

**MICHAEL P. VICTORINO**  
Mayor

**SANDY K. BAZ**  
Managing Director



**OFFICE OF THE MAYOR**  
COUNTY OF MAUI  
200 S. HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
[www.mauicounty.gov](http://www.mauicounty.gov)

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OFFICE OF THE  
COUNTY CLERK

December 22, 2021

Ms. Kathy Kaohu, County Clerk  
County of Maui  
200 South High Street  
Wailuku, Hawaii 96793

Dear Ms. Kaohu:

**SUBJECT: BILL NO. 148 (2021), DRAFT 1**

At its meeting of December 3, 2021, the Council of the County of Maui passed on final reading, Bill No. 148 (2021), Draft 1 ("Bill"), establishing Chapter 19.98, Maui County Code, declaring a moratorium on new transient accommodations on Maui. The Bill was received by the Office of the Mayor on December 8, 2021.

During the COVID-19 pandemic, tourism was put on a pause and many Hawaii residents appreciated less tourists, less traffic, and less overcrowding of our natural resources. Many breathed a sigh of relief that as our numbers declined and restriction were lifted. But the pause in tourism resulted in a downturn in our economy. Many of our residents were impacted by financial hardship, loss of employment, and other challenges as we experienced lower visitor arrivals, not only to our hotels and visitor accommodations, but to our small businesses, restaurants, and even our farmers. Now that our visitors have returned, we must focus our energy on finding the right balance for our residents and for our economy.

Throughout the pandemic, we have learned to make adjustments in our daily lives, at home and at work. We have gained efficiencies and have relied on technology to proceed with the "new normal." Our Council was innovative and successful and led the State in implementing a virtual meeting platform to continue to do our people's work. Our Council has continued to serve the

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community and carry out their duties with transparency, openness, and inclusiveness. The public has embraced the new concept of virtual meetings and providing testimony through various methods.

The establishment of Chapter 19.98, Maui County Code enacted by Bill No. 148 (2021), Draft 1, unfortunately may result in unintended consequences to our community, our economy, and the visitor industry.

Pursuant to Section 4-3(1) of the Revised Charter of the County of Maui (1983), as amended, "if the mayor disapproves it, the mayor shall specify the mayor's objections thereto in writing and return the bill to the county clerk with the mayor's objections..."

Therefore, I object to the Bill, for the following reasons:

1. Unintended consequences to our community. As we have witnessed, the lack of supply did not stop visitors from coming to Maui. During this period, we saw an increase of mobile accommodations parking on the side of our roadways or in parking lots and we saw the birth of alternative vehicle rentals, where people used their personal vehicles to address the shortfall of rental vehicles.
2. Conversion of apartments to short-term rental units. I am in full support of limiting the number of short-term rental units in our residential areas. However, the moratorium may encourage those already allowed to convert their residential units to short-term rental units resulting in more visitors in our residential neighborhoods.
3. Lack of transparency and public input. I was disappointed that public input was not sought or could not be provided on the substantial changes made at second and final reading of the Bill. Since the amendments were not posted on the Council meeting agenda, the public was not aware of the amendments.

For the reasons outlined above, I oppose the Bill and strongly urge the Council to reconsider its decision. Council Chair Lee and the Members of the Council recognize the challenges of balancing the quality of life for our residents,

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our dependency on the visitor industry, and our economic recovery. The Budget, Finance, and Economic Development Committee has convened a temporary investigative group (TIG) to investigate and recommend actions relating to the carrying capacity for Maui island, the heavily visited and traversed locations, the infrastructure load, and the environmental impact. I await the Committee's report in the first quarter of 2022. Together, we can consider actions to seek a balance of a strong economy while preserving a healthy quality of life for our residents.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Michael P. Victorino". The signature is fluid and cursive, with a long horizontal stroke at the end.

