

ORDINANCE NO. _____

BILL NO. _____ (2010)

A BILL FOR AN ORDINANCE REPEALING CHAPTER 19.09, MAUI COUNTY CODE, AND AMENDING TITLE 19, MAUI COUNTY CODE, RELATING TO RESIDENTIAL DISTRICTS

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

SECTION 1. Chapter 19.09, Maui County Code, is repealed.

SECTION 2. Section 19.04.040, Maui County Code, is amended by adding new definitions to be appropriately inserted and to read as follows:

"Garage sale, rummage sale, or yard sale" means the sale or offering for sale to the general public of items of personal household property on any portion of a lot, whether within or outside any building.

"Home-based business" means an enterprise or activity, conducted by the occupant of the dwelling unit wherein the enterprise or activity takes place, involving the growing, processing, or manufacturing of a product or the provision of services for consideration and profit; provided:

1. That only one person other than a member of the family residing on the premises of the dwelling unit shall be employed by the home-based business;

2. That no more than twenty-five percent of the floor area of the dwelling unit shall be used by the home-based business;

3. That no group instruction classes or group sales meeting shall be permitted on the premises of the dwelling unit;

4. That retail sales shall be limited to products produced by the home-based business;

5. That no sign or display shall advertise the home-based business and there shall be no change in the exterior appearance of the dwelling unit to accommodate the home-based business;

6. That deliveries to or from the dwelling unit used for a home-based business shall be limited to two-axle vehicles between the hours of 9:00 a.m. and 5:00 p.m.;

7. That any goods, samples, materials, or objects used in the home-based business shall be stored within the dwelling unit or screened from public view;

8. That customers of the home-based business shall be limited to two at any time and a total of eight per day;

9. That customers shall be present at the home-based business only between the hours of 9:00 a.m. and 5:00 p.m.;

10. That the home-based business shall not impact the residential character of the property or neighborhood; and

11. That the following activities shall be prohibited:

a. Harboring, caring, training, or raising dogs, cats, birds, horses, or other animals;

b. Repair of automobiles and other vehicles with internal combustion engines;

c. Contractor headquarters or dispatch centers to other locations; or

d. The repair, manufacture, processing, or alteration of goods, materials or objects that results in a detrimental or nuisance effect upon neighbors."

SECTION 3. Section 19.04.040, Maui County Code is amended by amending the definition of "Yard, access" to read as follows:

"Yard, access. "Access yard" means [the yard on which a driveway is located.] a yard, the longest side of which borders a public or private street, excluding driveways for flag lots."

SECTION 4. Chapter 19.08, Maui County Code, is amended to read as follows:

"CHAPTER 19.08

RESIDENTIAL DISTRICTS

Sections:

- 19.08.010 [Generally.] Purpose and intent.
- 19.08.020 Permitted uses.
- 19.08.025 Accessory uses and structures.
- 19.08.030 Special uses.
- 19.08.040 [Area regulations.] Development standards.
- 19.08.050 [Height regulations.] Rule making authority.
- [19.08.060 Yards.]

19.08.010 [Generally.] Purpose and intent.
 Areas for single-family dwellings are established to provide for harmonious residential neighborhood without the detracting of commercial and industrial activities.

19.08.020 Permitted uses. Within residential districts, the following uses and structures shall be permitted:

- A. Single-family dwellings;
- B. Greenhouses, flower and truck gardens, and nurseries; provided, that there shall be no retailing or transacting of business on the premises;
- C. Parks and playgrounds; noncommercial; [certain] commercial amusement and refreshment sale activities may be permitted when under supervision of the government agency in charge of the park or playground;
- D. Schools, elementary, intermediate, high, and colleges, publicly or privately owned, which may include on-campus dormitories; and
- E. Buildings or premises used by the federal, State, or county governments for public purposes[;].
- [F. Accessory buildings located on the same lot, the use of which is customary, incidental, usual, and

necessary to that of the main building or to the use of the land;

G. An accessory dwelling may be permitted where the area of the lot on which the main house is located is seven thousand five hundred square feet or more. Chapter 19.35 of this article, pertaining to accessory dwellings, shall be applicable to any accessory dwelling;

H. Day care nurseries, kindergartens, nursery schools, child care homes, day care homes, day care centers, nurseries, preschool kindergartens, babysitting services, and other like facilities located in private homes used for child care services. These facilities shall serve six or fewer children at any one time on lot sizes of less than seven thousand five hundred square feet, serving eight or fewer children at any one time on lot sizes of seven thousand five hundred or more square feet but less than ten thousand square feet, or serving twelve or fewer children at any one time on lot sizes of ten thousand or more square feet;

I. Subject to the restrictions and standards of chapter 19.64 of this title, Type 1 bed and breakfast homes shall be permitted on any lot; Type 2 bed and breakfast homes shall be permitted on lots of seven thousand five hundred square feet or greater, and Type 3 bed and breakfast homes shall be permitted on lots of ten thousand square feet or greater; and

