

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

BILL NO. \_\_\_\_\_ (2012)

A BILL FOR AN ORDINANCE AMENDING TITLE 19, MAUI COUNTY CODE,  
RELATING TO SHORT-TERM RENTAL HOMES

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

SECTION 1. The purpose of this bill is to establish procedures to permit short-term rental homes in certain areas, subject to appropriate restrictions and standards. It is the intent of the Council to implement land use policies consistent with the County of Maui's General Plan and the State of Hawaii's land use laws, to retain the character of residential neighborhoods, and to allow for varied accommodations and experiences for visitors.

SECTION 2. Section 19.02A.030, Maui County Code, is amended to read as follows:

**“19.02A.030 Permitted property uses.** No land or building shall be used and no building shall be erected or structurally altered or maintained within the districts of Wailuku, Makawao, Lahaina, Hana, Lanai, and Molokai except for one or more of the following uses, subject to the referenced development standards:

1. One single-family dwelling per six thousand square feet of land:

DEVELOPMENT STANDARDS	
Minimum lot area	6,000 square feet
Minimum lot width	60 feet
Maximum height	30 feet
Minimum yard setback	(Up to and including 15 feet in height) Front 15 feet Side 6 feet Rear 6 feet  (More than 15 feet in height) Front 15 feet Side 10 feet Rear 10 feet

There may be the usual necessary accessory buildings, as defined in section 19.04.040 of this [code] title, in connection with any such dwelling.

2. Duplex dwellings:

DEVELOPMENT STANDARDS	
Minimum lot area	12,000 square feet
Minimum lot width	60 feet
Maximum building height	30 feet
Minimum yard setback	(Up to and including 15 feet in height): Front 15 feet Side 6 feet Rear 6 feet  (More than 15 feet in height): Front 15 feet Side 10 feet Rear 10 feet

3. Hospitals and/or sanitariums, and/or convalescent homes, day care facilities, museums, churches, libraries, kindergartens, elementary schools, intermediate schools, high schools, universities, publicly owned buildings, public utility uses, and tower structures in support of a utility:

DEVELOPMENT STANDARDS		
Minimum lot area	20,000 square feet	
Minimum lot width	100 feet	
Maximum building height	30 feet	
Maximum tower height	50 feet	
Minimum yard setback	Front 20 feet Side 20 feet Rear 20 feet	Tower structures in support of a utility shall be set back from the property line at a distance at least equal to the overall height of the tower

4. The construction of new, or the expansion of existing, parks, playgrounds, community centers, or public/quasi-public facilities, owned or operated by private or governmental agencies, and tower structures in support of a utility[,]; provided that, the utility services the new or expanded park, playground, community center or public/quasi-public facility:

DEVELOPMENT STANDARDS		
Minimum lot area	No minimum	
Minimum lot width	No minimum	
Maximum building/tower height	50 feet on the islands of Maui and Lanai. On the island of Molokai, building height shall be limited to 35 feet, and tower height shall be limited to 50 feet.	
Minimum yard setback	Front 15 feet Side 10 feet Rear 15 feet	Tower structures in support of a utility shall be set back from the property line at a distance at least equal to the overall height of the tower

5. Agricultural uses:

DEVELOPMENT STANDARDS		
Use	Lot Size	Special Use Permit Required
Agriculture, excluding the raising and/or keeping of bees and pigs	Less than one acre	No
	One acre or more	No
Agriculture, including the raising and/or keeping of bees and pigs	Less than one acre	Yes
	One acre or more	Yes
Commercial agriculture, excluding the raising and/or keeping of bees and pigs	Less than one acre	Yes
	One acre or more	No
Commercial agriculture, including the raising and/or keeping of bees and pigs	Less than one acre	Yes
	One acre or more	Yes

For purposes of this section, special use permits shall be processed pursuant to chapter 19.510 of this [code] title, and assessed a permit fee as established in the annual budget of the [C]county.

6. Bed and breakfast homes subject to chapter 19.64 of this [code] title.

7. Short-term rental homes, subject to the provisions of chapter 19.65 of this title.”

SECTION 3. Section 19.04.040, Maui County Code, is amended by amending definitions to read as follows:

““Bed and breakfast home” means a use in which overnight accommodations are provided to guests for compensation, for periods of less than one hundred eighty days, in no more than two detached single-family dwelling units, one of which is occupied by the owner-proprietor. Each bed and breakfast home shall include bedrooms, one kitchen, and living areas and shall include no

more than six bedrooms for [short-term rental] bed and breakfast home use, as specified within the zoning district provisions of this title.

“Department” means the department of planning.

“Director” means the director of the department of [public works and waste management]planning.

“Hotel” or “motel” means a transient vacation rental, [other than a] excluding bed and breakfast [home containing lodging or dwelling units] homes and short-term rental homes.

“Short-term rental home” means [a transient vacation rental or] a residential use in which overnight accommodations are provided [in dwelling units] to guests for compensation, for periods of less than [thirty days.] one hundred eighty days, in no more than two detached single-family dwelling units, excluding bed and breakfast homes. Each short-term rental home shall include bedrooms, one kitchen, and living areas. Each lot containing a short-term rental home shall include no more than two detached single-family dwelling units used for short-term rental home use, with no more than a total of six bedrooms for short-term rental home use, as specified within the zoning district provisions of this title.

“Transient vacation rentals or use” means occupancy of a dwelling or lodging unit by transients for any period of less than one hundred eighty days, excluding bed and breakfast homes and short-term rental homes.”