MICHAEL P. VICTORINO  
Mayor, County of Maui

cc: Sananda K. Baz, Managing Director

WE HEREBY CERTIFY that the foregoing BILL NO. 148 (2021), Draft 1

1. Passed FINAL READING at the meeting of the Council of the County of Maui, State of Hawaii, held on the 3rd day of December, 2021, by the following vote:

Alice L. LEE Chair	Keani N. W. RAWLINS- FERNANDEZ Vice-Chair	Gabriel JOHNSON	Natalie A. KAMA	Kelly T. KING	Michael J. MOLINA	Tamara A. M. PALTIN	Shane M. SINENCI	Yuki Lei K. SUGIMURA
No	Aye	Aye	No	Aye	Aye	Aye	Aye	No

2. Was transmitted to the Mayor of the County of Maui, State of Hawaii, on the 8th day of December, 2021.

DATED AT WAILUKU, MAUI, HAWAII, this 8th day of December, 2021.

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OFFICE OF THE MAYOR

  
ALICE L. LEE, CHAIR  
Council of the County of Maui

  
KATHY L. KAOHU, COUNTY CLERK  
County of Maui

THE FOREGOING BILL IS HEREBY APPROVED THIS                      DAY OF                      , 2021.

\_\_\_\_\_  
MICHAEL P. VICTORINO, MAYOR  
County of Maui

I HEREBY CERTIFY that upon approval of the foregoing BILL by the Mayor of the County of Maui, the said BILL was designated as ORDINANCE NO.                      of the County of Maui, State of Hawaii.

\_\_\_\_\_  
KATHY L. KAOHU, COUNTY CLERK  
County of Maui

Passed First Reading on November 19, 2021  
Effective date of Ordinance

I HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No.                      , the original of which is on file in the Office of the County Clerk, County of Maui, State of Hawaii.

Dated at Wailuku, Hawaii, on

\_\_\_\_\_  
County Clerk, County of Maui

ORDINANCE NO. \_\_\_\_\_

BILL NO. 148 (2021)  
Draft 1

A BILL FOR AN ORDINANCE ESTABLISHING CHAPTER 19.98,  
MAUI COUNTY CODE, DECLARING A MORATORIUM ON  
NEW TRANSIENT ACCOMMODATIONS ON MAUI

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

SECTION 1. Title 19, Maui County Code, is amended by adding a new chapter to be appropriately designated and to read as follows:

**"CHAPTER 19.98**

**MORATORIUM ON TRANSIENT ACCOMMODATION PERMITS  
ON MAUI**

**Sections:**

<b>19.98.010</b>	<b>Purpose.</b>
<b>19.98.020</b>	<b>Definitions.</b>
<b>19.98.030</b>	<b>New transient accommodation permits prohibited.</b>
<b>19.98.040</b>	<b>Exceptions.</b>
<b>19.98.050</b>	<b>Term.</b>

**19.98.010 Purpose.** The council finds that under-regulated growth of transient accommodations and continued development of transient accommodations directly relate to an increase in tourism, which causes negative impacts on the environment, overwhelms existing County infrastructure, and negatively impacts residents' quality of life. The council finds that the Maui island plan, adopted by ordinance 4004 (2012) as section 2.80B.030(A), exhibit "B," and required by section 2.80B.030(G), includes a policy calling for a daily visitor population not to exceed one-third of the resident population. With an average daily visitor census of nearly 70,000 and resident population of well under 150,000 in 2019, Maui dramatically exceeded the codified visitor-resident ratio. The council also finds that to preserve the County's environment and to work toward resilience, new development or expansion of hotels, resorts,

timeshares, short-term rental home permits, and transient vacation rental unit permits must be limited on Maui island for an interim period. The purpose of the moratorium established by this ordinance is to comply with the Maui island plan, by pausing increasing transient accommodations and tourism. The pause will maintain the number of current transient accommodation units until the council enacts legislation implementing appropriate recommendations presented by a Budget, Finance, and Economic Development Committee-established tourism management temporary investigative group, which establishes a transient accommodation limit categorized by accommodation type and by community plan area, or two years from the effective date of the ordinance establishing this chapter, whichever is sooner. The temporary investigative group may investigate and recommend actions including the carrying capacity for the island in the Maui island plan and for heavily visited and traversed locations, addressing infrastructure loads of roadways, wastewater facilities, water use, other County facilities, and environmental impacts.

