

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

June 26, 2020

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

APPROVED FOR TRANSMITTAL

For Transmittal to: *sv* Mayor *6/30/2020* Date

RECEIVED  
OFFICE OF THE  
COUNTY CLERK  
2020 JUN -1 PM 11:03

Honorable Tamara Paltin  
Chair, Planning and Sustainable Land Use Committee  
200 South High Street  
Wailuku, HI 96793

Dear Councilmember Paltin:

**SUBJECT: TRANSIENT VACATION RENTALS IN THE APARTMENT,  
LIGHT INDUSTRIAL AND HEAVY INDUSTRIAL DISTRICTS  
(PSLU-59)**

By letter dated April 7, 2020, the Department of Planning transmitted to the Maui County Council a proposed bill to amend Chapters 19.12, 19.24, 19.26 and 19.37, Maui County Code, relating to transient vacation rentals (TVRs) in these districts. By letter dated April 20, 2020, the Department noted that it would transmit another revised proposed bill that more closely resembled the bill that was reviewed by the three planning commissions and that treats TVR use on a property-wide basis rather than a unit-by-unit basis. This revised proposed bill is enclosed.

The purpose of both bills is to preserve some long-term housing opportunities by preventing the conversion of long-term rental and owner-occupied apartments into transient vacation rentals (TVRs) in the apartment, light industrial and heavy industrial districts. The bills propose to prohibit TVRs on properties on which TVR use had not been conducted in lawfully existing dwelling units.

From the Maui County Code, Section 19.12.010.C, the purpose and intent of the Apartment District includes, "Buildings and structures within the apartment district shall be occupied on a long term residential basis." When the Council codified the "Minatoya" ordinances in 2014 and 2016, the intent was to allow thousands of units that had been lawfully operating as vacation rentals for many years to continue to operate. The intent was not to allow conversion of long-term rental properties to short-term rental, but these prior ordinances unintentionally allow this conversion.

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The proposed bills aim to close this loophole.

In its research on this matter, the Department has obtained information from the Real Property Tax Administration relating to the number of properties and units in the Apartment Districts that are taxed for TVR use. There are 177 properties countywide that are zoned Apartment District and built or permitted in 1989 or prior, containing 11,134 total units; 5,575 of these units are assessed at Timeshare or Short-Term Rental rates, or 50 percent.

Attached is a list of the 103 apartment-zoned complexes that have short term rental use; these are properties that the proposed bills would allow to continue as TVRs.

Also attached is a list of 74 apartment-zoned complexes that have no short-term rental use; these are the properties that the proposed bills would keep in long-term residential use, thus keeping these 3,000-plus units for residents.

The apartment district properties with no vacation rental use are vital to keep in long-term occupancy due to Maui's housing shortage. The long-term residential occupancy of these properties fully meets the purpose and intent of the Apartment Districts as described in Section 19.12.010 of the Maui County Code.

Thank you for your attention to this matter. If you need further information, please let me know.

Sincerely,



Michele McLean, AICP  
Planning Director

Attachments

MCM:JMCT

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Apartment District Properties with Timeshare or Short Term Rental 2019-2020

MASTER	Condo Name	Total Units	Tax Class					2020 TVR	2020 % TVR
			Homeowner	Apartment	Commercial	Timeshare	Short Term Rental		
14005040	HANA KAI-MAUI	19	0	0	0	0	19	19	100%
39001004	MAUI SCHOONER	58	0	0	0	58	0	58	100%
39008031	KIHEI BEACHFRONT	4	0	0	0	0	4	4	100%
39009005	KAPU TOWNHOUSE	2	0	0	0	0	2	2	100%
39009010	WAIQHULI BCH DUPLEX	2	0	0	0	0	2	2	100%
39009016	51 KAPU CONDOMINIUM	1	0	0	0	0	1	1	100%
43005020	KAHANA OUTRIGGER	8	0	0	0	0	8	8	100%
43005021	KAHANA OUTRIGGER	4	0	0	0	0	4	4	100%
43005031	KAHANA OUTRIGGER	4	0	0	0	0	4	4	100%
43006014	HONO KOA	28	0	0	0	28	0	28	100%
39004081	MAUI HILL	140	3	2	0	75	60	135	96%
43008006	HOYOCHI NIKKO	17	0	1	0	0	16	16	94%
39005038	PUNAHOA BEACH APTS	15	0	1	0	0	14	14	93%
43005029	KAHANA VILLAGE	42	1	2	0	0	39	39	93%
43006007	NOHONANI	28	0	2	0	0	26	26	93%
44001055	PAPAKEA	363	10	18	0	36	299	335	92%
39005023	KAMAOLE ONE	12	1	0	0	0	11	11	92%
21008082	PALMS AT WAILEA I	150	5	8	0	0	137	137	91%
39004004	KAMAOLE SANDS	440	12	28	0	0	400	400	91%
44006011	HALE KAAPALI	258	6	18	0	0	234	234	91%
44008021	MAUI ELDORADO	205	7	13	0	0	185	185	90%
43009002	NOELANI	50	1	4	0	0	45	45	90%
39008009	LEILANI KAI	9	0	1	0	0	8	8	89%
39001006	LUANA KAI	113	8	7	0	0	98	98	87%
43008002	POLYNESIAN SHORES	52	2	5	0	0	45	45	87%
21008070	WAILEA ELUA II	66	0	8	0	1	57	58	88%
38014004	KANAI A NALU	80	5	6	0	0	69	69	86%
44001050	PAKI MAUI III	28	0	4	0	1	23	24	86%
39004082	MAUI KAMAOLE III	240	11	24	0	0	205	205	85%
39001134	KOA RESORT II	54	5	3	0	0	46	46	85%
42001024	KAPALUA BAY VILLAS	141	3	18	0	0	120	120	85%
39001143	KIHEI BAY VISTA	60	2	7	0	0	51	51	85%
44001071	MAUI SANDS II	20	3	0	0	0	17	17	85%