SECTION 4. Section 19.08.020, Maui County Code, is amended to read as follows:

“**19.08.020 Permitted uses.** Within residential districts, the following uses shall be permitted:

- A. Single-family dwellings;
- B. Greenhouses, flower and truck gardens, and nurseries; provided[,] that, there shall be no retailing or transacting of business on the premises;
- C. Parks and playgrounds, noncommercial; certain commercial amusement and refreshment sale activities may be permitted when under supervision of the government agency in charge of the park or playground;
- D. Schools, elementary, intermediate, high, and colleges, publicly or privately owned, which may include on-campus dormitories;
- E. Buildings or premises used by the federal, [S]state, or county governments for public purposes;
- F. Accessory buildings located on the same lot, the use of which is customary, incidental, usual, and necessary to that of the main building or to the use of the land;
- G. An accessory dwelling may be permitted where the area of the lot on which the main house is located is seven thousand five hundred square feet or more. Chapter 19.35 of this [article] title, pertaining to accessory dwellings, shall be applicable to any accessory dwelling;
- H. Day care nurseries, kindergartens, nursery schools, child care homes, day care homes, day care centers, nurseries, preschool kindergartens, babysitting services, and other like facilities located in private homes used for

child care services. These facilities shall serve six or fewer children at any one time on lot sizes of less than seven thousand five hundred square feet, serving eight or fewer children at any one time on lot sizes of seven thousand five hundred or more square feet but less than ten thousand square feet, or serving twelve or fewer children at any one time on lot sizes of ten thousand or more square feet;

I. Bed and breakfast homes, [S]subject to the provisions [restrictions and standards] of chapter 19.64 of this title[, Type 1 bed and breakfast homes shall be permitted on any lot; Type 2 bed and breakfast homes shall be permitted on lots of seven thousand five hundred square feet or greater, and Type 3 bed and breakfast homes shall be permitted on lots of ten thousand square feet or greater]; [and]

J. Home occupations[.]; and

K. Short-term rental homes, subject to the provisions of chapter 19.65 of this title.”

SECTION 5. Section 19.11.020, Maui County Code, is amended to read as follows:

“**19.11.020 Permitted uses.** The following uses and structures shall be permitted in the SBR service business residential district:

1. Single-family dwellings;
2. Duplex dwellings;
3. Greenhouses, truck gardens, and nurseries;
4. SBR service establishments;
5. SBR mixed-use establishments;
6. Bed and breakfast homes, subject to the provisions of [section]chapter 19.64[.030] of this [code.]title; and
7. Short-term rental homes, subject to the provisions of chapter 19.65 of this title.”

SECTION 6. Section 19.15.020, Maui County Code, is amended to read as follows:

“**19.15.020 Permitted uses.** Within the B-CT country town business district, the following uses shall be permitted:

“A. Principal Uses:

1. Amusement and recreational activities that are situated within completely enclosed building;
2. Automobile services;
3. Auditoriums and theaters;
4. Bakeries;
5. Buildings and premises utilized, owned, or operated by government agencies, including community centers;
6. Business, financial, and professional offices;
7. Commercial retail establishments;
8. Eating and drinking establishments;

9. Educational, research, trade, and personal skills facilities and learning centers;
10. Fitness centers and dancing studios;
11. Hardware, feed, and garden stores; provided[,] that, feed and fertilizer are kept within an enclosed building;
12. Laundromats;
13. Music studios;
14. Parking lots;
15. Personal service establishments;
16. Printing establishments that are totally enclosed within a building;
17. Religious, benevolent, and philanthropic societies, and civic organizations;
18. Bed and breakfast homes, in lawfully existing single-family dwellings, subject to the restrictions and standards of [Section] section 19.64.030 of this title;
19. Day care facilities, except on Molokai;
20. Medical facilities and animal hospitals, except on Molokai;
21. Multifamily dwellings, duplexes, and bungalow courts, except on Molokai;
22. Combinations of dwelling units with other permitted principal uses in the same building, except on Molokai; [and]
23. Home occupations, in lawfully existing single-family dwellings[.]; and
24. Short-term rental homes, in lawfully existing single-family dwellings, subject to the provisions of chapter 19.65 of this title.

B. Accessory uses and structures necessary to facilitate the establishment of permitted principal uses.”

SECTION 7. Section 19.16.020, Maui County Code, is amended to read as follows:

“**19.16.020 Permitted uses.** Within the B-1 district, the following uses shall be permitted:

- A. Barber or beauty shops;
- B. Baker goods stores;
- C. Book, stationery, or gift stores;
- D. Candy stores;
- E. Churches;
- F. Day care centers and nurseries;
- G. Delicatessen stores;
- H. Drugstores;
- I. Florist shops;
- J. Grocery stores and meat markets;
- K. Ice cream or snack counters;

- L. Laundromats;
- M. Liquor stores (package only);
- N. Gasoline retailing[.]; provided[.], that, it is owned and operated as an adjunct to a neighborhood store; and further provided[further.] that, no servicing, repairing, storing, washing, or maintenance of vehicles will be permitted on the premises;
- O. Other similar retail businesses or service establishments that supply commodities or perform services primarily for residents of the surrounding neighborhood; provided[, however] that, such uses shall be approved by the commission as conforming to the intent of this title;
- P. One single-family dwelling per lot[.]; provided[.], that, the lot is sufficiently large to provide a lot area six thousand square feet for the dwelling after the area for the business, parking, and other accessory areas for the business have been subtracted; or living and sleeping quarters for a single family constructed above the ground floor of the business building;
- Q. Bed and breakfast homes, subject to the [restrictions and standards] provisions of [section]chapter 19.64[.030] of this title; [and]
- R. Home occupations in single-family dwellings permitted pursuant to subsection P[.]; and
- S. Short-term rental homes, subject to the provisions of chapter 19.65 of this title.”