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

“New transient accommodation” means any structure intended to be used for transient accommodation, including hotels, timeshares, short-term rental homes, and transient vacation rental units, that is not in operation as a transient accommodation as of the effective date of this ordinance, but excluding bed and breakfast homes. Verification of use may be determined by real property tax class, payment of general excise and transient accommodations tax, and advertising.

**19.98.030 New transient accommodation permits prohibited.** New transient accommodations are prohibited in all zoning districts on the island of Maui. No permit applications or permits required by this title may be accepted or granted by any board, commission, or agency for new transient accommodations.

**19.98.040 Exceptions.** This chapter does not apply to:

A. Any new transient accommodation that has received its last discretionary approval prior to the effective date of the ordinance establishing this chapter.

B. Any new transient accommodation that does not require any additional discretionary approvals prior to operation as of the effective date of the ordinance establishing this chapter.

C. Renovations or repairs of transient accommodations that do not increase lodging capacity or expand the structures

beyond the boundaries of the existing structural footprint, as follows:

1. Transient accommodations operating in zoning districts where transient accommodations are operating as a permitted use, such transient accommodations may be renovated or repaired, provided there is no increase in lodging capacity or expansion of the structure beyond the boundaries of the existing structural footprint.

2. Transient accommodations operating as a nonconforming use under sections 19.04.040 and 19.500.110, must continue to comply with the provisions of sections 19.04.040 and 19.500.110.

D. A time extension for permits or approvals granted prior to the effective date of this ordinance.

E. The modification of any permit or approval granted prior to the effective date of this ordinance, provided that the number of transient accommodation units allowed by such permit or approval is not increased.

F. Any development that includes new housing units built, at a ratio of at least one housing unit for every one transient accommodation unit, rounding up to the nearest whole number, of the total number of new transient accommodations, that are:

1. Affordable to very low income, low income, below moderate, and moderate income residents, as defined in chapter 2.96, for at least thirty years.

2. Made available for occupancy prior to or concurrent with the new transient accommodations.

3. Located in the same community plan area.

4. Housing credits may not be issued to or used by the developer to satisfy the requirement of this subsection for any type of unit constructed. The new affordable housing units must be physically constructed or may be converted from housing units currently used as transient accommodations to be used as long-term housing for the purposes of this section.

G. The development of any new transient accommodations in order to relocate existing transient accommodations away from coastal hazards, as follows:

1. The existing units are removed from within either the 3.2 feet sea level rise exposure area (SLR-XA) or the coastal flood hazard zone with sea level rise (1%CFZ-3.2) area as determined by the director from the State of Hawai'i sea level rise viewer hosted by the pacific islands ocean observing system.

2. The new development occurs outside of both the SLR-XA and the 1%CFZ-3.2.

3. The existing units are demolished and removed, and construction of the new units commences within ten years from the issuance of permits from the department of public works for the demolition and removal of the existing units.

4. The new units cannot be occupied until the demolition begins on the existing units.

5. The number of new units or rooms is less than or equal to that of the existing units or rooms that will be demolished and removed.

**19.98.050 Term.** The ordinance codified in this chapter is repealed upon the enactment of legislation in accordance with section 19.98.010, or two years from the effective date of the ordinance establishing this chapter, whichever is sooner."

SECTION 2. This Ordinance takes effect on approval and applies to any new transient accommodation that has not received its final discretionary approval prior to the effective date of this Ordinance.

APPROVED AS TO FORM AND LEGALITY:



MICHAEL J. HOPPER

Department of the Corporation Counsel

County of Maui

LF2021-1786

2021-12-07 Ord Amd Ch 19.98 (PAF 21-361)

paf:wal:21-361a