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COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.MauiCounty.us

June 23, 2021

RECEIVED
Director of Council Services
Traci N. T. Fujita, Esq.

2021 JUN 23 AM 11:10

OFFICE OF THE
COUNTY CLERK

The Honorable Alice L. Lee
Council Chair
County of Maui
Wailuku, Hawaii 96793

Dear Chair Lee:

SUBJECT: **AMENDING BILL 60 (2021), RELATING TO A
MORATORIUM ON BUILDING PERMITS FOR
VISITOR ACCOMODATIONS** (PAF 21-162)

May I request the attached proposed amendment to Bill 60 (2021), relating to a moratorium on building permits for visitor accommodations, be placed on the next Council meeting agenda.

Sincerely,

A handwritten signature in black ink that reads "Tamara M. Paltin".

TAMARA PALTIN
Councilmember

paf:wal:21-162d

Attachment

COUNTY COMMUNICATION NO. 21-298

July 2, 2021 Council meeting

MAUI COUNTY COUNCIL
Amendment Summary Form

Legislation: Bill relating to a moratorium on building permits for visitor accommodations in West Maui and South Maui.

Proposer: Councilmember Tamara Paltin.

Description: Substitute the attached proposed bill for Bill 60 (2021) to include an additional exception to allow new visitor accommodations by a developer who provides an equal number residential workforce housing units affordable to families at 30% to 80% of the area median income, matching an exception in the bill transmitted by Resolution 21-98.

Motion: Move to substitute Bill 60 (2021) with the attached proposed bill.

Effect: See attached proposed bill. The attached proposed bill adds the following subsection to proposed Maui County Code Section 4000.5:

“D. This chapter does not apply to any development that includes new housing units built, in an equal number to the new visitor accommodations, that are:

1. Affordable to very low income or low income residents, as defined in the residential workforce housing policy, for at least thirty years;
2. Made available for occupancy prior to or concurrent with the new visitor accommodations; and
3. Located in the same community plan area.”

Reasons: The proposed exception will reinforce the Council’s desire to encourage affordable housing for our residents.

The bill proposing a moratorium on new transient accommodations on Maui, referred to the Maui Planning Commission by Resolution 21-98, includes the same exception. We should maintain consistency in both proposed bills.

July 2, 2021 Council meeting

Historically, hotels built housing for their workers as they constructed their properties. The hotel industry will have no one to employ if residents are continually pushed off island due to lack of housing options. Creating a one-to-one match of visitor and affordable housing units benefits all parties. The proposed exception also allows those in the construction industry the opportunity to continue working during the moratorium.

Attachment: Proposed bill entitled "AMENDING THE BUILDING CODE TO ADD CHAPTER 40 RELATING TO A MORATORIUM ON BUILDING PERMITS FOR VISITOR ACCOMMODATIONS," incorporating the exception referenced in "Effect" above.

paf:wal:21-162e

ORDINANCE NO. _____

BILL NO. _____ (2021)

AMENDING THE BUILDING CODE TO ADD CHAPTER 40 RELATING TO A
MORATORIUM ON BUILDING PERMITS FOR VISITOR ACCOMMODATIONS

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

SECTION 1. **Findings and purpose.** The Council finds that visitor accommodation development and the related increase in tourism cause negative impacts on the environment. The Council also finds that—to preserve the County’s environment, mitigate climate change, and work toward resilience—building permits for new hotel, resort, timeshare, short-term rental homes, bed and breakfast home, and transient vacation rental units must be limited for an interim period. The purpose of the moratorium established by this Ordinance is to lower carbon-emissions levels, mitigate climate-change impacts, and limit the rate of global warming by pausing visitor accommodation development and the related increase in tourism. The pause will prevent additional air, noise, light, land, and water pollution until the County updates the West Maui and South Maui community plans.