SECTION 8. Section 19.18.020, Maui County Code, is amended to read as follows:

“**19.18.020 Permitted uses.** Within the B-2 district, the following uses shall be permitted:

1. Any use permitted in a B-1 neighborhood business district; however, no living or sleeping quarters shall be permitted in any detached accessory building or structure on the same lot;
2. Amusement enterprises, including billiard or pool halls;
3. Antique shops;
4. Apartments;
5. Art galleries;
6. Auctioneer establishments;
7. Auditoriums and theaters;
8. Automobile parking lots and/or buildings;
9. Automobile parts stores;
10. Automobile service stations, with or without auto repairing; provided[.], that, all auto repairing operations are conducted in enclosed buildings; and provided further, that tire rebuilding or battery manufacturing shall not be permitted within this district;
11. Automobile upholstery shops;
12. Awning or canvas shops;
13. Banks;
14. Baseball or football stadiums and other sport activities and amusements;



15. Bath houses, commercial (plunge);
16. Baths, Turkish and the like, including masseurs;
17. Block-printing establishments;
18. Bowling alleys;
19. Business offices and agencies;
20. Catering establishments employing not more than five persons;
21. Charity relief organizations;
22. Clinics, medical or dental;
23. Custom dressmaking or millinery shops;
24. Dancehalls;
25. Dancing and hula studios;
26. Dressmaking shops;
27. Dry goods and/or department stores;
28. Equipment rental and sales yards;
29. Feed stores;
30. Gymnasiums;
31. Haberdasheries and women's apparel shops;
32. Hardware and garden supply stores;
33. Ice cream and milk manufacturing plants employing not more than twenty-five persons;
34. Jewelry stores or fine art shops, including interior decorating;
35. Libraries;
36. Marinas;
37. Miniature golf courses;
38. Museums;
39. Music conservatories or music studios;
40. News and magazine stands;
41. Nurseries (flower or plants); provided[,] that, all incidental equipment and supplies, including fertilizers and empty cans, are kept within enclosed buildings;
42. Nursing and convalescent homes;
43. Parcel delivery stations;
44. Pet shops[,] not involving the treatment or boarding of animals;
45. Photo studios;
46. Physical culture studios;
47. Plumbing shops within wholly enclosed buildings and employing not more than five persons;
48. Printing, lithography, or publishing shops;
49. Private clubs or fraternal organizations;
50. Private schools or business colleges;
51. Professional and financial buildings;
52. Public parking areas;
53. Radio and television stations;
54. Religious, benevolent, and philanthropic societies;
55. Restaurants, cafes, or bars, including [drive-ins] drive-throughs;
56. Sanitariums;

57. Shoe stores;
58. Sign-painting shops within wholly enclosed buildings and employing not more than five persons;
59. Skating shops;
60. Tailor shops;
61. Trade schools;
62. Used car lots; provided[,] that, all repair and maintenance is conducted within a wholly enclosed building;
63. Mortuaries, subject to the approval of the commission;
64. Warehouses and yards [which] that are adjunct to, and part of, the operation of the permitted uses listed above may be permitted by the commission[.]; provided[,] that, such uses are determined to conform to the intent of this article, and subject to such terms and conditions as may be warranted. Such uses shall be conducted wholly within a completely enclosed building or within an area enclosed on all sides by a solid fence or wall at least six feet in height; and provided[,] that, no goods, materials, or objects shall be stacked higher than the fence or walls so erected;
65. Bed and breakfast homes, subject to the [restrictions and standards] provisions of [section]chapter 19.64[.030] of this title;
66. Any other retail businesses or commercial enterprises[which] that are similar in character of rendering sales of commodities or performance of services to the community and not detrimental to the welfare of the surrounding area; provided[, however]that, such uses shall be approved by the commission as conforming to the intent of this [article.]chapter; and
67. Short-term rental homes, subject to the provisions of chapter 19.65 of this title.”

SECTION 9. Section 19.29.030, Maui County Code, is amended to read as follows:

“**19.29.030 Permitted uses.** The following uses and structures shall be permitted in the RU-0.5, RU-1, RU-2, RU-5, RU-10, and [C]county rural districts [provided] if they also conform with all other applicable laws:

A. Principal Uses.

1. One single-family dwelling per one-half acre in the RU-0.5 and [C]county rural districts; one single-family dwelling per one acre in the RU-1 district; one single-family dwelling per two acres in the RU-2 district; one single-family dwelling per five acres in the RU-5 district; and one single-family dwelling per ten acres in the RU-10 district;
2. Growing and harvesting of any agricultural or agricultural crop or product, subject to restrictions set forth in this chapter;
3. Minor utility facilities as defined in section 19.04.040 of this [code]title;
4. Parks for public use; but not including commercial: camping, campgrounds, campsites, overnight camps, and other similar uses;

5. Day care nurseries, kindergartens, nursery schools, child care homes, day care homes, adult day care homes, day care centers, nurseries, preschool kindergartens, babysitting services, and other like facilities located in dwelling units used for child care services. These facilities shall serve six or fewer clients at any one time on lot sizes of less than seven thousand five hundred square feet, [serving ]eight or fewer clients at any one time on lot sizes of seven thousand five hundred or more square feet but less than ten thousand square feet, or [serving ]twelve or fewer clients at any one time on lot sizes of ten thousand or more square feet; and

6. Home occupations.

B. Accessory Uses.

1. Accessory uses such as garages, carports, barns, greenhouses, gardening sheds, and similar structures that are customarily used in conjunction with and incidental and subordinate to a principal use or structure;

2. The keeping of livestock, hogs, poultry, and fowl and game birds;

3. One accessory dwelling per lot, in accordance with the provisions of chapter 19.35 of this [code] title;

4. Small-scale energy systems that are incidental and subordinate to principal uses;

5. Stands for the purpose of displaying and selling agricultural, floriculture or farming products, if such products have been produced or grown on the premises, subject to standards in section 19.29.020 of this [code] title. Goods produced off-premises are expressly prohibited; [and]

6. Bed and breakfast homes, subject to the provisions of chapter 19.64 of this [code] title.; and

7. Short-term rental homes, subject to the provisions of chapter 19.65 of this title.”

SECTION 10. Section 19.30A.060, Maui County Code, is amended to read as follows:

“**19.30A.060 Special uses.** The following uses and structures shall be permitted in the agricultural district if a special use permit, pursuant to section 19.510.070[, Maui County Code] of this title, has been obtained; except that if a use described in this section also requires a special permit pursuant to chapter 205, Hawai'i Revised Statutes, and if the land area of the subject parcel is fifteen acres or less, the [S]tate special permit shall fulfill the requirements of this section:

A. Additional farm dwellings beyond those permitted by subsection 19.30A.050.B.1;

B. Farm labor dwellings that do not meet the criteria of subsection 19.30A.050.B.2;

C. Agricultural products stands that do not meet the standards of subsection 19.30A.050.B.3;

D. Farmer's markets that do not meet the standards of subsection 19.30A.050.B.4;

E. Public and quasi-public institutions [which]that are necessary for agricultural practices;

F. Major utility facilities as defined in section 19.04.040[, Maui County Code] of this title;

G. Telecommunications and broadcasting antenna;

H. Open land recreation uses, structures or facilities which do not meet the criteria of subsection 19.30A.050.B.11, including commercial camping, gun or firing ranges; archery ranges; skeet shooting; paint ball; bungee jumping; skateboarding; roller blading; playing fields; accessory buildings and structures. Certain open land recreation uses or structures may also be required to obtain a special permit pursuant to chapter 205, Hawai'i Revised Statutes. The following uses or structures shall be prohibited: airports, heliports, drive-in theaters, country clubs, drag strips; motor sports facilities; golf courses and golf driving ranges;

I. Cemeteries, crematories, and mausoleums;

J. Churches and religious institutions;

K. Mining and resource extraction;

L. Landfills; [and]

M. Solar energy facilities that are greater than fifteen acres[.]; and

N. Short-term rental homes, subject to the provisions of chapter 19.65 of this title; provided that, the applicant need not obtain a county special use permit pursuant to section 19.510.070 of this title; and provided further that, if the property containing the short-term rental home is located in the state agricultural district, the applicant shall obtain a state special use permit, pursuant to section 205-6, Hawaii Revised Statutes, in addition to the short-term rental home permit required by chapter 19.65 of this title.”

SECTION 11. Section 19.36A.010, Maui County Code, is amended to read as follows:

**“19.36A.010 Designated number of spaces.** Unless otherwise provided in this chapter, the following minimum numbers of accessible off-street facilities for the parking of self-propelled motor vehicles shall be provided on private property in connection with the use of any land, or the erection or remodeling of any building or structure. The number of off-street parking spaces required shall not be less than the sum total of spaces of the number of required parking spaces for each component use of land, building, or structure hereinafter specified:

<i>USE</i>	<i>MINIMUM PARKING RATIO</i>
Accessory dwelling	One parking space for each dwelling unit.
Apartment house, apartment, apartment-motel with kitchen facility in room	Two parking spaces for each unit; provided[,] that, two parking spaces assigned to a dwelling unit, or allocated for employee parking, may be situated in tandem thereby allowing two vehicles to park end to end.
Auditorium, theater, stadium, bleachers	One parking space for every six seats.
Banks and medical and dental clinics	One parking space for every three hundred square feet of building; provided[,] that, the minimum shall be three parking spaces.
Bed and breakfast home	One parking space for each bedroom used for [short-term rental] <u>bed and breakfast home use</u> , in addition to any other parking space(s) required by this section. Stalls may be situated in tandem.
Bowling alley	Five parking spaces for each alley.
Business building	One parking space for every five hundred square feet of floor area of building; provided[,] that, the minimum shall be three parking spaces.
Church, place of worship	One parking space for every one hundred square feet of floor area of building.
Clubhouse, private club	One parking space for every two hundred square feet of floor area of building.
Convertible apartment, hotel and apartment/hotel units, i.e., single units capable of being utilized as two or more units	An additional one parking space for every three convertible units shall be provided.
Day care facility	One parking space for each classroom.
Domestic type business in home	One parking space for each business.
Golf course	Three parking spaces for each hole in the course.
Golf driving range	Four parking spaces for each acre.
Hospitals	One parking space for every three beds.
Hotel	One parking space for every two guest rooms.
Industrial or storage uses in M-1 and M-2 industrial zones	One parking space for every six hundred square feet of floor area of building or twenty-five percent of the lot area, whichever is the greater.
Library, museum, art gallery	One parking space for every three hundred square feet of floor area of building.

<u>USE</u>	<u>MINIMUM PARKING RATIO</u>
Live/work mixed use	One parking space for every seven hundred fifty square feet of area used for live/work business; commercial uses and residential uses with a live/work configuration may share parking spaces. The spaces required for the residential unit on a live/work building lot may be applied toward the number of spaces required for a business use.
Lodging house	One parking space for every two lodging rooms.
Mortuary	One parking space for every forty square feet of floor area of building.
Motel	One and one-half parking spaces for each unit.
Public utility substation	One parking space.
Restaurant, bar, nightclub, amusement centers	One parking space for every one hundred square feet of serving and dining areas; provided[, ] that, there shall be a minimum of three parking spaces for patrons and a minimum of three additional spaces for employee parking for each such establishment.
Roadside stand	Two parking spaces for each stand.
SBR mixed-use establishment	Two parking spaces per dwelling unit plus one space for every three hundred square feet of non-residential gross floor area.
SBR service establishment	One parking space for every three hundred square feet of gross floor area.
Sanitarium, welfare institution, nursing home	One parking space for every eight beds.
School with students under fifteen years of age and with students fifteen years of age or older	Eight parking spaces for each classroom.
School with students under fifteen years of age	One parking space for each classroom.
School with students fifteen years of age or older	Eight parking spaces for each classroom.
Self-storage	One parking space for every three thousand square feet of storage.
Service station, repair shop, garage	One parking space for every two hundred square feet of floor area of building or forty percent of the lot area, whichever is the greater. The storing and keeping of damaged vehicles or parts thereof shall be within an enclosure bounded completely by a wall six feet in height.

