

MICHAEL P. VICTORINO
Mayor

MICHELE CHOUTEAU MCLEAN, AICP
Director

JORDAN E. HART
Deputy Director



DEPARTMENT OF PLANNING
COUNTY OF MAUI
ONE MAIN PLAZA
2200 MAIN STREET, SUITE 315
WAILUKU, MAUI, HAWAII 96793

October 27, 2021

Honorable Michael P. Victorino
Mayor, County of Maui
200 South High Street
Wailuku, Hawaii 96793

APPROVED FOR TRANSMITTAL

[Signature] 10/26/21
Acting Mayor Date

OFFICE OF THE
COUNTY CLERK

2021 OCT 29 PM 4:30

RECEIVED

For Transmittal to:

Honorable Tamara Paltin, Chair
Planning and Sustainable Land Use Committee
Maui County Council
200 South High Street
Wailuku, Hawaii 96793

Dear Committee Chair Paltin:

**SUBJECT: MORATORIUM ON NEW TRANSIENT ACCOMMODATIONS
ON MAUI (PSLU-28)**

Thank you for your inquiry regarding the status of the proposed bill to declare a moratorium on new transient accommodations for the island of Maui. The public hearing before the Maui Planning Commission was held on Tuesday, September 28, 2021, and after nearly a full day of deliberations, the Commission voted to recommend approval of the bill with some revisions. The revised bill was sent to Corporation Counsel on October 5, 2021 where it is currently under review. A draft copy is attached for your reference.

If you have any questions or need additional information, please feel free to contact me.

Sincerely,

[Signature]

JORDAN E. HART
Deputy Planning Director

Attachment

C: Michele McLean, Planning Director
Corporation Counsel

JEH:JMCT:atw

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MAIN LINE (808) 270-7735

CURRENT DIVISION (808) 270-8205 / LONG RANGE DIVISION (808) 270-7214 / ZONING DIVISION (808) 270-7253

ORDINANCE NO. ____
BILL NO. ____ (2021)

A BILL FOR AN ORDINANCE ESTABLISHING CHAPTER 19.98, 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. 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. Verification of use may be determined by real property tax class, payment of general excise and transient accommodations tax, and advertising.

“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.

1. Transient accommodations operating in zoning districts where this is a permitted use may do renovations or repairs which do not increase lodging capacity or expand the structure beyond the boundaries of the existing structural footprint.

2. Transient accommodations operating as a nonconforming use under 19.04.040 and 19.500.110, must continue to comply with the provisions of 19.04.040 and 19.500.110.

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

E. Any development that includes new housing units built, [in an equal number to the] at a ratio of at least one housing unit for every three transient accommodations units, rounding up to the nearest whole number, of the nearest whole number, of the total number of new transient accommodations, that are:

1. Affordable to very low income, low income, below moderate, and moderate income residents, as defined in the residential workforce housing policy, for at least thirty years;
2. Made available for occupancy prior to or concurrent with the new transient accommodations; and
3. Located in the same community plan area.
4. Housing credits may not be issued or used by the developer to satisfy the requirement for any type of unit constructed.

F. The development of any new transient vacation rentals or apartment buildings eligible for transient vacation rentals in order to relocate away from coastal hazards, as follows:

1. The existing units are removed from within either the 3.2 feet Sea Level Rise Exposure Area (SLR-XA) or the Coastal Flood Hazard Zone with Sea Level Rise (1%CFZ-3.2) area as determined by the Director from the State of Hawai'i Sea Level Rise Viewer hosted by the Pacific Islands Ocean Observing System;
2. The new development occurs outside of both the SLR-XA and the 1%CFZ-3.2;
3. The existing units are demolished and removed, and construction of the new units commences within ten years from the issuance of permits from the Development Services Administration for the demolition and removal of the existing units;
4. The new units cannot be occupied until the demolition begins on the existing units; and
5. The number of new units or rooms is less than or equal to that of the existing units or rooms that will be demolished and removed.

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 2. 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:

Department of the Corporation Counsel
County of Maui

DRAFT