In addition, the Council finds that the Maui Island Plan includes a policy calling for a daily visitor population not to exceed one-third of the resident population. With a daily visitor census of nearly 70,000 and resident population of well under 150,000 in 2019, Maui dramatically exceeded the desired visitor-resident ratio. The Council further finds that a large percentage of the island’s

transient accommodations are in West Maui and South Maui, and the community plans for both areas are at various stages of comprehensive updates for the first time in more than 20 years. Under Chapter 2.80B, Maui County Code, each community plan sets out “the desired sequence, patterns, and characteristics of future development.” In addition, the Council finds construction moratoria are well-established tools to temporarily and appropriately preserve the status quo, as seen, for example, in Maui County Ordinances 1997 (1991) and 5125 (2020); City and County of Honolulu Ordinance 18-6 (2018), and City of Asheville, North Carolina, Ordinance 4766 (2019).

This Ordinance is also intended to temporarily maintain the status quo by establishing a moratorium on building permits for visitor accommodation development in West Maui and South Maui until both community plans are updated. The Council believes interim restrictions on new visitor accommodations would allow the County time to implement critical plan action items relating to visitor-industry impact on the County’s environment and provide the County with clear policy direction for day-to-day decision making to mitigate climate change and work toward resilience.

SECTION 2. Title 16, Maui County Code, is amended by adding a new chapter, to be designated and to read as follows:

“16.26B.4000 Chapter 40 added. The International Building Code is amended by adding a new chapter to read as follows:

CHAPTER 40
MORATORIUM ON BUILDING PERMITS FOR VISITOR
ACCOMMODATIONS

Sections:

- 4000.1 Purpose.
- 4000.2 Applicability.
- 4000.3 Definitions.
- 4000.4 Prohibition on building permits for visitor accommodation development in West Maui and South Maui.
- 4000.5 Exceptions.
- 4000.6 Automatic repeal.

4000.1 Purpose. The council finds that visitor accommodation development and the related increase in tourism cause negative impacts on the environment. The council also finds that—to preserve the County’s environment, mitigate climate change, and work toward resilience—building permits for new hotel, resort, timeshare, bed and breakfast home, and transient vacation rental units must be limited for an interim period. The purpose of this chapter is to lower carbon-emissions levels, mitigate climate-change impacts, and limit the rate of global warming by pausing visitor accommodation development and the related increase in tourism. This pause will prevent additional air, noise, light, land, and water pollution until the County updates the West Maui and South Maui community plans. This chapter is also intended to temporarily maintain the status quo in West Maui and South Maui until their respective community plans are updated.

4000.2 Applicability. This chapter applies to applications for building permits for visitor accommodation development in West Maui and South Maui, subject to the exceptions in section 4000.5.

4000.3 Definitions. Whenever used in this chapter, unless the context otherwise requires:

“Development” means the construction of any new units expressly designated to be used for visitor accommodations.

“Visitor accommodation” means any kind of transient accommodations, including hotels, resorts, timeshares, short-term rental homes, bed and breakfast homes, and transient vacation rentals.

“South Maui” means the Kihei-Makena community plan area, with geographic boundaries established by ordinance 2641 (1998).

“West Maui” means the West Maui community plan area, with geographic boundaries established by ordinance 2476 (1996).

4000.4 Prohibition on building permits for visitor accommodation development in West Maui and South Maui. No building permit applications for visitor accommodation development in West Maui or South Maui may be accepted.

4000.5 Exceptions. A. This chapter does not apply to any development that has received its last discretionary approval prior to the effective date of the ordinance establishing the chapter.

B. This chapter does not apply to West Maui upon the effective date of the ordinance approving the West Maui community plan update.

C. This chapter does not apply to South Maui upon the effective date of the ordinance approving the South Maui community plan update.

D. This chapter does not apply to any development that includes new housing units built, in an equal number to the new visitor accommodations, that are:

1. Affordable to very low income or low income residents, as defined in the residential workforce housing policy, for at least thirty years;

2. Made available for occupancy prior to or concurrent with the new visitor accommodations; and

3. Located in the same community plan area.

E. The council may authorize exceptions from this chapter by resolution upon request by the director of public works.

4000.6 Automatic repeal. The chapter will be automatically repealed two years from the effective date of the ordinance establishing this chapter.”

SECTION 3. This Ordinance takes effect upon its approval.