<i>USE</i>	<i>MINIMUM PARKING RATIO</i>
Shopping centers	One parking space for every two hundred square feet of floor area of all buildings, except for restaurant, bar, nightclub, and amusement facilities, for which parking requirements under this section shall apply.
Short-term rental home	<u>One parking space if there are more than four bedrooms used for short-term rental home use, in addition to any other parking requirements under this chapter. Parking stalls may be situated in tandem and on grasscrete.</u>
Single-family dwelling, farm dwelling, duplex	Two parking spaces for each dwelling unit
Swimming pool, gymnasium	One parking space for every six hundred square feet of gross floor area of pool or building.
Taxi stand and bus stand	One parking space for each vehicle operating from that stand. The space shall be sufficient in size to accommodate the bus or vehicle, and shall be marked "Taxi Only" or "Bus Only".
Tennis courts	Six parking spaces for each court.
Transient vacation rental in the SBR service business residential district	One parking space for every five hundred square feet of floor area, with a minimum of one parking space for each unit.
U-drive stand and storage	One parking space for each vehicle operating from that stand or storage. Where the U-drive business is within a hotel district, the storage area for the U-drive vehicles shall be physically separated from the hotel parking area, and shall be physically bounded and marked for "U-Drive Vehicles Only".

SECTION 12. Section 19.37.010, Maui County Code, is amended to read as follows:

**“19.37.010 Geographic restrictions.** A. Except as provided in this section, time share units[,] and time share plans [and transient vacation rentals] are prohibited. Transient vacation rentals are prohibited, excluding bed and breakfast homes permitted under chapter 19.64 of this title, short-term rental homes permitted under chapter 19.65 of this title, transient vacation rental units permitted by a conditional permit under chapter 19.40 of this title, and hotels that are permitted based on the applicable zoning in the comprehensive zoning ordinance.

B. Existing time share units, time share plans, and transient vacation rentals [which]that were operating pursuant to and under law and [which]were registered pursuant to chapter 514E of the Hawaii Revised Statutes as of the effective date of the ordinance codified in this section shall not be impaired by the provisions of this section; provided[,] that, any time share project operating under

law that records in the bureau of conveyances within sixty days of the effective date of the ordinance codified in this section, a declaration in a form prescribed by the director[of planning] shall be deemed exempt from this section [so]as long as the project or apartment unit identified by the declaration continues to operate under a lawful time share plan or registration.

C. Time share units, time share plans, and transient vacation rentals are allowed in the hotel district and transient vacation rentals are allowed as special uses in the service business residential district; provided[,] that, such use is explicitly and prominently authorized by the project instrument. As used in this section, "project instrument" means one or more documents, including any amendments to the documents, by whatever name denominated, containing restrictions or covenants regulating the use or occupancy of a project. As used in this section, "project" means property that is subject to project instruments, including but not limited to, condominiums and cooperative housing corporations.

D. If the project in which the time share unit, time share plan, or transient vacation rental is to be created is not a hotel and does not contain time share units, time share plans, or transient vacation rentals, then [such]the use may be [created]approved only if [such use]it is explicitly and prominently authorized by the project instruments, or if the project instruments are amended by [unanimous]a vote of the unit owners as required in the project instrument to explicitly [and prominently]authorize time sharing or transient vacation rentals.”

SECTION 13. Section 19.69.020, Maui County Code, is amended to read as follows:

“A. Except as otherwise provided, uses not expressly permitted herein are prohibited in the urban reserve district.

B. The following uses are permitted in the urban reserve district:

1. One single-family dwelling per zoning lot;
2. Uses and structures [which]that are accessory to the single-family dwelling and located on the same zoning lot as said dwelling. These uses and structures include, but are not limited to, carports and storage sheds, and other uses which are customary, incidental, usual, and necessary to the use of the dwelling or the land of the zoning lot;
3. One accessory dwelling; provided[,] that, the area of the zoning lot is seven thousand five hundred square feet or more; and provided further that, the provisions of chapter 19.35 of this [code]title are complied with;
4. Pasturing of animals and cultivation of crops, including, but not limited to, greenhouses, flower and truck gardens, and nurseries; provided that, there shall not be any retailing or transacting of business on the premises; and
5. Private, public, or quasi-public utility lines and roadways; drainage improvements; water source and distribution services, including, but not limited to, water wells, reservoirs, tanks, and not more than a twenty-three kilovolt public utility substation.



6. Short-term rental homes, subject to the provisions of chapter 19.65 of this title.

C. Notwithstanding the other provisions of this section, no structure shall be permitted on lands designated for open space or park use by the community plan applicable to the land in question.

D. Minimum development standards for the urban reserve district shall be as follows:

1. Area Regulations. Any zoning lot, the boundaries of which are established prior to the effective date of the ordinance codified in this chapter, may be developed in accordance with section 19.69.020(B) of this [code]title. The subdivision of any lot zoned urban reserve district to create additional zoning lots shall not be permitted;

2. Height Regulations. No building shall exceed two stories nor thirty feet in height; and

3. Yard Setbacks. There shall be a front yard setback of not less than fifteen feet, side yard setback of not less than six feet, and rear yard setback of not less than six feet; provided that, side and rear yard setbacks for two-storied buildings shall be not less than ten feet.”

SECTION 14. Title 19, Maui County Code, is amended to add a new chapter to be designated and to read as follows:

## “Chapter 19.65

### SHORT-TERM RENTAL HOMES

**19.65.010 Purpose and intent.** The purpose of this chapter is to establish a permitting process for short-term rental homes, subject to appropriate restrictions and standards. It is the intent of the Council to implement land use policies consistent with the county’s general plan and the state’s land use laws; to retain the character of residential neighborhoods; to provide varied accommodations and experiences for visitors; and to allow small businesses to benefit from tourism.

**19.65.020 Districts in which permitted.** Short-term rental homes shall be permitted pursuant to the provisions established in each zoning district and as provided in this chapter.