J. Home occupations.]

19.08.025 Accessory uses and structures. The following uses and structures, located on the same lot, are deemed accessory, customary, incidental, usual, and necessary to the above permitted uses in the residential district:

A. Accessory dwellings subject to chapter 19.35 of this code;

B. Pools and hot tubs;

C. Fences, walls, patios, decks, and other landscape features;

D. Garages, car ports, porte-cochere, mail boxes, and trash enclosures;

E. Other subordinate uses and structures that are determined by the planning director to be clearly

accessory, customary, incidental, usual, and necessary to the permitted uses listed herein;

F. Home occupations;

G. Garage sales limited to four times in a calendar year, not to exceed a total of eight days;

H. Day care nurseries, kindergartens, nursery schools, child care homes, adult day care homes, day care centers, nurseries, preschool kindergartens, babysitting services, and other like facilities located in private homes used for child care, adult or multi-generational day care services, subject to the following limitations:

<u>Lot Size</u>	<u>Maximum Clients</u>
<u>7,499 sq. ft or less</u>	<u>6</u>
<u>7,500 sq. ft to 9,999 sq. ft</u>	<u>8</u>
<u>10,000 sq. ft or greater</u>	<u>12</u>

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

J. Energy systems, small-scale, provided that the energy systems do not result in a detrimental or nuisance effect upon neighbors or surrounding properties.

19.08.030 Special uses. The following are declared special uses, and approval of the appropriate planning commission shall be obtained:

A. Churches together with accessory buildings;

B. Day care nurseries, kindergartens, nursery schools, child care homes, day care homes, day care centers, nurseries, preschool kindergartens, babysitting services, and other like facilities located in private homes used for child care services serving more than the number of children defined in section [19.08.020.H;] 19.08.025.I;

C. Hospitals; provided, that written consent of seventy-five percent of the property owners within five hundred feet from the property to be used for such purpose has been obtained;

D. Nursing or convalescent homes and domiciliary facilities operated and maintained to provide nursing or supporting care;

E. Housing for the aged, operated by governmental or nonprofit organizations; provided,

that the normal population density is not increased more than ten percent;

F. Housing for low and moderate income families, operated by governmental or nonprofit organizations; provided, that the normal dwelling unit density is not increased more than ten percent;

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

H. [Certain domestic] Domestic type businesses in the home[,] that do not meet the definition of home occupation, provided there will be no detrimental or nuisance effect upon the neighbors. [Such businesses shall be normal functions of the home, such as baking, sewing and piano playing];

I. [Residential planned developments only.] Specialized education;

J. Home-based business; and

K. Group instruction of traditional Hawaiian practices such as lei making, ukulele classes, hula classes, and lomi lomi, if such instruction cannot qualify as a home-based business or home occupation. Group instruction shall be limited to no more than six students who do not reside on the property, and shall be conducted between 9:00 a.m. and 6:00 p.m.

[19.08.040 Area regulations. A. The minimum lot area shall be six thousand square feet in R-1 residential districts, seven thousand five hundred square feet in R-2 residential districts, and ten thousand square feet in R-3 residential districts. The minimum lot width shall be sixty feet for R-1, sixty-five feet for R-2, and seventy feet for R-3. There may be more than one single-family dwelling on any lot when the minimum lot area of six thousand square feet in R-1, seven thousand five hundred square feet in R-2, and ten thousand square feet in R-3 is provided for each dwelling unit.]

