

ORDINANCE NO. _____

BILL NO. 62 (2022)

A BILL FOR AN ORDINANCE RELATING TO A SHORT-TERM RENTAL REAL PROPERTY TAX EXEMPTION FOR COUNTY RESIDENTS

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

SECTION 1. Chapter 3.48, Maui County Code, is amended by adding a new section to be appropriately designated to read as follows:

“3.48.467 Home exemption for short-term rental classification. Upon application, a taxpayer will be entitled to a home exemption for real property classified as short-term rental and owned by a Maui County resident, subject to the following:

A. The taxpayer must be a Maui County resident for twelve or more consecutive months and have filed an income tax return as a resident of the State of Hawai‘i with a reported address in the County the year prior to the effective date of the home exemption; or the taxpayer must be stationed in the County under military orders of the United States.

B. The taxpayer must not be a corporation, partnership, or company.

C. For tax years beginning on or after July 1, 2023 the amount of the home exemption will be in accordance with the schedule set forth in the annual budget ordinance.

D. The home exemption is not allowed on more than one home for any taxpayer.

E. Married persons will not be permitted a home exemption on separate homes, unless they are living separate and apart and provide a copy of a separation decree from a court of competent jurisdiction that is in effect prior to the effective date of the home exemption; and each spouse files a separate income tax return as a resident of the State of Hawai‘i with a reported address in the County the year prior to the effective date of the home exemption; in which case they will be entitled to one home exemption to be apportioned equally between each of their respective homes.

F. The director may demand documentary evidence, including a tax clearance from the State of Hawai‘i establishing that

the taxpayer filed an income tax return as a resident for the year prior to the effective date of the home exemption, a State of Hawai'i voter registration, or a State of Hawai'i driver's license, from a property owner applying for a home exemption or from an owner as evidence of continued qualification for a home exemption. Failure to respond to the director's demand in thirty days will be grounds for denial of an application for a home exemption.

G. Evidence that an individual resides in a home outside the County, will serve as prima facie proof that the individual is not a resident of the County, and the director must provide written notice to the individual by mail that the individual is not qualified for a home exemption or continued home exemption.

H. If during the course of any tax year, the home exemption of a property is revoked under this section, the taxes for the entire tax year will be recalculated without the home exemption.

I. No home exemption is allowed if taxes on the property are delinquent for a period of more than one year."

SECTION 2. Section 3.48.410, Maui County Code, is amended to read as

follows:

"3.48.410 Claims—filing required. None of the exemptions from taxation granted in sections 3.48.450 through [3.48.466] 3.48.467, 3.48.475 through 3.48.500, 3.48.552, 3.48.554, 3.48.557, and 3.48.558 will be allowed in any case, unless the claimant has filed with the department of finance, on or before December 31 preceding the tax year for which such exemption is claimed, a claim for exemption in such form as is prescribed by the department. The exemption from taxation granted in section 3.48.556 must not be allowed in any case, unless the claimant has filed with the department of finance, on or before June 30 of the tax year for which such exemption is claimed, a claim for exemption in such form as is prescribed by the department."

SECTION 3. Section 3.48.425, Maui County Code, is amended by amending Subsection A to read as follows:

"A. Any person who has been allowed an exemption under sections 3.48.450 through [3.48.466] 3.48.467, 3.48.475 through 3.48.500, 3.48.552, 3.48.554, 3.48.557, and 3.48.558 has a duty to report to the assessor within thirty days after ceasing to qualify for such an exemption for one of the following reasons:

1. Ceasing to be the owner, lessee, or purchaser of the exempt premises[;].

2. A change in the facts previously reported has occurred concerning the occupation, use, or renting of the premises, buildings, or other improvements thereon[; or].

3. Some other change in status has occurred which affects the exemption.”

SECTION 4. Section 19.65.030, Maui County Code, is amended to read as follows:

“19.65.030 Restrictions and standards. Short-term rental homes are subject to the following restrictions and standards:

A. The short-term rental home use is permitted in no more than one single-family dwelling per lot, except that short-term rental use is not permitted in any accessory dwelling. For the purposes of this chapter, any reference to a short-term rental home property means a property, lot, or condominium unit. No more than one short-term rental home permit may be approved for any lot; except for lots that are subject to a condominium property regime under chapter 514A or chapter 514B, Hawaii Revised Statutes, the following apply:

1. If the applicant owns all condominium units on the lot, only one permit may be granted for that lot.

2. If the applicant does not own all condominium units on the lot, each condominium unit will be considered a lot for purposes of this chapter and each unit owner will be eligible to apply for a short-term rental home permit, except that no owner may hold more than one short-term rental home permit.