**19.65.030 Restrictions and standards.** Short-term rental homes shall be subject to the following restrictions and standards:

A. The short-term rental home use shall be permitted in no more than two single-family dwelling units per lot. No more than one short-term rental home permit shall be approved for any lot.

B. Each permitted dwelling unit on a short-term rental home property shall be rented to one group with a single rental agreement, except:

1. On the island of Lanai; or
  2. Any short-term rental home where the owner resides on an adjacent lot.
- C. The permit holder shall have a current transient accommodations tax license and general excise tax license for the short-term rental home.
- D. The permit holder shall:
1. Hold legal title to the lot on which the short-term rental home is located, except as provided in subsection G of this section; and
  2. Serve as manager of the short-term rental home; provided that, the permit holder may designate:
    - a. An immediate adult family member of the permit holder to serve as manager. Immediate family includes a person's parents, spouse or partner through a civil union, children and their spouses, siblings, stepparents, stepchildren, adopted children and their spouses, and hanai children;
    - b. An individual with an active State of Hawaii real estate license to serve as manager; or
    - c. An adult to serve as a temporary manager for up to forty-five days in a twelve-month period.
  3. The permit holder shall notify the department and the immediate adjacent neighbors of:
    - a. Any designation of an individual as manager pursuant to this section, including a statement of the designated manager's tenure, residential and business addresses, and telephone numbers; and
    - b. Any change in the manager's addresses or telephone numbers.
- E. The manager of the short-term rental home shall:
1. Be accessible to guests, neighbors, and county agencies. For purposes of this section, "accessible" means being able to answer the telephone at all times, being able to be physically present at the short-term rental home within one hour following a request by a guest, a neighbor, or a county agency, and having an office or residence within thirty driving miles.
  2. Ensure compliance with state department of health regulations, this chapter, permit conditions, and other applicable laws and regulations;
  3. Enforce the house policies; and
  4. Collect all rental fees.
- F. The short-term rental home shall only be rented when the manager is accessible.
- G. The short-term rental home permit shall be issued in the name of the applicant, who shall be a natural person or persons and hold legal title to the lot; except that, a permit may be issued for a lot owned by a family trust, a corporation, or an LLC if the following criteria are met:

1. The applicant shall be a natural person who is the trustee of the family trust, a twenty-five percent corporate shareholder, or a twenty-five percent member of an LLC;

2. The corporation or LLC shall not be publicly traded;

3. All of a corporation's shareholders or all of the LLC's members shall be natural persons, and if there is more than one shareholder or member, they shall be related by blood, adoption, marriage, or civil union.

H. A person may hold no more than one short-term rental home permit; except when:

1. Additional permits are for short-term rental homes that each have a county assessed market value of \$3,200,000 or higher at the time of each application; and

2. The permit holder files complete applications for the short-term rental home permits within one year of this chapter's original effective date.

I. A permit shall not be transferable; provided that, a permit may be transferred upon the death of a permit holder to an immediate family member as defined in section 19.65.030(D)(2)(a) of this chapter.

J. The applicant shall provide with the application, copies of any applicable homeowner or condominium association bylaws or rules and any other applicable private conditions, covenants, or restrictions. The documents, if any, shall assist the department in determining the character of the neighborhood.

K. The number of bedrooms used for short-term rental home use on a short-term rental home lot shall be no greater than six on Lanai and Maui, and no greater than three on Molokai. The total number of guests staying in the short-term rental home at any one time shall be no greater than two times the number of bedrooms.

L. Single-station smoke detectors shall be installed in all guest bedrooms.

M. Single-family dwellings used as short-term rental homes shall not qualify for real property tax exemptions permitted pursuant to chapter 3.48 of this code.

N. Short-term rental homes shall conform to the character of the existing neighborhood in which they are situated. Prior to issuing a permit, the department or applicable planning commission shall consider the following:

1. If a proposed short-term rental property is subject to any homeowner, condominium association, or other private conditions, covenants, or restrictions, then correspondence from the association or other entity responsible for the enforcement of the conditions, covenants or restrictions is required. The correspondence shall include specific conditions that determine whether or not the proposed short-term rental home use is allowed. The correspondence shall be used to assist the department in determining the character of the neighborhood. If no such association or entity exists, this requirement shall not apply. The director and the planning commissions shall not be bound by any private

conditions, covenants, or restrictions upon the subject parcel. Any such limitations may be enforced against the property owner through appropriate civil action.

2. Existing land-use entitlements and uses.
3. The applicable community plan.
4. Community input.
5. Potential adverse impacts, including excessive noise, traffic, and garbage.

O. Short-term rental homes shall be limited to single-family structures existing and constructed at least five years prior to the date of application for the short-term rental home permit.

P. A two-square-foot sign shall be displayed along the main access road of the short-term rental home identifying the valid short-term rental home permit, a twenty-four hour telephone number for the owner or the manager, and a telephone number for the department. The signs shall not be subject to the provisions of chapter 16.13 of this code.

Q. The permit holder or manager shall prominently display “house policies” within the dwelling. The house policies shall be included in the rental agreement, which shall be signed by each registered adult guest. At a minimum, the house policies shall include:

1. Quiet hours from 9:00 p.m. to 8:00 a.m., during which time the noise from the short-term rental home shall not unreasonably disturb adjacent neighbors. Sound that is audible beyond the property boundaries during non-quiet hours shall not be more excessive than would be otherwise associated with a residential area.
2. Amplified sound that is audible beyond the property boundaries of the short-term rental home is prohibited.
3. Vehicles shall be parked in the designated onsite parking area and shall not be parked on the street.
4. No parties or group gatherings other than registered guests shall occur.

R. The county shall be restricted in approving permits for short-term rental homes as distributed per the following community plan areas and as further restricted by the applicable community plan:

1. Hana: 48.
2. Kihei-Makena: 100; provided that, there are no more than five permitted short-term rental homes in the subdivision commonly known as Maui Meadows.
3. Makawao-Pukalani-Kula: 40.
4. Paia-Haiku: 88.
5. Wailuku-Kahului: 36.
6. West Maui: 88.

