreement must be submitted to the planning director. No change in use will be permitted that increases the requirements for off-street parking spaces unless such additional spaces are provided.

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 under subsection 19.39.130(B), so long as the abatement meets criteria (1)

and a majority of the other criteria specified below:

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 one thousand square feet.

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

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 under section 19.39.140, all spaces must be unobstructed, except that building columns may extend a maximum six inches into the sides of the parking space. A wall is not considered a building column.

b. Where four or more parking spaces are required, other than for single-family dwelling and duplex use, the parking lot or area must be designed or configured so that all vehicles may enter or leave a space without any vehicle maneuvering into or from any street, alley, or walkway, and all vehicles may enter the street in a forward manner.

c. All spaces must be designed and configured so that any vehicle may be moved without moving another vehicle, except that tandem parking is allowed in any of these circumstances:

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

ii. For use for employee parking, except that the number of parking spaces allocated for employees must not at any time exceed 25 percent of the total number of required spaces, and for employee parking, "tandem" parking must be limited to a configuration of two stacked parking spaces.

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 must have a minimum width of eight and one-quarter feet and a minimum length of eighteen feet at all points.
  - b. Minimum aisle widths for parking bays are as follows:

<b>Parking Angle</b>	<b>Aisle Width</b>
0° - 44°	12 feet
45° - 59°	13.5 feet
60° - 69°	18.5 feet
70° - 79°	19.5 feet
80° - 89°	21 feet
90°	22 feet

- c. Ingress and egress aisles must be provided to a street and between parking bays and no driveway leading into a parking area is allowed to be less than twelve feet in width.
- 3. Parking for the physically disabled.
  - a. For all non-dwelling uses, parking for the physically disabled must be provided as follows:

<b>Total required parking spaces</b>	<b>Spaces allocated for accessible parking</b>
11 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
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

- b. Parking spaces for the physically disabled must be identified by posted upright sign and blue paint

on the curb or on the pavement edge of the space, must be at least eight feet wide, and must have an adjacent access aisle a minimum of five feet wide. Parking access aisles must be part of an accessible route to the building or facility. Surface slope must not exceed 4 percent in any direction. Two adjacent spaces may share a common access aisle. Parked vehicle overhangs must not reduce the clear width of an accessible access or circulation route.

4. Paving of parking areas.

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

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

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

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

5. Compact car parking spaces. Parking spaces for compact cars must not exceed 25 percent of the total off-street parking requirements. The spaces must be grouped and properly identified and must be at least seven feet six inches wide and sixteen feet long.

H. Required off-street loading spaces by use.

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

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

3. Off-street loading requirements apply to all zoning lots exceeding five thousand square feet in area for the use or category indicated below. The minimum number of off-street loading spaces are as follows:

<b>Use or use category</b>	<b>Floor area in sf or units</b>	<b>Loading spaces required</b>
Eating establishments;	2,000 sf - 10,000 sf	1
Food processing;	10,001 sf - 20,000 sf	2
General merchandising;	20,001 sf - 40,000 sf	3
Personal and business	40,001 sf - 60,000 sf	4

services; Repair, major and minor; Storage, wholesale, and distribution; Industrial and waste products processing;	Each additional 50,000 sf or major fraction thereof	1
Assembly area; Hotel; Medical facility, major	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, multi-family building	20 units - 150 units	1
	151 units - 300 units	
	Each additional 20 units or major fraction thereof	1

4. Method of determining number of required loading spaces.

a. To determine the number of required loading spaces, floor area is defined in subsection 19.39.020(B), except that basement space must be included when it is devoted to uses having a loading requirement specified in this section.

b. When a building is used for more than one use, and the floor area for each use is below the minimum for a required 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 must be required.