Apartment District Properties with Timeshare or Short Term Rental 2019-2020

MASTER	Condo Name	Total Units	Tax Class					2020 TVR	2020 % TVR
			Homeowner	Apartment	Commercial	Timeshare	Short Term Rental		
43006041	HALE MAHINA BEACH	53	2	6	0	0	45	45	85%
21008064	WAILEA EKAHI I	100	2	14	0	0	84	84	84%
43008005	KULEANA	100	5	11	0	29	55	84	84%
44001052	MAUI SANDS I	56	4	5	0	0	47	47	84%
43006044	HALE ONO LOA	67	4	7	0	0	56	56	84%
38014001	MAKANI A KAI	24	1	3	0	0	20	20	83%
39018003	MAUI VISTA	280	9	38	0	0	233	233	83%
39004084	HALE KAMAOLE	188	9	23	0	0	156	156	83%
21008104	GRND CHAMP VILLAS	188	13	22	0	0	153	153	81%
39008003	HALE KAI O'KIHEI	59	1	10	0	0	48	48	81%
21008060	WAILEA EKAHI II	91	2	15	0	0	74	74	81%
44001051	PAKI MAUI I & II	80	7	8	0	5	60	65	81%
39009029	WAIQHULI BEACH HALE	52	1	9	0	0	42	42	81%
43006016	LOKELANI	36	4	3	0	0	29	29	81%
45004002	PUUNOA BEACH ESTATES	10	0	2	0	0	8	8	80%
21008065	WAILEA EKAHI III	104	2	20	0	0	82	82	79%
39001002	MAUI SUNSET	225	17	33	0	45	130	175	78%
43008004	KULEANA	18	1	3	0	4	10	14	78%
43006012	MAKANI SANDS	30	4	3	0	0	23	23	77%
42001028	KAPALUA GOLF VILLAS	186	11	34	0	0	141	141	76%
39001075	KAUHALE MAKAI	169	15	24	2	13	115	128	76%
45013027	LAHAINA ROADS	41	4	6	0	0	31	31	76%
39001107	KIHEI BAY SURF	118	10	19	0	0	89	89	75%
39001110	LEINAALA	24	2	4	0	0	18	18	75%
43005009	KAHANA REEF	88	8	14	0	0	66	66	75%
44001042	HALE KAI I	40	5	5	0	0	30	30	75%
38014002	HONO KAI	46	8	3	1	0	34	34	74%
39004098	MAUI PARKSHORE	64	5	13	0	0	46	46	72%
21008069	WAILEA ELUA I	86	1	24	0	0	61	61	71%
26012050	KUAU PLAZA	30	2	7	0	0	21	21	70%
39017003	SHORES OF MAUI	50	7	8	0	0	35	35	70%
42001032	THE RIDGE	161	13	36	0	0	112	112	70%
38014022	MILOWAI-MAALAEA	42	6	7	0	0	29	29	69%

