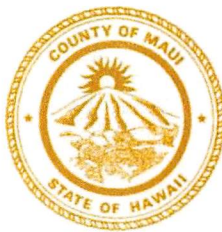


MICHAEL P. VICTORINO  
Mayor  
MICHELE CHOUTEAU MCLEAN, AICP  
Director  
JORDAN E. HART  
Deputy Director



**DEPARTMENT OF PLANNING**  
COUNTY OF MAUI  
ONE MAIN PLAZA  
2200 MAIN STREET, SUITE 315  
WAILUKU, MAUI, HAWAII 96793

July 5, 2019

Honorable Michael P. Victorino  
Mayor, County of Maui  
200 South High Street  
Wailuku, Hawaii 96793

For Transmittal to:

Honorable Kelly T. King  
Chair, Maui County Council  
and Councilmembers  
200 South High Street  
Wailuku, Hawaii 96793

**APPROVED FOR TRANSMITTAL**

*Michael P Victorino* 7/5/19  
Mayor Date

Dear Chair King:

**SUBJECT: FINES FOR UNPERMITTED OPERATION OF TRANSIENT  
ACCOMMODATIONS**

Please find attached a proposed bill, titled "A BILL FOR AN ORDINANCE RELATING TO CIVIL FINES FOR UNPERMITTED TRANSIENT ACCOMMODATIONS." The bill's purpose is to establish an initial civil fine of up to \$20,000 and subsequent daily fines of up to \$10,000 for the operation of a Bed and Breakfast Home, Short-Term Rental Home, or Transient Vacation Rental without a necessary permit.

This Planning Director-initiated proposed bill is intended to implement the amendment to the Revised Charter of the County of Maui (1983), as amended, that was proposed by Resolution 18-125 and approved by the electorate at the 2018 General Election. ←

The bill is a proposal for a land use ordinance of general applicability. Accordingly, all three planning commissions were afforded an opportunity to review and comment on the bill prior to the Council's consideration, pursuant to Charter Section 8-8.4.

The Department of Planning transmitted a preliminary version of the bill to the Lanai, Maui, and Molokai Planning Commissions, consistent with Charter requirements. This preliminary version went beyond the scope of the Charter amendment and would also have imposed these higher fines for violations of permit conditions and other infractions. The three commissions uniformly opposed this broader scope, and strongly supported a scope that was consistent with the Charter. The planning commissions each conducted a duly noticed public hearing and deliberated on the proposed bill. The attached proposed bill incorporates the commissions' recommendations. Following is a summary.

COUNTY COMMUNICATION NO. 19-307

Honorable Michael P. Victorino  
For Transmittal to  
Honorable Kelly T. King  
July 5, 2019  
Page 2

<u>Body:</u>	<u>Meeting Dates:</u>	<u>Recommendation:</u>
Maui Planning Commission	November 13, 2018 (public hearing)	Pass the bill as revised to ensure the Planning Director has the ability to exercise appropriate discretion on the fines, up to the Charter-approved limits and to ensure that only operators without required permits will be subject to the increased fines.
Molokai Planning Commission	November 14, 2018 (public hearing)	Pass the bill as revised to ensure the Planning Director has the ability to exercise appropriate discretion on the fines, up to the Charter-approved limits and to ensure that only operators without required permits will be subject to the increased fines.
Lanai Planning Commission	December 12, 2018 (public hearing); January 16, 2019; April 17, 2019	Pass the bill as revised to ensure the Planning Director has the ability to exercise appropriate discretion on the fines, up to the Charter-approved limits and to ensure that only operators without required permits will be subject to the increased fines. Additional recommendations for Lanai include: certified mail for initial method of contact; prepare method to provide additional consideration for permitted operators who have made minor infractions or inadvertently allowed their permit to lapse; ensure the unpermitted operator has a sufficient opportunity to understand the potential financial hazard and rectify the situation before fines begin.

Here are the links to the minutes of the planning commission meetings on this matter:

- Maui Planning Commission meeting of November 13, 2018:  
<https://www.mauicounty.gov/ArchiveCenter/ViewFile/Item/25440>
- Molokai Planning Commission meeting of November 14, 2018:  
<https://www.mauicounty.gov/ArchiveCenter/ViewFile/Item/25774>
- Lanai Planning Commission meeting of April 17, 2019:  
<https://www.mauicounty.gov/ArchiveCenter/ViewFile/Item/25952>

Thank you for your attention to this matter. Should further clarification be necessary, please let me know.

Sincerely, -



MICHELE MCLEAN, AICP  
Planning Director

Attachment

xc: Danny Dias, Acting Planning Program Administrator (PDF)

MCM:DD:JMCT:ckk

S:\ALL\APO\19.530 civil fines\JTcounciltransmittal.docx

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

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.

SECTION 2. Section 19.530.030, Maui County Code, is amended by amending subsection A and subsection B 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 with jurisdiction over the relevant ordinance, rule, or permit, may 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. Should service by mail or personal delivery fail, the director may serve notice by posting the notice of violation and order in a conspicuous place on the property where the violation is occurring 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 require the person to do any or all 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 [;], provided, however, that the initial civil fine shall not exceed \$20,000 for the operation of a bed and breakfast home, short-term rental home, or transient vacation rental without a necessary bed and breakfast home permit, short-term rental home permit, or conditional permit as required by the comprehensive zoning ordinance, 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], provided, however, that the daily civil fine shall not exceed \$10,000 for the operation of a bed and breakfast home, short-term rental home, or transient vacation rental without a necessary bed and breakfast home permit, short-term rental home permit, or conditional permit as required by the comprehensive zoning ordinance, unless a higher fine is authorized by State law[; and].

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 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.”

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:

A handwritten signature in black ink, consisting of a large, stylized 'M' followed by a series of connected loops and a long horizontal stroke extending to the right.

MICHAEL J. HOPPER  
Department of the Corporation Counsel  
County of Maui

2019-0792  
2019-06-13 Ordinance