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

June 9, 2021

Director of Council Services
Traci N. T. Fujita, Esq.

RECEIVED

2021 JUN 10 AM 9:13

OFFICE OF THE
COUNTY CLERK

The Honorable Alice L. Lee
Council Chair
County of Maui
Wailuku, Hawaii 96793

Dear Chair Lee:

**SUBJECT: MORATORIUM ON NEW TRANSIENT
ACCOMMODATIONS ON MAUI (PAF 21-136)**

May I request the attached proposed resolution, entitled "REFERRING TO THE MAUI PLANNING COMMISSION A BILL FOR AN ORDINANCE ESTABLISHING CHAPTERS 19.98 AND 20.41, MAUI COUNTY CODE, DECLARING A MORATORIUM ON NEW TRANSIENT ACCOMMODATIONS ON MAUI," be placed on the next Council meeting agenda.

Sincerely,

A handwritten signature in cursive script that reads "Keani Rawlins-Fernandez".

KEANI RAWLINS-FERNANDEZ
Council Vice-Chair

paf:rem:21-136e

Enclosure

COUNTY COMMUNICATION NO. 21-280

Resolution

No. _____

REFERRING TO THE MAUI PLANNING COMMISSION
A BILL FOR AN ORDINANCE ESTABLISHING CHAPTERS
19.98 AND 20.41, MAUI COUNTY CODE, DECLARING A
MORATORIUM ON NEW TRANSIENT ACCOMMODATIONS
ON MAUI

WHEREAS, the Council is considering a proposed bill establishing Chapters 19.98 and 20.41, Maui County Code, establishing a moratorium on transient accommodations; and

WHEREAS, the Council urges the Maui Planning Commission to review the proposed new Chapter 19.98, Maui County Code, which once enacted would temporarily prohibit the issuance of any permit under Title 19 relating to new transient accommodations; and

WHEREAS, Sections 8-8.4 and 8-8.6 of the Revised Charter of the County of Maui (1983), as amended, require that the appropriate planning commission review proposed land use ordinances and provide findings and recommendations to the Council; now, therefore,


BE IT RESOLVED by the Council of the County of Maui:

1. That it refers the proposed bill entitled "A BILL FOR AN ORDINANCE ESTABLISHING CHAPTERS 19.98 AND 20.41, MAUI COUNTY CODE, DECLARING A MORATORIUM ON NEW TRANSIENT ACCOMMODATIONS ON MAUI", a copy of which is attached as Exhibit "1," to the Maui Planning Commission for appropriate action, in accordance with Sections 8-8.4 and 8-8.6 of the Revised Charter of the County of Maui (1983), as amended;
2. That it respectfully requests that the Maui Planning Commission transmit its findings and recommendations to the Council as expeditiously as possible; and

Resolution No. _____

3. That certified copies of this Resolution be transmitted to the Mayor, the Planning Director, and the Maui Planning Commission.

APPROVED AS TO FORM AND LEGALITY

 2021.06.10
12:05:22 -10'00'

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

paf:rem:21-136d

EXHIBIT "1"

ORDINANCE NO. _____

BILL NO. _____ (2021)

A BILL FOR AN ORDINANCE ESTABLISHING CHAPTERS 19.98 AND 20.41, MAUI COUNTY CODE, DECLARING A MORATORIUM ON NEW TRANSIENT ACCOMMODATIONS ON MAUI

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

SECTION 1. The Council finds that under-regulated growth of transient accommodations and continued development of transient accommodations are directly related to an increase in tourism that 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), adopted by ordinance 4004 (2012) as section 2.80B.030(A), exhibit "B" and required by section 2.80B.030(G), includes a policy calling for a daily visitor count not to exceed one-third of the resident population. According to Hawaii's Department of Business, Economic Development, and Tourism, Maui's daily visitor count grew from just over 46,000 in 2010 to nearly 70,000 in 2019, while the resident population remained constant at approximately 150,000 over the same time period. Maui now dramatically exceeds the codified visitor-resident ratio. The Council also finds that to preserve the County's environment and to work toward economic, cultural, and environmental resilience, new hotels, resorts, timeshares, short-term rental homes, and transient accommodations must be limited on Maui island for an interim period.

SECTION 2. The purpose of this Ordinance is to establish a moratorium to comply with chapter 2.80B, Maui County Code, by pausing the increase of transient accommodations and the related increase in tourism. The moratorium will remain in effect and maintain the number of current transient accommodation units until the Council enacts legislation addressing the findings and recommendations presented by a Budget, Finance, and Economic Development Committee-established Tourism Management Temporary Investigative Group, or two years from enactment of this Chapter, whichever is sooner. The Council may extend the moratorium for an additional six months.

The Council believes a moratorium on new transient accommodations will maintain the status quo and allow the County time to adequately study and enact legislation relating to better management and regulation of transient accommodations and 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. The authority for this Ordinance is article VIII of the constitution of the State of Hawaii, the Charter of the County of Maui (1982), as amended, and the authority granted to the County under chapters 46, 205, and 205A of the Hawaii Revised Statutes.