Apartment District Properties with Timeshare or Short Term Rental 2019-2020

MASTER	Condo Name	Total Units	Tax Class					2020 TVR	2020 % TVR
			Homeowner	Apartment	Commercial	Timeshare	Short Term Rental		
39008005	1290 ULUNUI CONDO	3	0	1	0	0	2	2	67%
43006063	PIKAKE	12	2	2	0	0	8	8	67%
39004097	HALEAKALA SHORES	76	17	9	0	0	50	50	66%
43006013	KALEIALOHA	67	7	16	0	0	44	44	66%
39008011	KIHEI GARDEN ESTATES	84	10	19	0	0	55	55	65%
39001136	KIHEI RESORT	64	13	10	0	0	41	41	64%
56004055	WAVECREST	126	12	37	0	0	77	77	61%
39016027	KALAMA TERRACE	61	9	15	0	0	37	37	61%
44008023	KAANAPALI ROYAL	105	10	32	0	0	63	63	60%
51003013	KE NANI KAI	120	11	37	0	7	65	72	60%
39018002	PACIFIC SHORES	136	26	30	0	0	80	80	59%
21008077	WAILEA EKOLU	148	9	50	0	0	89	87	59%
38014016	LAULOA MAALAEA	47	8	14	0	0	25	27	57%
38014021	MAALAEA KAI	79	9	25	0	0	45	45	57%
38014011	MAALAEA BANYANS	78	12	24	0	0	42	42	54%
39004139	KEAWAKAPU	18	3	6	0	0	9	9	50%
39005035	HALE ILIILI	4	2	0	0	0	2	2	50%
39008008	1240 ULUNIU CONDO	2	0	1	0	0	1	1	50%
39017010	KIHEI PARKSHORE	16	2	6	0	0	8	8	50%
38014015	ISLAND SANDS	83	9	33	0	0	41	41	49%
44001041	HONOKOWAI PALMS	30	7	15	0	0	8	8	27%
39001057	WAIPUILANI	42	14	21	0	0	7	7	17%
39005018	KIHEI COVE	6	3	2	0	0	1	1	17%
43016006	NAPILI RIDGE	132	36	79	0	0	17	17	13%
46010002	THE SPINNAKER	57	18	32	0	0	7	7	12%
39016043	KOA KAI	18	4	12	0	0	2	2	11%
39017017	KANOE RESORT	18	8	8	0	0	2	2	11%
39016020	KIHEI VILLA	24	8	15	0	0	1	1	4%
42001030	KAPALUA IRONWOODS	39	2	36	0	0	1	1	3%
45003009	CHANNEL HOUSE	39	9	29	0	0	1	1	3%
39004135	KIHEI SHORES	217	58	155	0	0	4	4	2%
45003011	LAH RESID CONDO	60	16	43	0	0	1	1	2%
38037039	PUUONE TERRACE	66	12	53	0	0	1	1	2%

Apartment District Properties with Timeshare or Short Term Rental 2019-2020

MASTER	Condo Name	Total Units	Tax Class					2020 TVR	2020 % TVR
			Homeowner	Apartment	Commercial	Timeshare	Short Term Rental		
38077013	KIHEI VILLAGES	76	32	43	0	0	1	1	1%
38077003	KIHEI VILLAGES	80	32	47	0	0	1	1	1%
38077002	KIHEI VILLAGES	100	27	72	0	0	1	1	1%
43006004	MAUI LANI TERRACES	159	36	122	0	0	1	1	1%
Total:		8111	763	1770	3	302	5273	5575	
103	properties with TVR use								
All units:	8111								
TVR units:	5575								