The Council shall review the community plan short-term rental home caps when approved short-term rental homes fall within ten percent of a cap number. Short-term rental homes operating with a conditional permit pursuant to chapter

19.40 of this title that meet the criteria of this section shall be included in the number of short-term rental homes permitted pursuant to this subsection.

S. Prior to issuing a permit, the director or planning commission may impose conditions for a short-term rental home if the conditions are reasonably designed to mitigate adverse impacts to the neighborhood.

T. Any dwelling unit developed pursuant to chapter 201H, Hawaii Revised Statutes, or chapter 2.96 of this code, shall not be used as a short-term rental home.

**19.65.040 Advertising.** A. All advertising for a short-term rental home shall include the valid permit number issued to the permit holder.

B. Reservation websites shall include the short-term rental home house policies or a working link to the short-term rental home house policies.

**19.65.050 Procedures for application and public notice.** A. Applicants shall submit an application for a short-term rental home permit to the department in accordance with the provisions of this chapter. Permit application fees and permit renewal fees shall be set forth in the annual budget. All permit applications shall include the following information:

1. The name, address, and telephone number of the applicant;
2. Verification of property ownership, and signatures of all owners of the property unless waived by the director in cases where the requirement is unduly burdensome;
3. The tax map key number of the lot on which the proposed short-term rental home is situated;
4. Proof of compliance with section 19.65.030 of this chapter;
5. A site and floor plan identifying the location of parking and bedrooms to be used for short-term rental home use;
6. A list of the names and addresses of the owners and lessees of record, within a five-hundred-foot distance of the lot of the proposed short-term rental home;
7. A planning department short-term rental home inspection report that states the structures proposed for short-term rental use meet the minimum health and safety standards established by the department, or a miscellaneous inspection report issued by the department of public works. The planning department report is to be completed and signed by a home inspector certified by the American Society of Home Inspectors.
8. Additional information as may be requested by the director.

B. All applicants shall send, by certified mail, written notice of the application for a short-term rental home permit to the owners and lessees of record located within a five-hundred-foot distance of the lot of the proposed short-term rental home. The written notice shall contain:

1. A description of the proposed short-term rental home operation;
2. The location of proposed on-site parking;
3. The total number of bedrooms proposed for short-term use;

4. A map identifying the short-term rental home lot in relation to all other lots within a five-hundred-foot distance; and

5. A provision that the owners and lessees of record within five-hundred feet of the proposed short-term rental home may file a written protest with the director via fax, email, or letter; provided that, all protests must be postmarked or received within forty-five days of the mailing of the notice of application.

C. At least five days prior to submitting an application for a short-term rental home, the applicant shall display a four-square-foot sign along the main access road of the proposed short-term rental home. The sign shall contain wording prescribed by the department to notify interested parties of the proposed short-term rental use on the property. The applicant shall remove the sign no later than five days after a final decision on the application. The sign shall not be subject to the provisions of chapter 16.13 of this code.

D. If planning commission review is required pursuant to subsection 19.65.060(A)(2) of this chapter, the application shall be subject to the requirements of section 19.510.020 of this title.

E. For purposes of this chapter, notice shall be considered valid if the director finds that the applicant has made a good faith effort to comply with the requirements of this section.

F. If an application does not meet the legal requirements of this chapter, it shall be denied.

**19.65.060 Permit processing.** A. The short-term rental home permit process shall be as follows:

1. The applicant for a short-term rental home permit shall file an application with the director as provided in section 19.65.050 of this chapter.

2. The director shall approve or deny the application pursuant to the requirements of this chapter; provided that, the applicable planning commission shall approve or deny the permit pursuant to the requirements of this chapter when any of the following occur:

a. The director receives two or more written protests from the owners or lessees of record on a lot adjacent or directly across the street to a proposed short-term rental home;

b. Thirty percent or more of the owners and lessees of record within five-hundred feet of the proposed short-term rental home lot submit written protests to the director when there are less than forty properties within five-hundred feet of the proposed short-term rental home lot;

c. Fifteen percent or more of the owners and lessees of record within five-hundred feet of the proposed short-term rental home lot submit written protests to the director when there are forty or more properties within five-hundred feet of the proposed short-term rental home lot;

d. A variance is obtained to meet the requirements for a short-term rental home;

e. An existing short-term rental home is operating within five-hundred feet of the proposed short-term rental home lot, except for applications submitted prior to December 31, 2012; or

f. The proposed short-term rental home is located within the Hana community plan area, and the number of bedrooms proposed for short-term rental home use is greater than three;

3. The Department or appropriate planning commission may consider, but are not limited to, the following factors in reviewing, and approving or denying, an application:

a. The number and distance from the subject parcel to other permitted short-term rental homes;

b. The number and substance of protests for the short-term rental home application and protests related to the cumulative short-term homes in the larger neighborhood or area;

c. Existing or past complaints about rental operations on the property;

d. Existing or past noncompliance with government requirements and the degree of cooperation by the applicant to come into compliance; and

e. Correspondence received by the department pursuant to 19.65.030(N)(1).

B. The director may transmit applications for public hearing by the commission in accordance with complaints received or some other substantive reason.

C. For short-term rental homes that are operating under existing conditional permits that meet the criteria set forth in section 19.65.030 of this chapter, those operations shall be given the option of transferring existing permits, subject to section 19.65.070(B) of this chapter, for periods of up to five years on Lanai and Maui and up to one year on Molokai, or may continue to operate under existing conditional permit requirements and time extension procedures.

D. In addition to any enforcement action pursuant to section 19.530.030 of this title, the rules of the appropriate planning commission, and the rules of the department, the permit for the short-term rental home shall be denied and the owner-applicant may not re-apply for another permit for two years after the date of denial if it is shown that the owner/applicant provided false or misleading information during the application process;

E. In the department's annual report, the director shall specify the number of short-term rental home permit applications received and approved.

