

COUNCIL OF THE COUNTY OF MAUI
PLANNING COMMITTEE

June 23, 2009

Committee
Report No. _____

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

Chair and Members:

Your Planning Committee, having met on March 2, 2009 and June 1, 2009, makes reference to County Communication No. 09-66, from the Planning Director, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE REPEALING CHAPTER 19.02, ADDING CHAPTER 19.02A, AND AMENDING CHAPTER 19.04, MAUI COUNTY CODE, RELATING TO INTERIM ZONING DISTRICTS AND GENERAL PROVISIONS AND DEFINITIONS".

The purpose of the proposed bill is to amend permitted property uses for Interim-zoned land by establishing a new chapter in the Maui County Code.

The proposed bill would establish development standards for the Interim Zoning District and present applicable use restrictions in a tabular format. In addition, the proposed bill would add bed and breakfast homes, pursuant to Chapter 19.64, Maui County Code, as permitted uses.

Your Committee noted that Interim zoning was created in 1958 for "the purpose of providing interim regulations pending the formal adoption of a comprehensive zoning ordinance and map". Your Committee further noted that Interim zoning allows for a variety of residential, agricultural, and public land uses. The Planning Director advised that much of the property currently zoned Interim may be comprehensively rezoned to more specific zoning categories, if the Council chooses, during upcoming community plan updates. The community plan updates will follow the County's current General Plan update, pursuant to Chapter 2.80B, Maui County Code.

At the Planning Director's request, your Committee voted to revise the proposed bill to add "public/quasi-public facilities" as permitted uses.

Your Committee voted 6-0 to recommend passage of the revised proposed bill on first reading and filing of the communication. Committee Chair Kaho`ohalahala, Vice-Chair Johnson, and members Baisa, Medeiros, Nishiki, and Victorino voted "aye". Committee member Molina was excused.

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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 revision.

Your Planning Committee RECOMMENDS the following:

1. That Bill No. _____ (2009), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE REPEALING CHAPTER 19.02, ADDING CHAPTER 19.02A, AND AMENDING CHAPTER 19.04, MAUI COUNTY CODE, RELATING TO INTERIM ZONING DISTRICTS AND GENERAL PROVISIONS AND DEFINITIONS", be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication No. 09-66 be FILED.

This report is submitted in accordance with Rule 7 of the Rules of the Council.



SOL. P. KAHO'OHALAHALA, Chair

ORDINANCE NO. _____

BILL NO. _____ (2009)

A BILL FOR AN ORDINANCE REPEALING CHAPTER 19.02, ADDING CHAPTER 19.02A, AND AMENDING CHAPTER 19.04, MAUI COUNTY CODE, RELATING TO INTERIM ZONING DISTRICTS AND GENERAL PROVISIONS AND DEFINITIONS

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

SECTION 1. Chapter 19.02, Maui County Code, is repealed.

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

"Chapter 19.02A

REGULATIONS GENERALLY

Sections:

19.02A.010	Definition of districts.
19.02A.020	Title and purpose.
19.02A.030	Permitted property uses.
19.02A.040	Variances.
19.02A.050	Rule making authority.

19.02A.010 Definition of districts. The districts of Wailuku, Makawao, Lahaina, Hana, Lanai, and Molokai shall mean the Wailuku district, Makawao district, Lahaina district, Hana district, Lanai district, and Molokai district as described in section 4-1, Hawaii Revised Statutes.

19.02A.020 Title and purpose. The ordinance codified in this title shall be known as the "Interim Zoning Ordinance" for the various districts of Maui as defined in this chapter for the purpose of providing

interim regulations pending the formal adoption of a comprehensive zoning ordinance and map which are deemed as necessary in order:

1. To encourage the most appropriate use of land;
2. To conserve and stabilize the value of property;
3. To prevent certain uses that will be detrimental to existing uses; and
4. To promote the health, safety, and general welfare of the respective districts.

19.02A.030 Permitted property uses. No land or building shall be used and no building shall be erected or structurally altered or maintained within the districts of Wailuku, Makawao, Lahaina, Hana, Lanai, and Molokai except for one or more of the following uses, subject to the referenced development standards:

1. One single-family dwelling per six thousand square feet of land:

DEVELOPMENT STANDARDS	
Minimum lot area	6,000 square feet
Minimum lot width	60 feet
Maximum height	30 feet
Minimum yard setback	(Up to and including 15 feet in height) Front 15 feet Side 6 feet Rear 6 feet (More than 15 feet in height) Front 15 feet Side 10 feet Rear 10 feet

There may be the usual necessary accessory buildings, as defined in section 19.04.040 of this code, in connection with any such dwelling.