Apartment District Properties with NO Timeshare or Short Term Rental 2019-2020

MASTER	Condo Name	Total Units	Tax Class				2020 TVR	2020 % TVR
			Homeowner	Apartment	Commercial	Timeshare		
21007096	MAKENA PLACE	10	2	8	0	0	0	0%
21007101	NA HALE O MAKENA	40	5	35	0	0	0	0%
21008083	PALMS AT WAILEA II	120	27	93	0	0	0	0%
21008084	PAPALI WAILEA	24	1	23	0	0	0	0%
21008112	KANANI WAILEA	38	11	27	0	0	0	0%
23008044	COTTAGES AT KULAMALU	40	26	14	0	0	0	0%
23009037	PUKALANI FAIRWY EST	24	18	6	0	0	0	0%
34016007	IAO GARDENS	39	22	17	0	0	0	0%
38037019	PUUONE GARDENS	1	0	1	0	0	0	0%
38037019	PUUONE GARDENS	25	2	23	0	0	0	0%
38037020	MOUNT THOMAS	32	10	22	0	0	0	0%
38037023	515 LIHOLIHO ST	10	5	5	0	0	0	0%
38037024	HALE NANI	10	0	10	0	0	0	0%
38037027	WAILUKU MANOR	11	4	7	0	0	0	0%
38037031	CARMEL APTS	8	1	7	0	0	0	0%
38037035	PUUONE HALE ALII	30	5	25	0	0	0	0%
38037043	PIO OCEAN VIEW APTS.	19	0	19	0	0	0	0%
38077001	KIHEI VILLAGES	128	53	75	0	0	0	0%
38077012	KIHEI VILLAGES	68	32	36	0	0	0	0%
38077014	KIHEI VILLAGES	80	27	53	0	0	0	0%
39001056	LANAKILA	18	11	7	0	0	0	0%
39001160	VILLAS AT KENOLIO	140	58	82	0	0	0	0%
39004134	KEONEKAI VILLAGES	256	112	144	0	0	0	0%
39005015	HAWEALANI CONDO	4	0	4	0	0	0	0%
39005017	LIHIKAI APTS	8	0	8	0	0	0	0%
39005021	HALE MAHALANI	1	1	0	0	0	0	0%
39005021	HALE MAHALANI	6	1	5	0	0	0	0%
39005025	2260 S KIHEI RD COND	2	0	2	0	0	0	0%
39005037	LOKE HALE	4	1	3	0	0	0	0%
39008010	1210 ULUNIU ESTATES	1	0	1	0	0	0	0%
39008021	ULUNIU TOWNHOUSE	6	3	3	0	0	0	0%
39009020	BOARDWALK	10	2	8	0	0	0	0%
39009021	MAUI GARDENS	90	32	58	0	0	0	0%

Apartment District Properties with NO Timeshare or Short Term Rental 2019-2020

MASTER	Condo Name	Total Units	Tax Class				2020 TVR	2020 % TVR
			Homeowner	Apartment	Commercial	Timeshare		
39016001	WALAKA MAUI	18	11	7	0	0	0	0%
39016002	HALE KANANI	72	30	42	0	0	0	0%
39016012	WHITE SEA TERRACE AP	6	4	2	0	0	0	0%
39016014	WALAKA APARTMENTS	10	1	9	0	0	0	0%
39016015	KALAMA TOWNHOUSE	6	4	2	0	0	0	0%
39016016	KALAMA GARDENS	6	4	2	0	0	0	0%
39016017	MAUI PALMS TOWNHOMES	6	6	0	0	0	0	0%
39016031	KIHEI MANOR	12	3	9	0	0	0	0%
39016032	KALAMA VILLA	8	1	7	0	0	0	0%
39016034	85 WALAKA ST	11	1	10	0	0	0	0%
39016035	AWIHI TOWNHOUSE	10	7	3	0	0	0	0%
39016041	KAMOA VIEWS	44	14	30	0	0	0	0%
39016042	BAY VISTA APTS	12	4	8	0	0	0	0%
39017007	ROYAL MENEHUNE	6	0	6	0	0	0	0%
39017018	KANOE PALMS	7	1	6	0	0	0	0%
39017022	KANOE LANI APTS	6	3	3	0	0	0	0%
39017038	AUHANA KULEANA	10	4	6	0	0	0	0%
39041002	KAI MAKANI	112	39	73	0	0	0	0%
39044041	HALEAKALA GARDENS	88	41	47	0	0	0	0%
39044042	HALEAKALA GARDENS	76	40	36	0	0	0	0%
43003108	NAPILIHAI VILLAGES I	76	45	31	0	0	0	0%
43003110	NAPILI VILLAS PH I	100	55	45	0	0	0	0%
43003122	NAPILI VILLAS PH III	40	17	23	0	0	0	0%
43003123	NAPILI VILLAS PH II	44	24	20	0	0	0	0%
43005082	KAHANA GATEWAY	73	0	73	0	0	0	0%
43006005	HALE ROYAL	85	43	42	0	0	0	0%
43006036	LEINANI APTS	30	12	18	0	0	0	0%
43006069	BREAKERS	60	15	45	0	0	0	0%
43006069	WEST MAUI BREAKERS	24	0	24	0	0	0	0%
43008001	MAHINAHINA BEACH	32	8	24	0	0	0	0%
43016055	71 WENA PLACE	2	2	0	0	0	0	0%
43016057	US DUPLEX	2	2	0	0	0	0	0%
43016059	91A/91B HUI ROAD F	2	0	2	0	0	0	0%



