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OFFICE OF THE
COUNTY COUNCIL

MEMO TO: CARE-50 File

F R O M: Keani N.W. Rawlins-Fernandez 
Council Vice-Chair

SUBJECT: **TRANSMITTAL OF LEGISLATIVE PROPOSAL RELATING TO
MORATORIUM ON VISITOR ACCOMMODATIONS
DEVELOPMENT** (PAF 21-136)

The attached legislative proposal pertains to Item 50 on the Committee's agenda.

paf:rem:21-136b

Attachment

ORDINANCE NO. _____

BILL NO. _____ (2021)

A BILL FOR AN ORDINANCE ESTABLISHING A NEW CHAPTER 20.41,
TITLE 20, ENVIRONMENTAL PROTECTION, MAUI COUNTY CODE,
DECLARING A MORATORIUM ON TOURIST ACCOMMODATIONS

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

SECTION 1. The council finds that under-regulated growth of tourist accommodations and continued development of tourist accommodations are directly related 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 (2012) includes a policy calling for a daily visitor count not to exceed one-third of the resident population. With a 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 economic resilience, new hotels, resorts, timeshares, short-term rental homes, and transient vacation rental units must be limited on Maui island for an interim period. In addition, the council finds construction moratoria are well-established tools to temporarily and appropriately preserve the status quo.

SECTION 2. The purpose of this ordinance is to establish a moratorium to comply with the Maui Island Plan by pausing the increase of tourist accommodations and the related increase in tourism. The moratorium will

maintain the number of current tourist accommodation units until the Council passes legislation implementing recommendations presented by a council-established Tourism Management Temporary Investigative Group, or in two years from enactment, whichever is sooner.

The council believes interim restrictions on new tourist accommodations would maintain the status quo and allow the County time to implement legislation relating to the tourism industry's impact on the County's environment and residents' quality of life, and provide the County with clear policy direction for day-to-day decision-making to work toward resilience.

SECTION 3. Title 20, "Environmental Protection," Maui County Code, is amended by adding a chapter to read as follows:

"CHAPTER 20.41

MORATORIUM ON TOURIST ACCOMMODATIONS

Sections:

- 20.41.010 Purpose.
- 20.41.020 Applicability.
- 20.41.030 Definitions.
- 20.41.040 Prohibition on new tourist accommodations on Maui island.
- 20.41.050 Exceptions.
- 20.41.060 Penalties.
- 20.41.070 Term.

20.41.010 Purpose. The council finds that under-regulated growth of tourist accommodations and continued development of tourist 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 includes a policy calling for a daily visitor population not to exceed one-third of the resident population. With a 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 policy. 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, adopted in 2012, by pausing increasing tourist accommodations and tourism. The pause will maintain the number of current tourist accommodation units until the council passes legislation implementing appropriate recommendations presented by a council-established tourism management temporary investigative group, or two years from the effective date of the ordinance establishing this chapter, whichever is sooner. Examples of recommendations include: 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.

20.41.020 Applicability. This chapter applies to entitlement and discretionary approval for new tourist accommodation development and expansion and new short-term rental and new transient vacation rental permit applications on Maui island.

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

"Development" means the construction of any new units or increasing the number of units expressly designated to be used for tourist accommodations.

"Tourist accommodations" means any transient accommodations, including hotels, resorts, timeshares, short-term rental homes, and transient vacation rental units, excluding bed and breakfast homes.

"Unit" means a room or group of rooms located within a structure that provides sleeping accommodations for the use of tourists or visitors.

20.41.040 Prohibition of new tourist accommodations on Maui Island. Development of new tourist accommodation units, new tourist accommodation expansion units, and new short-term or transient vacation rental permits for tourist accommodations are prohibited on Maui island.

20.41.050 Exceptions. A. This chapter does not apply to any development that has received its last discretionary approval prior to the effective date of the ordinance establishing this chapter

or to renovations or repairs of tourist accommodations that do not increase capacity or expand beyond the boundaries of the existing structural footprint.

B. The council, upon request by the director of public works or the planning director, may by resolution approved by two-thirds of its members, authorize a waiver of any provision of this chapter. To qualify for a waiver, the council must find:

1. The proposed development or use would not increase tourist accommodations.

2. The proposed development or use does not conflict with the purposes of this chapter.

20.41.060 Penalties. A. Any violation of this chapter or associated administrative rules are, for each day of violation, subject to a daily fine not exceeding \$1,000 for each day the violation persists or one year's imprisonment, or both; except the penalty for the operation of a transient accommodation without a necessary permit must not exceed a civil fine of \$20,000 plus \$10,000 per day for each day the unlawful operation persists. For purposes of this section, "transient accommodation" includes transient vacation rentals, short-term rental homes, and other categories of transient accommodation established by ordinance, except bed and breakfast homes. In addition, each person found in violation of this chapter is liable for any costs incurred by the County to correct the violation. In lieu of, or in addition to, enforcement by criminal prosecution, the director may enforce violations administratively in accordance with section 19.530.030 or any other applicable code provision or administrative rule.

B. The remedies provided for in this chapter are cumulative and not exclusive. Nothing in this chapter impairs the right of the County to seek enforcement by criminal prosecution, administrative proceeding, if any, or civil action, including filing suit for damages or injunction as provided by law.

20.41.070 Term. The ordinance codified in this chapter is repealed upon the council's determination that the purposes established in section 20.41.010 have been satisfied, or two years from the effective date of the ordinance establishing this chapter, whichever is sooner. The council may, by resolution, extend the term prior to the repeal of this ordinance upon a finding that the purposes established in section 20.41.010 have not been satisfied."

SECTION 4. This ordinance takes effect upon its approval.

APPROVED AS TO FORM AND LEGALITY:

Department of the Corporation Counsel
County of Maui

paf:rem:21-136a