c. The number of loading spaces required may be reduced by 50 percent when such spaces are assigned to serve two or more uses jointly, if 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 must be at least nineteen feet by eight and one-half feet and the vertical clearance must be at least ten feet.
    - b. When more than one loading space is required or total floor area is more than five thousand square feet, the horizontal dimensions of at least half of the required spaces must be at least twelve feet by twenty feet and the vertical clearance must be at least fourteen feet. The balance of required spaces may have horizontal dimensions of at least nineteen feet by eight and one-half feet and a vertical clearance of at least ten feet.
  2. Location and Paving.
    - a. No required loading space is allowed in any street or alley but must be provided within or adjacent to the building it serves.
    - b. Where loading areas are illuminated, all sources of illumination must be shielded to prevent any direct illumination toward any rural, residential, multi-family, or hotel districts.
    - c. Each required loading space must be properly identified and must be reserved for loading purposes only.
    - d. No loading space is allowed to occupy or restrict access to required off-street parking spaces.
    - e. All loading spaces and maneuvering areas must be paved or covered with an all-weather surface.
    - f. Except in front and side yards in WRA residential districts, no loading space or maneuvering area is allowed to 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 facility is any parking lot that does not contain any required parking spaces for a specific land use. Temporary parking facilities may be developed for the following purposes:

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, such as construction worker parking.

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 must be unobstructed.

2. Where four or more parking spaces are developed, the parking lot or area must be designed and configured so that all vehicles may enter or leave a space without any vehicle maneuvering into or from any street, alley, or walkway, and all vehicles may enter the street in a forward manner.

3. All off-street parking spaces, parking lots, and driveways must be provided and maintained with an all-weather surface. The parking and driveway surface must 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 ensure the safe and efficient maneuverability of vehicles. Temporary parking facilities must remain water permeable to avoid being required to install storm drainage facilities.

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

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

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

7. There must be a minimum four-foot landscape strip adjacent to any adjoining street right-of-way. This four-foot strip must contain a perimeter hedge with hedge plants spaced at a maximum of sixteen inches on center. A wall or fence at least thirty-six inches in height 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 in-lieu-of walls or fences may not exceed four feet in height.

C. Temporary parking permit application and approval process.

1. The applicant is 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.

2. The applicant is required to submit a narrative description of how the parking lot will be managed, including permits, revenue control, equipment, hours of operation, signage, lighting, security, and other details. Specifications of any equipment, lighting, or signage must be submitted with the application.

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

**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 must be visually screened with landscape planting or by other appropriate methods in all zoning districts as follows:

a. Parking lots and automobile service stations must provide a minimum four-foot landscape strip adjacent to any adjoining street right-of-way. This four-foot strip must 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 wall or solid fence at least forty-eight inches in height 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 two-inch caliper depth, breadth, and height, as measured six inches above the ground, must be planted in the landscape strip for each fifty feet or major fraction of adjacent lineal street frontage. A two-foot wide side and rear yard landscape strip must also be provided immediately adjacent and parallel with each property line where automobile parking abuts.

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 two-inch caliper depth, breadth, and height, as measured six inches above ground, must be provided for every five parking spaces or major fraction thereof.

The minimum mature spread of the crown specimen canopy tree must be thirty feet. Each tree must be located in a planting area or tree well no less than four-foot square. If wheel stops are provided, continuous planting areas with low groundcover, and tree wells with trees centered at the corner of parking spaces, may be located within the three-foot bumper overhang space of parking spaces. Hedges and other landscape elements, including planter boxes over six inches in height, are not allowed within the bumper overhang area of the parking spaces. Trees must be sited so as to evenly distribute shade throughout the parking lot.

c. Parking lots must be screened from adjoining lots in residential and multi-family districts by walls or continuous screening hedges at least sixty inches in height adjacent to the abutting property line.

d. The Maui planning commission has the authority, with input from the Maui redevelopment agency, 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 adjacent to zoning lots with side or rear yard requirements must meet the following requirements:

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

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

c. Each parking deck must 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 must be screened from adjoining lots in residential and multi-family districts by a wall at least six feet in height.

B. Other areas.

1. Trash Enclosures. All outdoor trash storage areas, except those for single-family dwelling or duplex use, must be screened on a minimum of three sides by a wall or

hedge at least six feet in height. The wall must be painted, surfaced, or otherwise treated to blend in with the development it serves.

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

**19.39.150 Nonconformities and legal existing uses.** A. Nonconforming lots, structures, and uses may continue, subject to the provisions and conditions of subsection 19.500.110(A), (B), and (C), respectively.