Apartment District Properties with NO Timeshare or Short Term Rental 2019-2020

MASTER	Condo Name	Total Units	Tax Class				2020 TVR	2020 % TVR
			Homeowner	Apartment	Commercial	Timeshare		
43016060	95 HUI ROAD F CONDO	2	0	2	0	0	0	0%
43021082	VILLAS@ KAHANA RIDGE	117	63	54	0	0	0	0%
44001034	MAUI PARK	288	0	288	0	0	0	0%
44001038	WEST MAUI TRADES	96	15	81	0	0	0	0%
44001066	HONOKOWAI EAST	51	12	39	0	0	0	0%
45008004	HALE OHANA CONDOMINI	40	0	40	0	0	0	0%
46011006	LOKAHI	6	0	6	0	0	0	0%
49006010	LANAI CITY APARTMENT	24	5	19	0	0	0	0%
<b>Total:</b>		<b>3023</b>	<b>1008</b>	<b>2015</b>	<b>0</b>	<b>0</b>	<b>0</b>	
	74 properties							
All units:		3023						
TVR unis:		0						

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

BILL NO. \_\_\_\_\_ (2020)

A BILL FOR AN ORDINANCE AMENDING  
CHAPTERS 19.12, 19.24, 19.26 AND 19.37,  
MAUI COUNTY CODE, RELATING TO TRANSIENT VACATION RENTALS  
IN THE APARTMENT DISTRICTS AND INDUSTRIAL DISTRICTS  
AND DWELLING UNITS IN THE INDUSTRIAL DISTRICTS

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

SECTION 1. Findings and purpose. The purpose of this ordinance is to prevent the conversion of long-term rental and owner-occupied apartments into transient vacation rental apartments in the apartment, light industrial, and heavy industrial districts, by prohibiting transient vacation rentals on properties on which transient vacation rental use had not been conducted in lawfully existing dwelling units prior to January 1, 2020.

Prior to April 20, 1989, transient vacation rentals were not prohibited within the Apartment Districts. On this date, Ordinance 1797 took effect and amended Chapter 19.12, Maui County Code, to require that buildings and structures within the Apartment Districts be occupied on a long-term residential basis. However, Section 11 of Ordinance 1797 ("Section 11") states that the ordinance "shall not apply to building permits, special management area use permits, or planned development approval which were lawfully issued and valid on the effective date of this ordinance." On March 4, 1991, Ordinance 1989 fully deleted transient vacation rentals as a permitted use in the Apartment District with some exceptions. Subsequently, effective December 8, 2014, Ordinance

4167 expressly restated the exceptions set forth in Section 11 and declared the intent of the Council to exclude the requirement of long-term-residential occupancy from buildings or structures having, on or before April 20, 1989, lawfully issued and valid building permits, special management area use permits, or planned development approval. Accordingly, such buildings or structures were expressly permitted to be operated as transient vacation rentals. Additionally, Ordinance 4167 allows transient vacation rental uses for reconstructed buildings and structures, subject to certain requirements. The intent of this bill is to prevent the further expansion of transient vacation rental uses in the Apartment Districts. This bill is not intended to affect existing, lawful transient vacation rentals in the Apartment Districts if they were in operation prior to January 1, 2020.

In the M-1 light industrial district and the M-2 heavy industrial district, transient vacation rentals were never permitted; however, they may be lawful if they operated prior to the enactment of the comprehensive zoning ordinance effective June 9, 1960, Ordinance 286.

While these code requirements have evolved, the lack of affordable long-term rental and owner-occupied housing units continues to be a crisis in Maui County.

In addition, this ordinance clearly prohibits single family dwellings and vacation rentals in the M-1 and M-2 districts and prohibits new, stand-alone apartments and apartment houses in the M-1 district. Apartments are already prohibited in the M-2 district. The proposed revisions provide consistency with the purpose and intent of the industrial districts.

SECTION 2. Section 19.12.010, Maui County Code, is amended to read as follows:

**“19.12.010 Purpose and intent.** A. [Multiple-family apartment districts are generally established outside of the high density core of the central portion of a town. It is applicable to areas where multiple-family units are indicated; yet, the areas have not reached a transitional stage wherein public, semi-public, institutional and other uses are desirable.] The purpose of the apartment districts is to provide higher density housing options than the residential and duplex districts. Multiple-family apartment districts are generally established within or near the urban core of a town to provide residents with access to jobs, services, amenities, and transportation options. Uses within the apartment districts are appropriately located near, and are compatible with, uses in the various business, residential, public/quasi-public, and park districts. Apartment districts can provide a transition between residential districts and business districts.

B. Apartment districts [shall] must consist of two types: A-1 apartment district and A-2 apartment district.

C. [Buildings] Residential buildings and structures within the apartment district [shall] must be occupied on a long term residential basis[.], except as otherwise provided herein.”

