

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

BILL NO. 60 (2021)

A BILL FOR AN ORDINANCE AMENDING THE BUILDING CODE TO ADD  
CHAPTER 40 RELATING TO A MORATORIUM ON BUILDING PERMITS FOR  
VISITOR ACCOMMODATIONS

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

SECTION 1. **Findings and purpose.** The Council finds that visitor accommodation development and the related increase in tourism cause negative impacts on the environment. The Council also finds that - to preserve the County's environment, mitigate climate change, and work toward resilience - building permits for new hotels, resorts, timeshares, short-term rental homes, bed and breakfast homes, and transient vacation rental units must be limited for an interim period. The purpose of the moratorium established by this Ordinance is to stop the increase of carbon-emissions levels, mitigate climate-change impacts, and limit the rate of global warming by pausing visitor accommodation development and the related increase in tourism. The pause will prevent additional air, noise, light, land, and water pollution until the County updates the West Maui and South Maui community plans.

In addition, 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 desired

visitor-resident ratio. The Council further finds that a large percentage of the island's transient accommodations are in West Maui and South Maui, and the community plans for both areas are at various stages of comprehensive updates for the first time in more than 20 years. Under Chapter 2.80B, Maui County Code, each community plan sets out "the desired sequence, patterns, and characteristics of future development." In addition, the Council finds construction moratoria are well-established tools to temporarily and appropriately preserve the status quo, as seen, for example, in Maui County Ordinances 1997 (1991) and 5125 (2020); City and County of Honolulu Ordinance 18-6 (2018), and City of Asheville, North Carolina, Ordinance 4766 (2019).

This Ordinance is also intended to temporarily maintain the status quo by establishing a moratorium on building permits for visitor accommodation development in West Maui and South Maui until both community plans are updated. The Council believes interim restrictions on new visitor accommodations would allow the County time to implement critical plan action items relating to visitor industry impact on the County's environment and provide the County with clear policy direction for day-to-day decision making to mitigate climate change and work toward resilience.

SECTION 2. Title 16, Maui County Code, is amended by adding a new chapter, to be designated and to read as follows:

**"16.26B.4000 Chapter 40 added.** The International Building

Code is amended by adding a new chapter to read as follows:

## CHAPTER 40

### MORATORIUM ON BUILDING PERMITS FOR VISITOR ACCOMMODATIONS

#### Sections:

- 4000.1 Purpose.
- 4000.2 Applicability.
- 4000.3 Definitions.
- 4000.4 Prohibition on building permits for visitor accommodation development in West Maui and South Maui.
- 4000.5 Exceptions.
- 4000.6 Automatic repeal.

**4000.1 Purpose.** The council finds that visitor accommodation development and the related increase in tourism has negative impacts on the environment. The council also finds that - to preserve the County's environment, mitigate climate change, and work toward resilience - building permits for new hotels, resorts, timeshares, short-term rental homes, bed and breakfast homes, and transient vacation rental units must be limited for an interim period. The purpose of this chapter is to stop the increase of carbon-emissions levels, mitigate climate-change impacts, and limit the rate of global warming by pausing visitor accommodation development and the related increase in tourism. This pause will prevent additional air, noise, light, land, and water pollution until the County updates the West Maui and South Maui community plans. This chapter is also intended to temporarily maintain the status quo in West Maui and South Maui until their respective community plans are updated.

**4000.2 Applicability.** This chapter applies to applications for building permits for visitor accommodation development in West Maui and South Maui, subject to the exceptions in section 4000.5.

**4000.3 Definitions.** Whenever used in this chapter, unless the context otherwise requires:

"Development" means the construction of any new units expressly designated to be used for visitor accommodations.

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

“South Maui” means the Kihei-Makena community plan area, with geographic boundaries established by ordinance 2641 (1998).

“West Maui” means the West Maui community plan area, with geographic boundaries established by ordinance 2476 (1996).

**4000.4 Prohibition on building permits for visitor accommodation development in West Maui and South Maui.** No building permit applications for visitor accommodation development in West Maui or South Maui may be accepted.

**4000.5 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 the chapter.

B. This chapter does not apply to West Maui upon the effective date of the ordinance approving the West Maui community plan update.

C. This chapter does not apply to South Maui upon the effective date of the ordinance approving the South Maui community plan update.

D. This chapter does not apply to building permit applications for renovations or repairs at existing visitor accommodations that do not increase capacity.

E. The council may authorize exceptions from this chapter by resolution upon request by the director of public works.

**4000.6 Automatic repeal.** The chapter will be automatically repealed two years from the effective date of the ordinance establishing this chapter.”

SECTION 3. This Ordinance takes effect upon its approval.

APPROVED AS TO FORM AND LEGALITY:

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Department of the Corporation Counsel  
County of Maui

care:misc:050abill03:nas

DIGEST

ORDINANCE NO. \_\_\_\_\_  
BILL NO. 60 (2021)

A BILL FOR AN ORDINANCE AMENDING THE BUILDING CODE TO ADD  
CHAPTER 40 RELATING TO A MORATORIUM ON BUILDING PERMITS FOR  
VISITOR ACCOMMODATIONS

This bill proposes to amend Title 16, Maui County Code, to temporarily maintain the status quo in the development of hotels and other visitor accommodations in South Maui and West Maui until the respective community plans for the areas are updated or two years have passed, whichever is sooner, because of environmental and other impacts.

I, KATHY L. KAOHU, County Clerk of the County of Maui, State of Hawaii, DO HEREBY CERTIFY that the foregoing BILL NO. 60 (2021) was passed on First Reading by the Council of the County of Maui, State of Hawaii, on the 18th day of June, 2021, by the following vote:

AYES: Councilmembers Gabriel Johnson, Kelly T. King, Michael J. Molina, Tamara A. M. Paltin, Shane M. Sinenci, and Vice-Chair Keani N. W. Rawlins-Fernandez.

NOES: Councilmember Yuki Lei K. Sugimura and Chair Alice L. Lee.

EXCUSED: Councilmember Natalie A. Kama.

DATED at Wailuku, Maui, Hawaii, this 22nd of June, 2021.



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KATHY L. KAOHU, COUNTY CLERK  
COUNTY OF MAUI, STATE OF HAWAII

Copies of the foregoing Bill, in full, are on file in the Office of the County Clerk, County of Maui, for use and examination by the public.