B. Nonconforming parking and loading.

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

2. Except for expansion of individual dwelling units, any use that adds floor area must provide off-street parking and loading for the additional floor area as required in this chapter.

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

1. Legal uses existing prior to the enactment of this chapter may continue without having to obtain administrative review permits, Maui redevelopment agency use permits, conditional permits, or variances until such time as a use is discontinued for twelve or more consecutive months.

2. Any dwelling or structure constructed with a building permit that was approved prior to the enactment of this chapter is not required to obtain an administrative review permit, Maui redevelopment use permit, conditional permit, or variances and may be reconstructed as permitted by the original building permits, and such dwellings or structures may be expanded or modified with a building permit, subject to the provisions of this title.

**19.39.160 General administrative procedures.** A. Purpose and intent.

1. Purpose. The purpose of this section is to establish 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 ensure that all developments within the WRA are in compliance with the provisions of the Wailuku-Kahului community plan, the Wailuku redevelopment plan and design guidelines, the rules of practice and procedure for the Maui redevelopment agency, and all other applicable laws.

2. Intent. The intent of this section is to establish a development review process and procedures that 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, safety, and welfare 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 procedures must be substantive and in accordance with the provisions of this chapter 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 of this chapter. Unless otherwise provided, all permits and development approvals required by this chapter must comply with the procedures specified in this section.

#### B. Administrative duties.

1. Duties of the director of public works. The director of public works has the following duties to carry out the purpose and intent 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 chapter.

2. Duties of the planning director. The planning director has the following duties to carry out the purpose and intent of this chapter:

- a. Interpret the provisions of this chapter as applied to specific land uses and activities.
- b. Review and process applications required by this chapter.

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

d. Enforce the provisions of this chapter.

e. Prepare and initiate amendments to this chapter.

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

C. General application requirements.

1. Submittal and Acceptance of Applications. All applications required by this chapter must be submitted to the planning director. The planning director must review the application to determine if the application is complete or incomplete. If the application is determined to be complete, the planning director must give the applicant written notification and process the application as specified in this section. If the application is determined to be incomplete, the planning director must give 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 must pay a fee in the amount specified in the annual budget of the County. Checks issued to pay for application fees must be made payable to the County director of finance.

3. Types of applications.

a. Administrative review permit. Administrative review permit applications require a final determination by the planning director. However, the planning director must forward an administrative review permit application to the Maui redevelopment agency or the Maui planning commission 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 agency if the planning director determines that broader public review is warranted.

b. Maui redevelopment agency use permit. Maui redevelopment agency use permit applications require a final determination by the Maui redevelopment agency.

c. Conditional permit. Conditional permits must be reviewed and processed in accordance with

chapter 19.40. The Maui redevelopment agency is authorized and strongly encouraged to participate in the conditional permit process for application involving the WRA.

c. Design review. Design review applications are subject to the application content requirements of subsection 19.39.160(D), and must be processed in accordance with section 19.39.170.

D. Application content.

1. All applications must include the following information:

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 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 must be provided, if applicable, as determined by the Maui redevelopment agency or planning 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 necessary to completely identify the scope and design of the project. The plans must identify the building materials, color scheme, exterior lighting and graphics, mechanical equipment, and landscaping included in the project.

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 organizations 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 number of employees and hours of operation.

g. Locations and plans for all signs to be constructed or maintained in connection with the project or business that may occupy the property.

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

E. Public notification. Applicants for Maui redevelopment agency use permits must follow public notification requirements in accordance with subsection 19.510.020(A)(4).

F. Review Process. Applications for administrative review permits and Maui redevelopment agency use permits must be processed as follows:

1. No application will be deemed complete until the planning director has received comments from all appropriate agencies, and all other requirements in this section have been met.

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

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

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, and refer the application to the Maui redevelopment agency for its review prior to the hearing.

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

4. The Maui redevelopment agency must forward its decision and order, or letter of approval, to the applicant and other interested parties within one hundred twenty days from the later of:

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

b. The closing of the Maui redevelopment agency meeting on the application, except that if a contested case proceeding is conducted under the rules of practice and procedure of the Maui redevelopment agency, the decision must be rendered within the time specified by the applicable rules. This time period will be extended in the event of a national disaster, state of emergency, or union strike, which would prevent reviewing or rendering 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 will be approved unless each of the following criteria have been met:

1. The proposed request complies with Hawai'i Revised Statutes chapter 53, the urban renewal law; the Wailuku-Kahului community plan; the Wailuku redevelopment plan; the rules of practice and procedure for the Maui redevelopment agency; and all other applicable Federal, State, and County laws.