SECTION 3. Section 19.12.020, Maui County Code, is amended to read as follows:

**“19.12.020 Permitted uses.** Within the A-1 and A-2 districts, the following uses are permitted:

A. Any use permitted in the residential and duplex districts.

B. Apartment houses.

C. Boarding houses, rooming houses, and lodging houses.

D. Bungalow courts.

E. Apartment courts.

F. Townhouses.

[G. Transient vacation rentals in buildings and structures having building permits, special management area use permits, or planned development approval that were lawfully issued by and valid on April 20, 1989. Buildings and structures with such permits and approvals may be reconstructed, and transient vacation rental use shall be permitted, provided that:

1. The reconstruction conforms to the original building permit plans, special management area use permits, or planned development approval; and

2. The reconstruction complies with the building code and all other applicable laws in effect at the time of the reconstruction.]

G. Transient vacation rentals in building and structures meeting all of the following criteria:

1. The building or structure received a building permit, special management area use permit, or planned development approval that was lawfully issued by and was valid, or is otherwise confirmed to have been lawfully existing, on April 20, 1989.

2. Transient vacation rental use was conducted in any lawfully existing dwelling unit within the building or structure prior to January 1, 2020 as determined by real property tax class.

3. If any such building or structure is reconstructed, renovated or expanded, then transient vacation rental use is limited to the building envelope as it can be confirmed to have been approved or lawfully existing on April 20, 1989. The number of bedrooms used for transient vacation rental shall not be increased.

H. Bed and breakfast homes, subject to the provisions of chapter 19.64 of this title.

I. Short-term rental homes, subject to the provisions of chapter 19.65 of this title.”

SECTION 4. Section 19.24.010, Maui County Code, is amended to read as follows:

**“19.24.010 Purpose and intent.** The M-1 light industrial district is designed to contain mostly warehousing and distribution types of activity, and permits most compounding, assembly, or treatment of articles or materials with the exception of heavy manufacturing and processing of raw materials. Residential uses are excluded except for dwelling units located [above or below the first floor and apartments.] in the same building as any non-dwelling permitted use.”

SECTION 5. Section 19.24.020, Maui County Code, is amended to read as follows:

**“19.24.020 Permitted uses.** A. Within the M-1 light industrial district, no building, structure or premises [shall] will be used and no building or structure will be hereafter erected, structurally altered, replaced, or enlarged except for one or more of the following uses:

## Uses

## Notes and Exceptions

Any use permitted in a B-1, B-2, or B-3 business district[; provided, however, that no building, structure or portion thereof shall be hereafter erected, converted, or moved onto any lot in an M-1 district for dwelling purposes, including hotels and motels, except for dwelling units located above or below the first floor and apartments] except single family dwellings, duplexes, bungalow courts, short-term rental homes, and transient vacation rentals

Animal kennels

[Apartment houses] Dwelling units located in the same building as any non-dwelling permitted use

Assembly of electrical appliances, radios and phonographs including the manufacture of small parts such as coils, condensers crystal holders and the like

Carpet cleaning plants

Cold storage plants

Commercial laundries

Craft cabinet and furniture manufacturing

Education, specialized

Farm implement sales and service

General food, fruit and vegetable processing and manufacturing plants

Harbor facilities

Ice cream and milk producing, manufacturing and storage

Laboratories—experimental, photo or motion picture, film or testing

Light and heavy equipment and product display rooms, storage and service

Machine shop or other metal working shop

Manufacture, compounding or treatment of articles or merchandise from the following previously prepared materials: aluminum,

bone, cellophane, canvas, cloth, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, plastics, precious or semi-precious metals or stones, shell, tobacco and wood	
Manufacture, compounding, processing, packing or treatment of such products as candy, cosmetics, drugs, perfumes, pharmaceutical, toiletries, and food products	Except the rendering or refining of fats and oils
Manufacture, dyeing and printing of cloth fabrics and wearing apparel	
Manufacture of musical instruments, toys, novelties and rubber and metal stamps	
Manufacture of pottery and figurines or other similar ceramic products	
Milk bottling or central distribution stations	
Mortuaries and morgues	
Plumbing shops	
Poultry or rabbit slaughter incidental to a retail business on the same premises	
Production facility, multimedia	
Radio transmitting and television stations; provided, that towers are of the self- sustaining type without guys	
Replating shop	
Retail lumber yard including mill and sash work	Mill and sash work shall be conducted within a completely enclosed building
Small boat building	
Soda water and soft drink bottling and distribution plants	
Tire repair operation including recapping and retreading	
Utility facilities, minor, and substations up to, and including, 69 kv transmission	
Warehouse, storage and loft buildings	
Wearing apparel manufacturing	
Wholesale business, storage buildings, nonexplosive goods and warehouses"	