3. Irrespective of ownership, each condominium unit is considered a separate lot for purposes of notification and planning commission review thresholds under subsection 19.65.060(A)(2).

B. Each permitted dwelling unit on a short-term rental home property must be rented to one group with a single rental agreement, except:

1. On the island of Lānaʻi.

2. Any short-term rental home where the owner resides on an adjacent lot.

C. The permit holder must have a current transient accommodations tax license and general excise tax license for the short-term rental home.

D. The permit holder must:

1. Hold a minimum of a 50 percent interest in the legal title to the lot on which the short-term rental home is located, except as provided in subsection 19.65.030(G).

2. Serve as manager of the short-term rental home; except, the permit holder may designate:

a. An immediate adult family member of the permit holder to serve as manager. Immediate family includes a person's parents, spouse, children and their spouses, siblings, stepparents, stepchildren, adopted children and their spouses, and hānai children.

b. An individual with an active State of Hawai'i real estate license to serve as manager, except for properties located in the Hāna or Lāna'i community plan areas, where an individual may act as a manager as allowed by State law.

c. An adult to serve as a temporary manager for up to forty-five days in a twelve-month period.

3. Notify the department and the immediate adjacent neighbors of:

a. Any designation of an individual as manager under this section, including a statement of the designated manager's tenure, residential and business addresses, and telephone numbers.

b. Any change in the manager's addresses or telephone numbers.

E. The manager of the short-term rental home must:

1. Be accessible to guests, neighbors, and County agencies. For purposes of this section, "accessible" means being able to answer the telephone at all times, being able to be physically present at the short-term rental home within one hour following a request by a guest, a neighbor, or a County agency, and having an office or residence within thirty driving miles.

2. Ensure compliance with State department of health regulations, this chapter, permit conditions, and other applicable laws and regulations.

3. Enforce the house policies.

4. Collect all rental fees.

5. For short-term rental homes on the island of Lāna'i, the manager must be a full-time resident of Lāna'i.

F. The short-term rental home may only be rented when the manager is accessible.

G. The short-term rental home permit is issued in the name of the applicant, who must be a natural person or persons holding a minimum of a 50 percent interest in the legal title in the lot; except, a permit may be issued for a lot owned by a family trust, a corporation, a limited liability partnership, or a limited liability company if the following criteria are met:

1. The applicant is a natural person or persons who is a trustee or who are trustees of the family trust, or who represents 50 percent or more of the partners of a limited liability partnership, 50 percent or more of the corporate shareholders of a corporation, or 50 percent or more of the members of a limited liability company.

2. The limited liability partnership, corporation, or limited liability company is not publicly traded.

3. All of the trustees, partners, corporation's shareholders, or limited liability company's members are natural persons, and if there is more than one partner, shareholder, or member, they must be related by blood, adoption, marriage, or civil union.

"Family trust" is defined as a self-settled revocable or irrevocable trust where the trustee(s) is also the trustor(s) or grantor(s) or is related by blood, adoption, marriage, or civil union to the beneficiary(ies).

H. An applicant may hold no more than one short-term rental home permit.

I. A permit is not transferable; except that a permit may be transferred upon the death of a permit holder to an immediate family member as defined in subsection 19.65.030(D)(2)(a). If the permit is held by a trust, the permit may be transferred to a successor trustee, in accordance with subsection 19.65.030(G)(3), or to a beneficiary of the trust.

J. The applicant must provide the department with the application, copies of any applicable homeowner or condominium association bylaws or rules, and any other applicable private conditions, covenants, or restrictions. The documents, if any, may assist the department in determining the character of the neighborhood.

K. The number of bedrooms used for short-term rental home use on a short-term rental home lot must be no greater than six on Maui and no greater than three on Lāna'i and Moloka'i. The total number of guests staying in the short-term rental home at any one time must be no greater than two times the number of approved bedrooms. On Lāna'i, valid permits for short-term rental use of more than three bedrooms may continue to be renewed in accordance with section 19.65.070.

L. Single-station smoke detectors must be installed in all guest bedrooms.

[M. Single-family dwellings used as short-term rental homes do not qualify for real property tax exemptions permitted under chapter 3.48.]

[N.] M. Short-term rental homes must conform to the character of the existing neighborhood in which they are situated.

