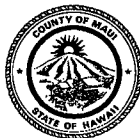


Council Chair
Mike White

Vice-Chair
Robert Carroll

Presiding Officer Pro Tempore
Stacy Crivello

Councilmembers
Alika Atay
Elle Cochran
Don S. Guzman
Riki Hokama
Kelly T. King
Yuki Lei K. Sugimura



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

October 24, 2017

MEMO TO: Patrick K. Wong
Corporation Counsel

F R O M: Robert Carroll, Chair
Land Use Committee

A handwritten signature in black ink, appearing to read "Robert Carroll", is written over the printed name.

SUBJECT: **SHORT-TERM RENTAL HOMES ON MOLOKAI** (LU-30)

By correspondence dated August 24, 2017, the Planning Director transmitted the Molokai Planning Commission's recommendations on the proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 19.65.030, MAUI COUNTY CODE, RELATING TO SHORT-TERM RENTAL HOME PERMITS ON MOLOKAI."

As noted in the correspondence, the Molokai Planning Commission recommended establishing a cap of zero short-term rental home ("STRH") permits on Molokai. The Planning Director transmitted a revised proposed bill to the Land Use Committee; however, the bill has not been approved as to form and legality. A copy of the Planning Director's correspondence and the revised proposed bill are attached for your reference (without the other attachments to the Director's correspondence).

In his correspondence, the Planning Director noted the following: "Should the Council adopt this revised proposed bill, we strongly recommend that language be added to recognize existing permitted STRH operations and allow them to continue operating, including renewals, provided they continue to meet the requirements of Chapter 19.65, Maui County Code."

May I please request your Department review the revised proposed bill transmitted by the Planning Director, consider the Director's comments concerning existing STRH operations, and provide the appropriate language to accommodate this concern in the bill you return to the Committee.

Patrick K. Wong
October 24, 2017
Page 2

I would note the revised proposed bill does not contain any bracketed language for deletion. Therefore, please delete from Section 2 of the bill any reference to bracketed language, to read: "New material is underscored. In printing this bill, the County Clerk need not include the underscoring." Please return the revised proposed bill incorporating these revisions, approved as to form and legality.

In your response, please advise if addition of the language recommended by the Planning Director would, in and of itself, require the vote for passage of the proposed bill by the Council to be two thirds of the Council's entire membership.¹

I would appreciate receiving a response by **November 6, 2017**. To ensure efficient processing, please include the relevant Committee item number in the subject line of your response.

Should you have any questions, please contact me or the Committee staff (Carla Nakata at ext. 7659, or Clarita Balala at ext. 7668).

lu:ltr:030acc01:cmn

Attachments

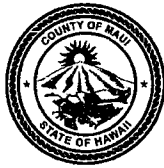
cc: Michael Hopper, Deputy Corporation Counsel
William Spence, Planning Director

¹ Section 8-8.6(2) of the Revised Charter of the County of Maui (1983), as amended, provides that any revision of a land use ordinance may be proposed by the Council and shall be reviewed by the appropriate planning commission. If the planning commission disapproves the proposed revision or recommends a modification thereof, not accepted by the Council, the Council may nevertheless pass such revision, but only by the affirmative vote of at least two thirds of the Council's entire membership.

ALAN M. ARAKAWA
Mayor

WILLIAM R. SPENCE
Director

MICHELE CHOUTEAU McLEAN
Deputy Director



COUNTY OF MAUI
DEPARTMENT OF PLANNING

August 24, 2017

RECEIVED

2017 AUG 24 PM 2:08

OFFICE OF THE MAYOR

Honorable Alan M. Arakawa
Mayor, County of Maui
200 South High Street
Wailuku, Hawaii 96793

For Transmittal to:

Honorable Mike White, Chair
and Members of the Maui County Council
200 South High Street
Wailuku, Hawaii 96793

Dear Chair White and Members:

SUBJECT: RESOLUTION 17-74, ENTITLED "REFERRING TO THE MOLOKAI PLANNING COMMISSION, A PROPOSED BILL TO AMEND THE COMPREHENSIVE ZONING ORDINANCE RELATING TO SHORT TERM RENTAL HOMES ON MOLOKAI"

This is in reference to Resolution 17-74, which was adopted by the Council on April 21, 2017, received by the Office of the Mayor on April 24, 2017, and received by the Department of Planning (Department) on April 26, 2017.

For ease of reference, the resolution is attached. The bill attached to the resolution, entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 19.65.030 MAUI COUNTY CODE (MCC) RELATING TO SHORT TERM RENTAL HOME (STRH) PERMITS ON MOLOKAI," would establish a cap of forty (40) STRH permits for the Island of Molokai.

The Department reviewed and transmitted the bill to the Molokai Planning Commission (Commission). The Commission met on this matter on the following dates:

- June 14, 2017
- June 28, 2017
- July 26, 2017
- August 9, 2017

At its final meeting on this matter on August 9, 2017, the Commission voted to recommend establishing a cap of zero (0) STRH permits on Molokai.

RECEIVED
2017 AUG 25 PM 1:51
OFFICE OF THE
COUNTY CLERK
Alan Arakawa 8/25/17

Honorable Alan M. Arakawa, Mayor
For Transmittal to:
Honorable Mike White, Chair
August 24, 2017
Page 2

Please find attached a revised proposed bill that reflects the Commission's recommendation. The revised bill would amend the proposed new Subsection 19.65.030.R.7, Maui County Code by changing the proposed cap for Molokai from "40" to "0" and delete all subsequent underscored text from the bill transmitted by Resolution No. 17-74.

Should the Council adopt this revised proposed bill, we strongly recommend that language be added to recognize existing permitted STRH operations and allow them to continue operating, including renewals, provided they continue to meet the requirements of Chapter 19.65, Maui County Code.