SECTION 6. Section 19.24.050, Maui County Code, is amended to read as follows:

**“19.24.050 Development standards.**

	<b>M-1</b>	<b>Notes and Exceptions</b>
Minimum lot area (square feet)	7,500	Except for utility facilities minor, which shall have no minimum lot area
Minimum lot width (in feet)	65	
Maximum building height (in feet) <u>with five or more apartments or dwelling units on Maui and Lanai</u>	60	Except that vent pipes, fans, chimneys, antennae, and equipment used for small scale energy or communications systems on roofs shall not exceed [70 feet in total height] <u>10 feet above the building roof</u>
<u>Maximum building height (in feet) with four or fewer apartments or dwelling units on Maui and Lanai</u>	<u>45</u>	<u>Except that vent pipes, fans, chimneys, antennae, and equipment used for small scale energy or communications systems on roofs shall not exceed 10 feet above the building roof</u>
<u>Maximum building height (in feet) on Molokai</u>	<u>40</u>	
Minimum yard setback (in feet)		
Front	0 or the same as the adjoining zoning category whichever is greater	Where the setback of the adjoining non-industrial zoned parcel is less than 10 feet, a



Side and rear	0 or the same as the adjoining zoning category whichever is greater	minimum setback of 10 feet shall be applied
Freestanding antenna or wind turbine structures height and setback	Maximum height of 75 feet and shall be setback 1 foot for every foot in height from all property lines	
Accessory structures allowed within setback area	Boundary walls, parking area, trash enclosures, and ground signs	
Enclosure requirement	All uses are to be conducted wholly within a completely enclosed building, or within an area enclosed on all sides except the front of the lot, by a solid fence or wall or cyclone fence at least 6 feet in height”	

SECTION 7. Section 19.26.020, Maui County Code, is amended to read as follows:

**“19.26.020 Permitted uses.** Within the M-2 heavy industrial district, no building, structure or premises [shall] will be used and no building or structure will be hereafter erected, structurally altered, replaced, or enlarged except for one or more of the following uses:

**Uses**

Any use permitted in the B-1, B-2 and B-3 business districts and M-1 light industrial district]; provided, however, that no building, structure or portion thereof shall be hereafter erected, converted, or moved onto any lot in an M-2 heavy industrial district for dwelling

**Notes and Exceptions**

Except for living quarters used by security/watchmen or custodians of an industrially used property

purposes, including hotels, motels, or apartments except living quarters used by watchmen or custodians of an industrially used property] except single family dwellings, duplexes, bungalow courts, short-term rental homes, transient vacation rentals and apartments

Alcohol manufacture	
Automobile wrecking, if conducted within a building	
Boiler and steel works	
Brick, tile or terra cotta manufacture	
Canneries except fish canneries	
Chemical manufacture	
Concrete or cement products manufacture	
Factories	
Foundries	
Freight classification yard (railroad)	
Junk establishment used for storing, depositing, or keeping junk or similar goods for business purposes	Such establishment shall not be nearer than 8 feet from any other property line for the storage of the junk or similar goods except in buildings entirely enclosed with walls
Lime kilns which do not emit noxious and offensive fumes	
Lumber yard	

Machine shops	
Material recycling and recovery facilities	
Oilcloth or linoleum manufacture	
Oil storage plants	
Paint, oil (including linseed), shellac, turpentine, lacquer, or varnish manufacture	
Petroleum products manufacture or wholesale storage of petroleum	
Planing mill	
Plastic manufacture	
Railroad repair shops	
Rolling mills	
Ship works	
Soap manufacture	
Sugar mills and refineries	
Utility facilities, major	
In general those uses which may be obnoxious or offensive by reason of emission of odor, dust, smoke, gas, noise, vibration and the like and not allowed in any other district	Provided, however, that any use not specified in this section shall not be permitted unless approved by the planning director as conforming to the intent of this title”

SECTION 8. Section 19.26.050, Maui County Code, is amended to read as follows:

