

**COUNCIL OF THE COUNTY OF MAUI**  
**PLANNING AND SUSTAINABLE LAND**  
**USE COMMITTEE**

November 5, 2021

**Committee**  
**Report No. \_\_\_\_\_**

Honorable Chair and Members  
of the County Council  
County of Maui  
Wailuku, Maui, Hawaii

Chair and Members:

Your Planning and Sustainable Land Use Committee, having met on October 21, 2021, makes reference to County Communication 21-481, from the Planning Director, transmitting a proposed bill entitled “A BILL FOR AN ORDINANCE AMENDING CHAPTERS 19.04 AND 19.12, MAUI COUNTY CODE, RELATING TO TRANSIENT VACATION RENTALS IN THE APARTMENT DISTRICT.”

The purpose of the proposed bill is to provide clarification on terms and requirements for transient vacation rental (“TVR”) use in the Apartment District, and to add a registration number requirement for advertisements.

Your Committee notes the Department of Planning (“Department”) presented Resolution 21-55 to the Maui Planning Commission at its July 13, 2021 meeting, the Molokai Planning Commission at its July 14, 2021 meeting, and the Lānaʻi Planning Commission at its July 21, 2021 meeting. This resolution transmitted to the three planning commissions a proposed bill to amend Maui County Code, Chapter 19.12, Apartment Districts, to establish transient registration numbers in the Apartment Districts and some other minor changes.

Your Committee discussed the following revisions to the proposed bill attached to Resolution 21-51, which were recommended by the Department:

1. The property owner or operator must hold valid general excise and transient accommodations tax licenses for the subject

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property, and these taxes must be paid in full and be kept current;

2. Advertisements for TVR use must include the tax map key ("TMK") number and, if applicable, unit number; and
3. Add "building envelope" to Section 19.04.040, Definitions, to define 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. This term was added to 19.12.020(G)(3) in Ordinance 5126 but not to 19.04.040, and is necessary to define the spatial limitation of transient vacation rental use in a dwelling unit.

Your Committee received a presentation from the Department that included the following rationale for the use of TMK numbers as the registration numbers:

1. Permitted uses do not normally require a registration;
2. Major online platforms such as Airbnb and VRBO are set up to include TMK numbers and the County's agreements with these platforms are consistent with the Department's recommendation to use TMK numbers;
3. The Department's enforcement vendor already uses TMK numbers to search online advertisements;
4. 104 properties with 7,302 units in Apartment District condo units are allowed to conduct TVR use. The Department feels registering and monitoring a permitted use is not necessary and would be a significant new demand on staff and resources; and

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5. The Department's proposal includes easily verifiable information.

Your Committee discussed the use of TMK numbers to identify TVRs in the Apartment Districts instead of separate unique registration numbers. A representative from the Department of Finance confirmed that condominiumized properties have unique TMK numbers for each unit. Any buildings in an Apartment District that are not condominiumized would have only one TMK number but would also only have one owner so there would not be a need to have unique unit numbers.

Your Committee inquired about the enforcement of unauthorized use of TMK numbers in the advertisement of TVRs. The Department said that requiring the use of TMK numbers in advertisements and proof of general excise and transient accommodations tax payments will assist the Department's enforcement vendor in flagging illegal TVR use in the Apartment Districts.

Your Committee agreed to amend the bill to leave "or payment of general excise tax and transient accommodations tax" at the end of Subsection 19.19.020(G)(2).

Your Committee expressed support for the revised proposed bill attached to County Communication 21-481.

Your Committee voted 9-0 to recommend passage of the revised proposed bill on first reading and filing of the communication. Committee Chair Paltin, Vice-Chair King, and members Johnson, Kama, Lee, Molina, Rawlins-Fernandez, Sinenci, and Sugimura voted "aye."

Your Committee is in receipt of a revised proposed bill, approved as to form and legality by the Department of the Corporation Counsel, incorporating your Committee's recommended revisions and nonsubstantive revisions.

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Your Planning and Sustainable Land Use Committee  
RECOMMENDS the following:

1. That Bill \_\_\_\_\_ (2021), as revised herein and attached hereto, entitled "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 PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 21-481 be FILED.

This report is submitted in accordance with Rule 8 of the Rules of the Council.



\_\_\_\_\_  
TAMARA PALTIN, Chair

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.

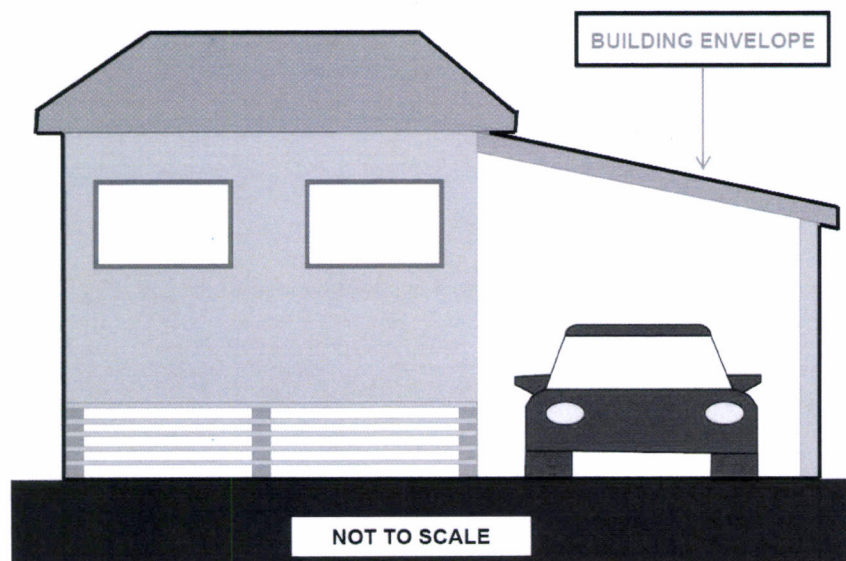


Figure 1 “Building envelope”

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.

~~[3.]~~ 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:

  
STEPHANIE M. CHEN  
Deputy Corporation Counsel  
Department of the Corporation Counsel  
County of Maui

PSLU-37 2021-10-26 Ord Amd Sec 19.04 & 19.12