Also, attached are copies of e-mailed surveys in support of Council Resolution 17-74 that the Department received before and after the August 9, 2017 meeting. Given the numerous and lengthy Commission meetings on this matter, the meeting minutes have not yet been transcribed. They will be posted on the Commission's page of the County's official website when they are available.

Thank you for your attention to this matter. Should you have any questions, please feel free to transmit them to the Department of Planning via transmittal through the Office of the Mayor.

Sincerely,



WILLIAM SPENCE
Planning Director

Attachments (3)

xc: Clayton I. Yoshida, Planning Program Administrator (PDF)
David M. Raatz, Administrative Planning Officer (PDF)
Sybil K. Lopez, Staff Planner (PDF)
Molokai Planning Commission

WRS:DMR:ela

Project File
General File

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ORDINANCE NO. _____

BILL NO. _____ (2017)

A BILL FOR AN ORDINANCE AMENDING SECTION 19.65.030, MAUI COUNTY CODE, RELATING TO SHORT-TERM RENTAL HOME PERMITS ON MOLOKAI

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

SECTION 1. 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 two single-family dwelling units, or one single-family dwelling unit and one accessory dwelling unit, per lot. No more than one short-term rental home permit shall be approved for any lot, except when lots are subject to a condominium property regime pursuant to chapter 514A or 514B, Hawaii Revised Statutes, the following shall 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 shall be considered a separate lot for purposes of notification and planning commission review thresholds pursuant to subsection 19.65.060(A)(2).

4. For the purposes of this chapter, any reference to a short-term rental home property shall mean a property, lot, or condominium unit.

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

1. On the island of Lanai; or

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

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

D. The permit holder shall:

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

2. Serve as manager of the short-term rental home; provided that, 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 or partner through a civil union, children and their spouses, siblings, stepparents, stepchildren, adopted children and their spouses, and hanai children;

b. An individual with an active State of Hawaii real estate license to serve as manager, except for properties located in the Hana or Lanai community plan areas, where an individual may act as a manager as allowed by State law; or

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

3. The permit holder shall notify the department and the immediate adjacent neighbors of:

a. Any designation of an individual as manager pursuant to 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 shall:

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.

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

G. The short-term rental home permit is issued in the name of the applicant, who shall be a natural person or persons holding a minimum of a fifty percent interest in the legal title in the lot; except that, 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 fifty percent or more of the partner(s) of a limited liability partnership, fifty percent or more of the corporate shareholder(s) of a corporation, or fifty percent or more of the member(s) 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 trustee, partner, shareholder, or member, they shall be related by blood, adoption, marriage, or civil union.

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

1. Additional permits are for short-term rental homes that each have a County assessed market value of \$3,200,000 or higher at the time of each application.

2. The permit holder filed complete applications for the short-term rental home permits within one year of this chapter's original effective date of May 23, 2012.

- I. A permit is not transferable; provided 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).

J. The applicant shall provide 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, shall 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 shall be no greater than six on Lanai and Maui, and no greater than three on Molokai. The total number of guests staying in the short-term rental home at any one time shall be no greater than two times the number of bedrooms.

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

M. Single-family dwellings used as short-term rental homes shall not qualify for real property tax exemptions permitted pursuant to chapter 3.48 of this code.

N. Short-term rental homes shall conform to the character of the existing neighborhood in which they are situated. Prior to issuing a permit, the department or applicable planning commission shall consider the following:

1. If a proposed short-term rental property is subject to any homeowner, condominium association, or other private conditions, covenants, or restrictions, then correspondence from the association or other entity responsible for the enforcement of the conditions, covenants, or restrictions is required. The correspondence shall include specific conditions that determine whether or not the proposed short-term rental home use is allowed. The correspondence shall be used to assist the department in determining the character of the neighborhood. If no such association or entity exists, this requirement shall not apply. The director and the planning commissions shall not be bound by any private conditions, covenants, or restrictions upon the subject parcel. Any such 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.

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.

O. Short-term rental homes shall be limited to single-family dwelling units and accessory dwelling units existing and constructed at least five years prior to the date of application for the short-term rental home permit.

P. A two-square-foot sign shall 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 shall not be subject to the provisions of chapter 16.13 of this code.

Q. The permit holder or manager shall prominently display "house policies" within the dwelling. The house policies shall be included in the rental agreement, which shall be signed by each registered adult guest. At a minimum, the house policies shall 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 shall not unreasonably disturb adjacent neighbors. Sound that is audible beyond the property boundaries during non-quiet hours shall 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 shall be parked in the designated onsite parking area and shall not be parked on the street.

4. No parties or group gatherings other than registered guests shall occur.

R. The County shall be 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. Hana: 30.

2. Kihei-Makena: 100; provided that, there are no more than five permitted short-term rental homes in the subdivision commonly known as Maui Meadows.

3. Makawao-Pukalani-Kula: 40.

4. Paia-Haiku: 88.

5. Wailuku-Kahului: 36.

6. West Maui: 88.

7. Molokai: 0.

The council shall review the community plan short-term rental home restrictions when the number of approved short-term rental homes exceeds ninety percent of the restriction number. Short-term rental homes operating with a conditional permit pursuant to chapter 19.40 of this title that meet the criteria of this section shall be included in the number of short-term rental homes permitted pursuant to this subsection.

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

T. Any dwelling unit developed pursuant to chapter 201H, Hawaii Revised Statutes, or chapter 2.96 of this code, shall not be used as a short-term rental home."

SECTION 2. 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 3. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM AND LEGALITY:

Department of the Corporation Counsel
County of Maui

S:ALL:APO:strh molokai:bill