Prior to issuing a permit, the department or applicable planning commission must consider the following:

1. If a proposed short-term rental home property is subject to any homeowner or condominium association bylaws or rules, or other private conditions, covenants, or restrictions, then correspondence from the association or other entity responsible for the enforcement of the bylaws, rules, conditions, covenants, or restrictions is required. The correspondence must include specific conditions that determine whether the proposed short-term rental home use is allowed. The correspondence will be used to assist the department in determining the character of the neighborhood. If no association or entity exists, this requirement does not apply. The director and the planning commissions are not bound by any private conditions, covenants, or restrictions upon the subject parcel. Any limitations may be enforced against the property owner through appropriate civil action.

2. Existing land-use entitlements and uses.

3. The applicable community plan.

4. Community input.

5. Potential adverse impacts, including excessive noise, traffic, and garbage.

6. The number of permitted short-term rental homes surrounding the proposed short-term rental home property and their distance to the property. On Lānaʻi, no more than one short-term rental home or bed and breakfast home may be permitted within a three-hundred-foot radius, and not more than one short-term rental home or bed and breakfast home may be permitted on the same block, except that valid permits may continue to be renewed in accordance with section 19.65.070.

7. The number and substance of protests to the short-term rental home application and protests related to the cumulative short-term rental homes in the neighborhood or area.

8. Existing or past complaints about rental operations on the property.

9. Existing or past noncompliance with government requirements and the degree of cooperation by the applicant to become compliant.

10. Benefits the short-term rental home will bring to the community.

11. The applicant's justification and reasons for applying for short-term rental home use, and how the property would be used if the permit were not granted.

[O.] N. A short-term rental home permit is limited to a single-family dwelling constructed at least fifteen years prior to the date of application for the short-term rental home permit, and the dwelling unit must be owned by the applicant for at least fifteen years prior to the date of application.

[P.] O. A two-square-foot sign must be displayed along the main access road of the short-term rental home identifying the valid short-term rental home permit, a twenty-four-hour telephone number for the owner or the manager, and a telephone number for the department. The signs are not subject to the provisions of chapter 16.13. On Lānaʻi, one sign must be placed on each street frontage of the parcel, and the name of the manager must be provided with the twenty-four-hour telephone number.

[Q.] P. The permit holder or manager must prominently display “house policies” within the dwelling. The house policies must be included in the rental agreement, which must be signed by each registered adult guest. At a minimum, the house policies must include:

1. Quiet hours from 9:00 p.m. to 8:00 a.m., during which time the noise from the short-term rental home must not unreasonably disturb adjacent neighbors. Sound that is audible beyond the property boundaries during non-quiet hours must not be more excessive than would be otherwise associated with a residential area.

2. Amplified sound that is audible beyond the property boundaries of the short-term rental home is prohibited.

3. Vehicles must be parked in the designated onsite parking area and must not be parked on the street.

4. Parties or group gatherings are not allowed.

[R.] Q. The County is restricted in approving the number of permits for short-term rental homes as distributed per the following community plan areas and as further restricted by the applicable community plan:

1. Hāna: fifteen.

2. Kīhei-Mākena: forty-six; with no more than five permitted short-term rental homes in the subdivision commonly known as Maui Meadows.

3. Makawao-Pukalani-Kula: fifteen.

4. Pāiʻa-Haʻikū: forty-eight; except new permits may not be issued for properties within the special management area to avoid proliferation of this use and subsequent changes in the character of the region’s coast.

5. Wailuku-Kahului: six.

6. West Maui: fifty.

7. Molokaʻi: zero.

8. Lānaʻi: fifteen.

The council must review the community plan short-term rental home restrictions when the number of approved short-term rental homes exceeds 90 percent of the restriction number. Transient vacation rentals operating with a conditional permit under chapter 19.40 must be included in the number of short-term rental homes permitted under this subsection.

[S.] R. Prior to issuing a permit, the director or planning commissions may impose conditions for a short-term rental home if the conditions are reasonably designed to mitigate adverse impacts to the neighborhood.

[T.] S. Any dwelling unit developed in accordance with chapter 201H, Hawaiʻi Revised Statutes, or chapters 2.96, 2.97, or 16.28 may not be used as a short-term rental home.

[U.] T. No short-term rental home permit may be issued to any person who holds a valid bed and breakfast home permit or who has been prohibited from applying for a bed and breakfast home permit.”

SECTION 5. 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 6. This Ordinance takes effect on January 1, 2023.

APPROVED AS TO FORM AND LEGALITY:

Department of the Corporation Counsel
County of Maui

paf:lcm:21-204f

INTRODUCED BY:

Jamara A. M. Baltes
