

ORDINANCE NO. 5316

BILL NO. 148 (2021)
Draft 1

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, Maui County Code, is amended by adding a new chapter to be appropriately designated and 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 an average 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, which establishes a transient accommodation limit categorized by accommodation type and by community plan area, or two years from the effective date of the ordinance establishing this chapter, whichever is sooner. 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.

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 establishing this chapter.

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, as follows:

1. Transient accommodations operating in zoning districts where transient accommodations are operating as a permitted use, such transient accommodations may be renovated or repaired, provided there is no increase in lodging capacity or expansion of the structure beyond the boundaries of the existing structural footprint.

2. Transient accommodations operating as a nonconforming use under sections 19.04.040 and 19.500.110, must continue to comply with the provisions of sections 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. The modification of any permit or approval granted prior to the effective date of this ordinance, provided that the number of transient accommodation units allowed by such permit or approval is not increased.

F. Any development that includes new housing units built, at a ratio of at least one housing unit for every one transient accommodation unit, rounding up to 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 chapter 2.96, for at least thirty years.

2. Made available for occupancy prior to or concurrent with the new transient accommodations.

3. Located in the same community plan area.

4. Housing credits may not be issued to or used by the developer to satisfy the requirement of this subsection for any type of unit constructed. The new affordable housing units must be physically constructed or may be converted from housing units currently used as transient accommodations to be used as long-term housing for the purposes of this section.

G. The development of any new transient accommodations in order to relocate existing transient accommodations 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 department of public works for the demolition and removal of the existing units.

4. The new units cannot be occupied until the demolition begins on the existing units.

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 section 19.98.010, or two years from the effective date of the ordinance establishing this chapter, whichever is sooner.”

SECTION 2. This Ordinance takes effect on approval and applies to any new transient accommodation that has not received its final discretionary approval 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

LF2021-1786

2021-12-07 Ord Amd Ch 19.98 (PAF 21-361)

paf:wal:21-361a

I HEREBY CERTIFY that BILL NO. 148 (2021), Draft 1, was passed by the Council of the County of Maui, State of Hawaii, on First Reading on November 19, 2021, and Second and Final Reading on December 3, 2021.

I FURTHER CERTIFY that on December 8, 2021, said BILL NO. 148 (2021), Draft 1, was presented to the Honorable Michael P. Victorino, Mayor of the County of Maui, for his approval or otherwise; that on December 22, 2021, the Mayor's disapproval of BILL NO. 148 (2021), Draft 1, was received; and that after reconsideration by the Council on January 7, 2022, said BILL NO. 148 (2021), Draft 1, was passed by the following votes:

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

NOES: Councilmembers Natalie A. Kama, Yuki Lei K. Sugimura, and Chair Alice L. Lee.

I FURTHER CERTIFY that said BILL NO. 148 (2021), Draft 1, was designated as ORDINANCE NO. 5316 of the County of Maui, State of Hawaii, effective January 7, 2022.

DATED at Wailuku, Maui, Hawaii, this 12th day of January, 2022.

COUNCIL OF THE COUNTY OF MAUI



ALICE L. LEE
Chair and Presiding Officer

ATTEST:



KATHY L. KAOHU
County Clerk