2. The proposed request is consistent with and supports the implementation of the Wailuku redevelopment plan.<sup>12</sup>

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

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<sup>12</sup> See the Wailuku Redevelopment Plan, Section 5, "Project Scorecard" for specific criteria.

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

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

**19.39.170 Urban design.** A. The Maui redevelopment agency must review plans for each structure to be constructed, rehabilitated, or remodeled in the WRA as specified in this section. In approving the design of the structures, the Maui redevelopment agency must be guided by the appropriateness of the design to the immediate area and Wailuku Town as a whole. The following activities and structures are exempt from Maui redevelopment agency review:

1. Repair and maintenance of existing structures.
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 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 must be reviewed under subsection 19.39.170(C).

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

C. Review process.

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

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

b. If the design elements are in compliance with the design guidelines for the applicable district, the director must issue the Maui redevelopment agency use permit within thirty days of receipt of the application.

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 must forward the application, on a routine and timely basis, to individuals and organizations that have requested in writing to provide comments on projects.

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

2. Applications for new principal structures must be processed as follows:

a. Upon receipt of the application, the planning director must forward the application to the next available meeting date of the Maui redevelopment agency. The Maui redevelopment agency must review the application for compliance with the Wailuku redevelopment area design guidelines.

b. The planning 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 must forward its decision and order, or letter of approval, to the applicant and other interested parties within sixty days of receipt of the application or receipt of all information requested by the department.

3. Signs posted within the Wailuku redevelopment area must be in accordance with the Wailuku redevelopment plan and Wailuku redevelopment area design guidelines. Signs must be reviewed and processed in accordance with chapter 19.520.

4. Streetscape projects must be reviewed and processed in 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[:] are designated in the County:

- 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.
  1. Historic district no. 1 in Lahaina.
  2. Historic district no. 2 in Lahaina.
  3. Historic district no. 3 in Wailuku.
- T. Project districts.
- U. Wailuku Redevelopment Area ("WRA") districts,  
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 "Residential - 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 in accordance with [section 19.510.020.B.3.f.] subsection 9.520.020(B)(3)(f).

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] must 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]~~ with 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]~~ of general circulation that is printed and issued at least twice weekly in the ~~[county and which is generally circulated throughout the county.]~~ County.

C. ~~[Pursuant to]~~ In accordance with 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]~~ with the provisions of this chapter would result in hardship to the owner ~~[which]~~ that is not mere inconvenience or economic hardship on the applicant.

1. For all areas of the County outside the Wailuku redevelopment area, the board must grant a variance if the board finds the following:

a. ~~[That there]~~ 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]~~ Strict compliance with the applicable provisions of this title would prevent reasonable use of the subject property~~;~~ and~~].~~

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

2. Within the Wailuku redevelopment area, variances from strict compliance with this title, the Wailuku redevelopment area design guidelines, or the Wailuku redevelopment plan, may be permitted when the variation is consistent with the objectives of economic revitalization or conservation, including the preservation, maintenance, and

management of natural or man-made resources, and when one or more of the following conditions justify the variation:

a. Site topography makes full compliance impractical.

b. Local practices, customs, and neighborhood character that are long established in the area ensure the continued community and market acceptance of the variation, as evidenced in public testimony.

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, repurpose and revitalize historic buildings and assets, and forward the vision, principles, and objectives of the Wailuku redevelopment plan.

D. For variances within the Wailuku redevelopment area, mitigative measures must be incorporated into the project to protect the public health, safety, and welfare. The board must not grant variances for property designated for single-family use in the Wailuku-Kahului community plan area.

E. 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] must 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.]F. 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] must 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 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 on enactment. 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, remain in full force and effect and are unimpaired 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  
pslu:024abill02:ans  
PSLU-24 2021-10-14 Ord New Chapter 19.39 WRA