SECTION 4. Title 19, "Zoning", Maui County Code, is amended by adding a chapter to read as follows:

"CHAPTER 19.98

**MORATORIUM ON TRANSIENT
ACCOMMODATION PERMITS ON MAUI**

Sections:

- 19.98.010 Purpose.
- 19.98.020 Definitions.
- 19.98.030 New transient accommodation permits prohibited.
- 19.98.040 Exceptions.
- 19.98.050 Term.

19.98.010 Purpose. The council finds that under-regulated growth of transient accommodations and continued development of transient 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, adopted by ordinance 4004 (2012) as section 2.80B.030(A), exhibit "B," and required by section 2.80B.030(G), 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. 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 Maui Island Plan, by pausing increasing transient accommodations and tourism. The pause will maintain the number of current transient accommodation units until the council enacts legislation implementing appropriate recommendations presented by a Budget, Finance, and Economic Development Committee-established tourism management temporary investigative group, or two years from the effective date of the ordinance establishing this chapter, whichever is sooner. The Council may extend the moratorium for an additional six months. The temporary investigative group may investigate and recommend actions including the 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.

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

"New transient accommodation" means any structure intended to be used for transient accommodation, including hotels, timeshares, short-term rental homes, and transient vacation rental

units, that is not in operation as a transient accommodation as of the effective date of this ordinance, but excluding bed and breakfast homes.

"Transient" has the same meaning as in section 19.04.

19.98.030 New transient accommodation permits prohibited. New transient accommodations are prohibited in all zoning districts on the island of Maui. No permit applications or permits required by this title may be accepted or granted by any board, commission, or agency for new transient accommodations.

19.98.040 Exceptions. This chapter does not apply to:

A. Any new transient accommodation that has received its last discretionary approval prior to the effective date of the ordinance establishing this chapter.

B. Any new transient accommodation that does not require any additional discretionary approvals prior to operation as of the effective date of the ordinance.

C. Renovations or repairs of transient accommodations that do not increase lodging capacity or expand the structures beyond the boundaries of the existing structural footprint.

D. A time extension for permits or approvals granted prior to the effective date of this ordinance.

19.98.050 Term. The ordinance codified in this chapter is repealed upon the enactment of legislation in accordance with chapter 19.98 or chapter 20.41, or two years from the effective date of the ordinance establishing this chapter, whichever is sooner. The Council may extend the moratorium for an additional six months."

SECTION 5. Title 20, "Environmental Protection," Maui County Code, is amended by adding a chapter to read as follows:

"CHAPTER 20.41

MORATORIUM ON TRANSIENT ACCOMMODATIONS ON MAUI

Sections:

- 20.41.010 Purpose.
- 20.41.020 Definitions.
- 20.41.030 New transient accommodations prohibited.
- 20.41.040 Exceptions.
- 20.41.050 Term.

20.41.010 Purpose. The council finds that under-regulated growth of transient accommodations and continued development of transient 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, adopted by ordinance 4004 (2012) as section 2.80B.030(A), exhibit "B," and required by section 2.80B.030(G), 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. 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, by pausing increasing transient accommodations and tourism. The pause will maintain the number of current transient accommodation units until the council enacts legislation implementing appropriate recommendations presented by a Budget, Finance, and Economic Development Committee-established tourism management temporary investigative group, or two years from the effective date of the ordinance establishing this chapter, whichever is sooner. The Council may extend the moratorium for an additional six months. The temporary investigative group may investigate and recommend actions including the 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 Definitions. Whenever used in this chapter, unless the context otherwise requires:

"New transient accommodation" means any structure intended to be used for transient accommodation, including hotels, timeshares, short-term rental homes, and transient vacation rental units, that is not in operation as a transient accommodation as of the effective date of this ordinance, but excluding bed and breakfast homes.

"Transient" has the same meaning as in section 19.04.

20.41.030 New transient accommodations prohibited. New transient accommodations are prohibited in all zoning districts on the island of Maui. No permit applications may be accepted or

permits granted by any board, commission, or agency for new transient accommodations.

20.41.040 Exceptions. This chapter does not apply to:

A. Any new transient accommodation that has received its last discretionary approval prior to the effective date of the ordinance establishing this chapter.

B. Any new transient accommodation that does not require any additional discretionary approvals prior to operation as of the effective date of the ordinance.

C. Renovations or repairs of transient accommodations that do not increase lodging capacity or expand the structures beyond the boundaries of the existing structural footprint.

D. A time extension for permits or approvals granted prior to the effective date of this ordinance.

20.41.050 Term. The ordinance codified in this chapter is repealed upon the enactment of legislation in accordance with chapter 19.98 or chapter 20.41, or two years from the effective date of the ordinance establishing this chapter, whichever is sooner. The Council may extend the moratorium for an additional six months.”

SECTION 6. This Ordinance takes effect upon its approval, but does not apply to the processing, approval, or granting of any application for the approval of a new transient accommodation that is properly filed with the County and complete prior to the effective date of this Ordinance.

APPROVED AS TO FORM AND LEGALITY:

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

paf:rem:21-136c