2. Duplex dwellings:

DEVELOPMENT STANDARDS	
Minimum lot area	12,000 square feet
Minimum lot width	60 feet
Maximum building height	30 feet
Minimum yard setback	(Up to and including 15 feet in height): Front 15 feet Side 6 feet Rear 6 feet (More than 15 feet in height): Front 15 feet Side 10 feet Rear 10 feet

3. Hospitals and/or sanitariums, and/or convalescent homes, day care facilities, museums, churches, libraries, kindergartens, elementary schools, intermediate schools, high schools, universities, publicly owned buildings, public utility uses, and tower structures in support of a utility:

DEVELOPMENT STANDARDS		
Minimum lot area	20,000 square feet	
Minimum lot width	100 feet	
Maximum building height	30 feet	
Maximum tower height	50 feet	
Minimum yard setback	Front 20 feet Side 20 feet Rear 20 feet	Tower structures in support of a utility shall be set back from the property line at a distance at least equal to the overall height of the tower

4. The construction of new, or the expansion of existing, parks, playgrounds, community centers or public/quasi-public facilities, owned or operated by private or governmental agencies, and tower structures in support of a utility, provided that the utility services the new or expanded park, playground, community center or public/quasi-public facilities:

DEVELOPMENT STANDARDS		
Minimum lot area	No minimum	
Minimum lot width	No minimum	
Maximum building/tower height	50 feet on the islands of Maui and Lanai. On the island of Molokai, building height shall be limited to 35 feet, and tower height shall be limited to 50 feet.	
Minimum yard setback	Front 15 feet Side 10 feet Rear 15 feet	Tower structures in support of a utility shall be set back from the property line at a distance at least equal to the overall height of the tower

5. Agricultural uses:

DEVELOPMENT STANDARDS		
Use	Lot Size	Special Use Permit Required
Agriculture, excluding the raising and/or keeping of bees and pigs	Less than one acre	No
	One acre or more	No

DEVELOPMENT STANDARDS		
Use	Lot Size	Special Use Permit Required
Agriculture, including the raising and/or keeping of bees and pigs	Less than one acre	Yes
	One acre or more	Yes
Commercial agriculture, excluding the raising and/or keeping of bees and pigs	Less than one acre	Yes
	One acre or more	No
Commercial agriculture, including the raising and/or keeping of bees and pigs	Less than one acre	Yes
	One acre or more	Yes

For purposes of this section, special use permits shall be processed pursuant to chapter 19.510 of this code, and assessed a permit fee as established in the annual budget of the County.

6. Bed and breakfast homes subject to chapter 19.64 of this code.

19.02A.040 Variances. A. In any particular case where strict compliance with the provisions of this article would cause practical difficulty or unnecessary hardship, the owner or lessee (holding under recorded lease the unexpired term of which is more than five years from the date of filing the owner or lessee's application) of the property affected, may file a written application with the board of variances and appeals for a variance from the restrictions imposed setting forth therein the description of the property, the regulations affecting it, and the conditions justifying such a variance. Each application shall be accompanied by a fee in the

amount set forth in the annual budget to cover the cost of public hearing including the cost of publication. Published notice and public hearing shall be in conformity with the practice of the board of variances and appeals. "Published notice", wherever used, means notice by publication in a newspaper of general circulation in the County for two publications, the first of such publication to be at least fifteen days prior to the date of the hearing so noticed.

B. Upon finding by the board of variances and appeals at the completion of the hearing that the application presents a situation wherein strict enforcement of any provision of this article would involve practical difficulty or unnecessary hardship, and further, that desirable relief may be granted without being detrimental to the public interest, convenience, and welfare, a variance permit may be issued to such applicant on such terms and conditions and for such period of time as the facts may warrant.

C. Where the relief is for a variance for the change of one nonconforming use to a different nonconforming use where the structure and/or lot area are not structurally altered or enlarged, the provisions of this section as to notice and hearing may be waived at the discretion of the board of variances and appeals.

D. Any action of the board, whether granting or denying the relief applied for, shall be referred to the council for its approval. The council may override any action of the board and either grant or deny relief, as the case may be, by an affirmative vote of at least five of its members.

19.02A.050 Rule making authority. The planning director may adopt rules to clarify and implement this chapter."

SECTION 3. Section 19.04.040, Maui County Code, is amended by adding a new definition to be appropriately inserted and to read as follows:

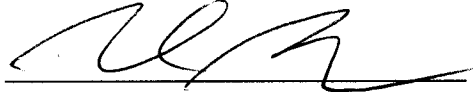
"Commercial agriculture" means the selling of agricultural products or by-products for monetary consideration with annual gross sales of \$2,500 or more."

SECTION 4. Existing Special Use Permits Issued Pursuant to Hawaii Revised Statutes. Any existing special use permit issued pursuant to Section 205-6, Hawaii Revised Statutes, in effect as of the effective date of this ordinance shall not be subject to the provisions of this ordinance and shall remain valid and in effect until its expiration date. Any special use permit application that would amend, alter, modify, or revise any of the facts, terms, or conditions of an existing special use permit issued pursuant to Section 205-6, Hawaii Revised Statutes, whether or not a request for a time extension is included in such application, shall be subject to the provisions of this ordinance.

SECTION 5. New material is underscored. In printing this bill, the County Clerk need not include the underscoring.

SECTION 6. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM
AND LEGALITY:



MICHAEL J. HOPPER
Deputy Corporation Counsel
County of Maui

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