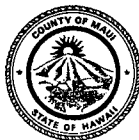


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Director of Council Services
Traci N. T. Fujita, Esq.

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

September 11, 2019

Mr. Eric Nakagawa, Director
Department of Environmental Management
County of Maui
Wailuku, Hawaii 96793

Dear Mr. Nakagawa:

**SUBJECT: CIVIL FINES FOR UNPERMITTED TRANSIENT
ACCOMMODATIONS AND SERVICE METHODS
FOR GENERAL ADMINISTRATIVE
ENFORCEMENT (PSLU-38)**

At its meeting of September 4, 2019, the Planning and Sustainable Land Use Committee recommended the Council pass on first reading a proposed bill amending Section 19.530.030, Maui County Code, relating to civil fines for unpermitted transient accommodations and service methods for general administrative enforcement. The proposed bill is attached for your information.

May I please request you review the proposed bill and provide any comments you may have on it.

May I further request your response by **Wednesday, September 18, 2019**. To ensure efficient processing, please include the relevant Committee item number in the subject line of your response.

Mr. Eric Nakagawa
September 11, 2019
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Should you have any questions, please contact me or the Committee staff (James Krueger at ext. 7761, or Clarita Balala at ext. 7668).

Sincerely,


TAMARA PALTIN, Chair
Planning and Sustainable Land
Use Committee

pslu:ltr:038aem01:jgk

Attachment

cc: Mayor Michael P. Victorino

ORDINANCE NO. _____

BILL NO. _____ (2019)

A BILL FOR AN ORDINANCE AMENDING SECTION 19.530.030,
MAUI COUNTY CODE, RELATING TO CIVIL FINES FOR UNPERMITTED
TRANSIENT ACCOMMODATIONS AND SERVICE METHODS FOR GENERAL
ADMINISTRATIVE ENFORCEMENT

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

SECTION 1. The purpose of this ordinance is to implement the 2018 Charter amendment relating to civil fines for unpermitted transient accommodations and to allow additional service methods for general administrative enforcement when service by mail or personal delivery fails.

SECTION 2. Section 19.530.030, Maui County Code, is amended to read as follows:

“19.530.030 Administrative enforcement. In lieu of, or in addition to, enforcement by criminal prosecution, if the director of public works, the director of environmental management, the director of water supply, or the planning director determines that any [persons are] person is violating or has violated any provision of titles 8, 12, 14, 16, 18, 19, and 20 of this code, any rules adopted thereunder, or any permit issued thereto, the director [may] with jurisdiction over the relevant ordinance, rule, or permit, shall have the person served[,], by mail with proof of mailing or personal delivery, with a notice of violation and order pursuant to this chapter and such administrative rules as the director may adopt. If service by mail or personal delivery fails, the director shall provide service by posting the notice of violation and order in a conspicuous place on the property where the violation is occurring or occurred, or at the last known address of the violator, or by publishing a notice at least once per week for two consecutive weeks in a newspaper of general circulation in Maui County.

A. Contents of the notice of violation. The notice shall include at least the following information:

1. Date of the notice [;].
2. The name and address of the person noticed [;].
3. The section number of the provision or rule, or the number of the permit [which] that has been violated [;].
4. The nature of the violation [; and].
5. The location and [time] date of the violation.

B. Contents of the order.

1. The order [may] shall require the person to do [any or all] one or more of the following:

- a. Cease and desist from the violation [;].
- b. Correct the violation at the person's own expense before a date specified in the order [;].
- c. Pay a civil fine not to exceed \$1,000.00 in the manner, at the place, and before the date specified in the order [;], except that the initial civil fine shall not exceed \$20,000 for the operation of a bed and breakfast home, short-term rental home, transient vacation rental, or other transient accommodation, without a permit that is required for the operation, unless a higher fine is authorized by State law.
- d. Pay a civil fine not to exceed \$1,000.00 per day for each day in which the violation persists, in the manner and at the time and place specified in the order [; and], except that the daily civil fine shall not exceed \$10,000 for the operation of a bed and breakfast home, short-term rental home, transient vacation rental, or other transient accommodation, without a permit that is required for the operation, unless a higher fine is authorized by State law.
- e. Pay a civil fine not to exceed one percent of the project cost as provided in [Section] section 20.08.260.E.2 of this code.

2. The order shall advise the person that the order shall become final unless an appeal is filed with the board of variances and appeals within thirty days after the date of its mailing or delivery. [The order shall also advise that the director's action may be appealed to the board of variances and appeals.]

C. Effects of order; right to appeal. The provisions of the order issued by the director of public works, the director of environmental management, the director of water supply, or the planning director under this section shall become final [thirty days after the date of the mailing or delivery of the order. The person may appeal the order to the board of variances and appeals as provided for in this article.] unless an appeal is filed with the board of variances and appeals within the thirty-day period. However, an

appeal to the board of variances and appeals shall not stay any provision of the order.

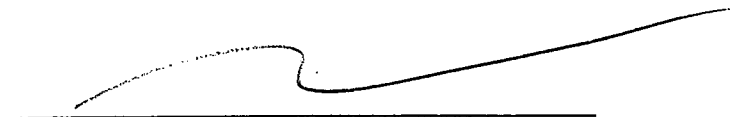
D. Collection of unpaid civil fines. In addition to any other procedures for the collection of civil fines available to the [County] county by law or rules of the court, the [County] county may add unpaid civil fines as herein defined to any [County] county taxes, fees or charges except for residential water or sewer charges.

E. Judicial enforcement of order. The director of public works, the director of environmental management, the director of water supply, or the planning director may institute a civil action in any court of competent jurisdiction for the enforcement of any order issued pursuant to this section. Where the civil action has been instituted to enforce the civil fine imposed by said order, the director or agency need only show that the notice of violation and order were served, that a civil fine was imposed, the amount of the civil fine imposed, and that the fine imposed has not been appealed in a timely manner nor paid."

SECTION 3. Material to be repealed is bracketed. New material is underscored. In printing this bill, the County Clerk need not include the brackets, the bracketed material, or the underscoring.

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

APPROVED AS TO FORM AND
LEGALITY:



MICHAEL J. HOPPER
Deputy Corporation Counsel
County of Maui

2019-0101
PSLU-38 2019-09-09 Ord Amd 19.530.030