

# REQUEST FOR LEGAL SERVICES

**Date:** October 26, 2021  
**From:** Tamara Paltin, Chair  
Planning and Sustainable Land Use Committee


**TRANSMITTAL**

**Memo to:** DEPARTMENT OF THE CORPORATION COUNSEL  
Attention: Stephanie M. Chen, Esq.

**Subject:** AMENDING CHAPTERS 19.04 AND 19.12, MAUI COUNTY CODE, RELATING TO  
TRANSIENT VACATION RENTALS IN THE APARTMENT DISTRICT (PSLU-37)

**Background Data:** Please see attached bill. Please submit your response to  
[pslu.committee@mauicounty.us](mailto:pslu.committee@mauicounty.us).

**Work Requested:** ☒ FOR APPROVAL AS TO FORM AND LEGALITY  
☐ OTHER:

|                                                                                                                             |                                                                                 |
|-----------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------|
| Requestor's signature<br><br>Tamara Paltin | Contact Person<br><u>Wilton Leauanae</u><br>(Telephone Extension: <u>7761</u> ) |
|-----------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------|

☐ ROUTINE (WITHIN 15 WORKING DAYS) ☐ RUSH (WITHIN 5 WORKING DAYS)  
☐ PRIORITY (WITHIN 10 WORKING DAYS) ☐ URGENT (WITHIN 3 WORKING DAYS)

☒ SPECIFY DUE DATE (IF IMPOSED BY SPECIFIC CIRCUMSTANCES): October 28, 2021  
REASON: To meet posting deadline for Council meeting on November 5, 2021.

**FOR CORPORATION COUNSEL'S RESPONSE**

|              |                |     |
|--------------|----------------|-----|
| ASSIGNED TO: | ASSIGNMENT NO. | BY: |
|--------------|----------------|-----|

TO REQUESTOR: ☐ APPROVED ☐ DISAPPROVED ☐ OTHER (SEE COMMENTS BELOW)  
☐ RETURNING--PLEASE EXPAND AND PROVIDE DETAILS REGARDING ITEMS AS NOTED

COMMENTS (NOTE - THIS SECTION NOT TO BE USED FOR LEGAL ADVICE): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DEPARTMENT OF THE CORPORATION COUNSEL

Date \_\_\_\_\_

By \_\_\_\_\_  
(Rev. 7/03)

pslu:ltr:037acc01:wal

Attachment

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

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

A BILL FOR AN ORDINANCE AMENDING CHAPTERS 19.04 AND 19.12, MAUI COUNTY CODE, RELATING TO TRANSIENT VACATION RENTALS IN THE APARTMENT DISTRICT

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

SECTION 1. The purpose of this Ordinance is to provide clarification on terms and requirements for Transient Vacation Rental use in the Apartment District, and to add a registration number requirement for advertisements.

SECTION 2. Section 19.04.040, Maui County Code, is amended by adding a new definition to be appropriately inserted and to read as follows:

“Building envelope” means the area enclosed by the three-dimensional exterior surfaces of a building or structure, including any open air areas between the posts, or the posts and walls, that hold up a roof, such as carports and covered decks.

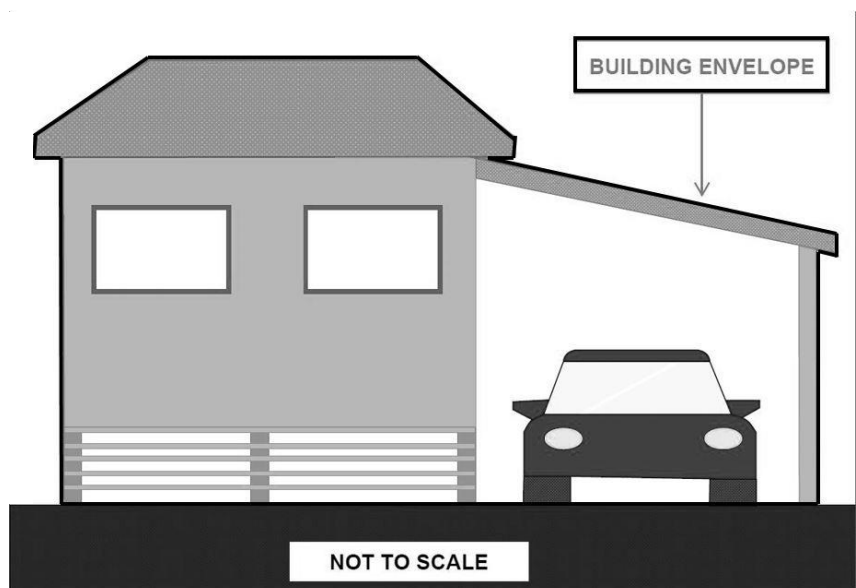


Figure 1 "Building envelope"

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 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 September 24, 2020 as determined by real property tax class or payment of general excise tax and transient accommodations tax.

3. The property owner or operator holds general excise tax and transient accommodations tax licenses and is current in payment of State and County taxes, fines, or penalties assessed in relation to the transient vacation rental.

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

5. Advertisements for transient vacation rental use must include the subject property's registration number, which is the subject property's tax map key number, without punctuation marks.

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. 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 5. This Ordinance takes effect on approval.

APPROVED AS TO FORM AND LEGALITY:

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Department of the Corporation Counsel  
County of Maui

pslu:misc:037abill01:wal