**“19.26.050 Development standards.**

	<b>M-2</b>	<b>Notes and Exceptions</b>
Minimum lot area (square feet)	10,000	
Minimum lot width (in feet)	75	
Maximum building height (in feet) <u>on Maui and Lanai</u>	90	Except that vent pipes, fans, chimneys, antennae, and equipment used for <u>small scale energy or communications systems on roofs shall not exceed [149 feet in total height] 10 feet above the building roof</u>
<u>Maximum building height (in feet) on Molokai</u>	<u>40</u>	<u>Except that vent pipes, fans, chimneys, antennae, and equipment used for small scale energy or communications systems on roofs shall not exceed 10 feet above the building roof</u>
Minimum yard setback (in feet)		
Front	0 or the same as the adjoining zoning category whichever is greater	Where the setback of the adjoining non-industrial zoned parcel is less than [15] 10 feet, a minimum setback of [15] 10 feet shall be applied
Side and rear	0 or the same as the adjoining zoning category whichever is greater	
Accessory structures allowed within setback area	Boundary walls, parking area, trash enclosures, and ground signs	

Freestanding antenna or wind turbine structures height and setback	Maximum height of [90] <u>75</u> feet and shall be setback 1 foot for every foot in height from all property lines	
<u>Enclosure requirement</u>	<u>All uses are to be conducted wholly within a completely enclosed building, or within an area enclosed on all sides except the front of the lot, by a solid fence or wall or cyclone fence at least 6 feet in height</u>	

SECTION 9. Section 19.37.010, Maui County Code, is amended to read as follows:

**“19.37.010 Geographic restrictions.** A. Except as provided in this chapter, time share units and time share plans are prohibited[,] in all zoning districts. Transient vacation rentals are prohibited[,] in all zoning districts, excluding bed and breakfast homes permitted under chapter 19.64 of this title, short-term rental homes permitted under chapter 19.65 of this title, transient vacation rental units permitted by a conditional permit under chapter 19.40 of this title, transient vacation rentals permitted under chapters 19.12, 19.15, 19.18, 19.20, 19.22, and 19.32 of this title, and hotels that are permitted based on the applicable zoning in the comprehensive zoning ordinance[.]; and

B. Existing time share units, time share plans, and transient vacation rentals that were operating pursuant to and under law and were registered pursuant to chapter 514E of the Hawaii Revised Statutes as of the effective date of the ordinance codified in this section, shall not be impaired by the provisions of this section; provided that, any time share project operating under law that records in the bureau of conveyances [within sixty days of the effective date of the ordinance codified in this section,] by May 3, 1991, a declaration in a form prescribed by the director shall be deemed exempt from this section as long as the project or apartment unit identified by the declaration continues to operate under a lawful time share plan or registration[.]; and

C. Time share units, time share plans, and transient vacation rentals are allowed in the hotel district [and transient vacation rentals are allowed as]; transient vacation rentals are allowed in the B-2 community business district, B-3 central business district and B-R resort commercial district; and transient vacation rentals are allowed as special uses in the SBR service business residential district[;] and B-CT country town business district. [provided that, such use is explicitly and prominently authorized by the project instrument. As used in this section, "project instrument" means one or more documents, including any amendments to the documents, by whatever name denominated, containing restrictions or covenants regulating the use or occupancy of a project. As used in this section, "project" means property that is subject to project instruments, including, but not limited to, condominiums and cooperative housing corporations.

D. If the project in which the time share unit, time share plan, or transient vacation rental is to be created is not a hotel and does not contain time share units, time share plans, or transient vacation rentals, then the use may be approved only if it is explicitly and prominently authorized by the project instruments, or if the project instruments are amended by a vote of the unit owners as required in the project instrument to explicitly authorize time sharing or transient vacation rentals.]”

SECTION 10. Existing lawful transient vacation rental uses in any building in the Apartment Districts may continue to operate as allowed by Ordinance 4167 if any unit in the building was conducting lawful transient vacation rental use prior to January 1, 2020 as determined by real property tax class. The initiation of new transient vacation rentals in any building in the Apartment Districts is prohibited as of January 1, 2020 if no unit in the building was used for conducting lawful transient vacation rental use prior to January 1, 2020 as determined by real property tax class, notwithstanding Section 11 of Ordinance 1797 (1989).

SECTION 11. Apartment units in the M-1 Light Industrial District and M-2 Heavy Industrial District lawfully existing prior to the effective date of this ordinance may continue to operate and shall not be subject to this ordinance,

and may be reconstructed, expanded or modified provided that they meet all other requirements of this code. Building permits for stand-alone apartments or apartment houses in the Light Industrial District submitted within six months of the effective date of this ordinance may be processed and approved pursuant to the zoning restrictions and standards in effect immediately prior to the effective date of this ordinance.

SECTION 12. 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 13. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM  
AND LEGALITY:



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MICHAEL J. HOPPER  
Department of the Corporation Counsel  
County of Maui  
2019-1416  
2020-05-28 Ord TVR Apartments