19.08.040 Development standards. A. Within residential districts, the following development standards shall apply:

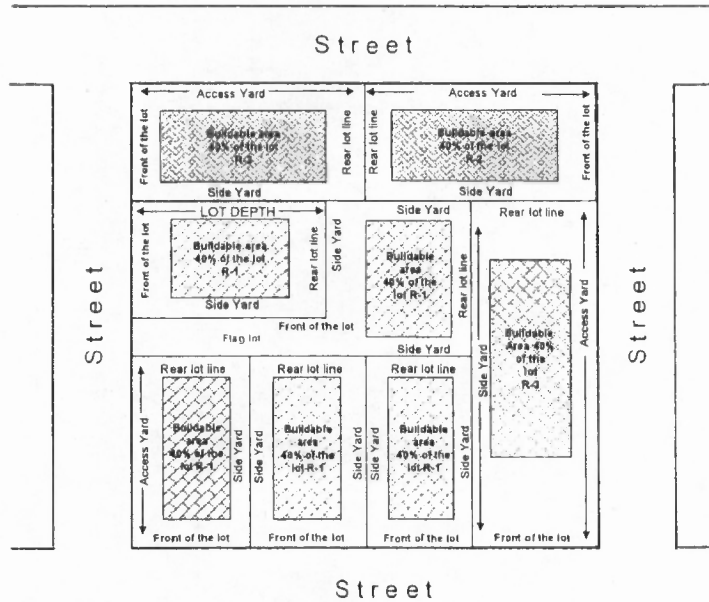
	R-0	R-1	R-2	R-3	Notes
Minimum Lot Area (Square feet)	<u>3,000</u>	<u>6,000</u>	<u>7,500</u>	<u>10,000</u>	
Minimum Lot Width (in feet)	<u>35</u>	<u>60</u>	<u>65</u>	<u>75</u>	Except that the stem of a flag lot shall be exempted
Maximum Building Height (in feet)	<u>30</u>	<u>30</u>	<u>30</u>	<u>30</u>	Except that vent pipes, fans, chimneys, antennae, and equipment used for small scale energy systems on roofs shall not exceed forty feet.
Maximum Yard Setback (in feet)					
Front	<u>15</u>	<u>15</u>	<u>15</u>	<u>15</u>	
Side and Rear	<u>0 for one yard per lot, otherwise 6</u>	<u>6</u>	<u>6</u>	<u>6</u>	
Side and Rear for the portion of the building above one-story or 15 feet	<u>0 or 10</u>	<u>10</u>	<u>10</u>	<u>10</u>	
Access yard setback line	<u>15</u>	<u>15</u>	<u>15</u>	<u>15</u>	
Lot Coverage	<u>40%</u>	<u>40%</u>	<u>40%</u>	<u>40%</u>	
Free standing antenna or wind turbine structures height and setback	Maximum height of 50 feet and shall be set back at least 1 foot from all property lines for every foot in height.				

<u>Accessory structures within Setback Area</u>	<u>Mail boxes, trash enclosures, boundary walls or walls. Accessory structures within the setback area shall not exceed 8 feet in height, except that retaining walls exceeding 8 feet in height may be approved by the appropriate planning commission after holding a public hearing pursuant to section 19.510.020, Maui County Code, to consider impacts to views, air and light, aesthetics, and health, safety and welfare. The commission may, when approving a retaining wall exceeding 8 feet in height, impose conditions to mitigate impacts.</u>
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B. Subject to approval of the commission, a mixture of lot sizes within the R-1, R-2, and R-3 residential districts may be permitted [within any residential district]; provided, however, that the minimum lot size shall not be less than six thousand square feet, and that the overall project density shall not exceed that permitted within the district. Where the subdivision or project is designed to meet the needs of low or moderate income families, and adequate provisions are provided to insure owner-occupancy and the control or limitation of speculation, the commission may permit an increase in density not to exceed ten percent.

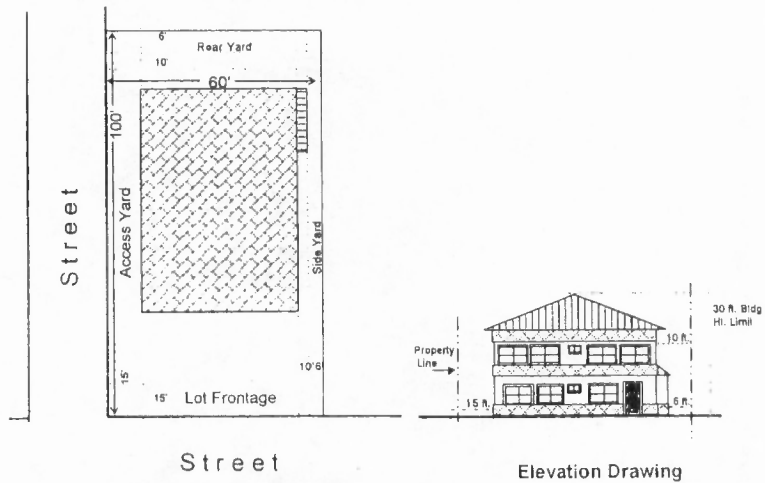
C. Dwelling units in an R-0 district may be located on alternating lot lines if a zero lot line of a lot is not adjoined by a zero lot line of an adjacent lot; provided, that if a zero lot line of a lot is not adjoined by a zero lot line on an adjacent lot, a maintenance easement not less than five feet in width as measured from the lot line of the adjacent lot shall be reserved for the benefit of the lot with the adjoining zero lot line.

Examples of Setbacks and Lot Coverages



R-1 to R-3 Yard and Lot Coverage Diagram

Figure 1
R-1, R-2, and R-3 Yard and Lot Coverage Diagram



Lot area: 6,000 sq.ft.
Structure: 2,400 sq.ft.
Lot coverage: 40%
Residential District (R-1)

R-1 to R-3 Detail layout is the same just change
Lot area & floor area to based on 40%

Figure 2
Setback for building over 15 feet in R-1, R-2, and R-3