F. The department may issue a temporary short-term rental home permit for up to 180 days if the application meets the following criteria:

1. The application contains all submittals required under section 19.65.050(A) of this chapter and is deemed a complete application by the department prior to January 1, 2013;

2. The applicant obtains a state land use commission special permit, pursuant to Hawaii Revised Statutes section 205-6, prior to the director granting a temporary permit if the subject property is located in the state agricultural district;

3. The applicant provides notice of the application pursuant to section 19.65.050(B) of this chapter and complies with the signage requirements of section 19.65.050(C) of this chapter. The director may issue a temporary permit only after the 45-day period for the filing of any protests in section 19.65.050(B)(5) of this chapter has expired, and the director verifies that:

a. The director has not received two or more written protests from the owners or lessees of record on a lot adjacent or directly across the street from a proposed short-term rental home;

b. Thirty percent or more of the owners and lessees of record within five-hundred feet of the proposed short-term rental home lot have not submitted written protests to the director when there are less than forty properties within five-hundred feet of the proposed short-term rental home lot; and

c. Fifteen percent or more of the owners and lessees of record within five-hundred feet of the proposed short-term rental home lot have not submitted written protests to the director when there are forty or more properties within five-hundred feet of the proposed short-term rental home lot.

4. The applicant shall include the temporary permit number in all advertising for the short-term rental home. Failure to do so shall constitute a violation of this code.

G. The department may extend the temporary permit for up to an additional 180 days, but in no event shall a temporary permit be issued for a period totaling more than 360 days. All short-term rental home use shall cease upon the expiration of the temporary permit if a short-term rental home permit has not been issued.

H. Any temporary permit shall terminate and all short-term rental use shall cease immediately if:

1. The director determines that the applicant has not provided requested information to the department in a timely manner, or provides false or misleading information; or

2. The short-term rental home permit application is denied.

I. Any temporary permit issued pursuant to this section shall not bestow any vested rights upon the permit holder and such a permit will be terminated if any of the above events occur. As a condition to granting the temporary permit, the department shall require the applicant to sign an application form stating, at a minimum, that:



1. The applicant understands that a temporary permit is to be granted solely at the discretion of the department;

2. The applicant may choose not to request a temporary permit and instead cease all short-term rental home use pending final disposition of the application;

3. The granting of a temporary permit does not bestow any vested rights upon the applicant and such permit will be terminated if any of the events listed in subsection (F)(3) of this section, occur; and

4. The applicant agrees to waive any and all claims against the county arising out of, or relating to, any temporary permit, including but not limited to, permit issuance, denial or revocation, and shall defend, indemnify and save county harmless against and from any and all suits, claims, damages, judgments, costs and expense, including reasonable attorney's fees, arising out of, or relating to, any temporary permit, including but not limited to permit issuance, denial or revocation.

**19.65.070 Compliance and revocation.** A. Initial short-term rental home permits shall be valid for a maximum period of one year with an extension of two years if there are no recorded complaints; shorter extension periods may be required by the director to mitigate adverse impacts based on the department's investigation of recorded complaints.

B. Subsequent permit renewals may be granted by the director for terms of up to five years on Lanai and Maui and up to one year on Molokai. In reviewing a renewal application, the director shall require evidence of compliance with conditions of the short-term rental home permit and this chapter. Verification of appropriate state, and county tax filings shall be submitted by June 30 of each year for the prior calendar year. No permit shall be renewed without written verification of appropriate state, and county tax filings. No permit shall be renewed if the operation of the short-term rental home has created adverse impacts or has caused the loss of the character to the neighborhood in which it is situated.

C. All permits shall require compliance inspections by the department at reasonable times and upon presentation of appropriate credentials.

D. Upon approval of the permit, the permit holder shall send a copy of the permit approval letter containing the conditions of approval, the permit number, a copy of the short-term rental's house rules, twenty-four hour contact information for the manager, and the department's contact information to the owners and lessees of abutting properties and their adjacent properties and properties directly across the street from the short-term rental home. Proof of mailing shall be submitted to the department within thirty days of the permit approval.

E. The permit holder shall send, by certified mail, notification of any change to contact information for the manager to the department, the owners or lessees of abutting properties and their adjacent properties and those directly across the street from the short-term rental home. Such notification shall be sent

prior to, or immediately after, the change in contact information occurs. Proof of mailing shall be submitted to the department within thirty days of the mailing.

F. Revocation procedures.

1. The short-term rental home permit shall be revoked, pursuant to section 19.530.030 of this title, the rules of the appropriate planning commission, and the rules of the department, if the director finds:

a. The permit holder provided false or misleading information during the application process;

b. The permit holder is in violation of state department of health regulations, this chapter, the permit conditions, or any other applicable laws or regulations; or

c. The permit holder is delinquent in payment of state or county taxes, fines, or penalties assessed in relation to the short-term rental home.

2. If the department receives at least three complaints about a short-time rental home within a twelve-month period, and the director's investigation of the complaints is inconclusive, the director shall refer the complaints to the applicable planning commission for a determination of whether the permit shall be revoked. Complaints must be from property owners or lessees of record located on two or more different lots within a five-hundred foot radius of the proposed short-term rental home. The planning commission may consider any of the following during its investigation of the complaints:

a. Evidence of non-responsive management;

b. Police reports of noise or other disturbances on the property;

c. Warnings resulting from requests for service; and

d. Neighbor complaints of noise and other disturbances relating to the short-term rental operations.

3. If the permit is revoked, the department shall not accept a new application for a short-term rental home permit from the permit holder for two years after the date of revocation.

G. No later than January 15 of each calendar year, the department shall transmit to the real property tax division of the department of finance, and the state department of taxation, an annual list of all short-term rental homes as of January 1 of that calendar year. The real property tax division shall regularly review its records and determine that no short-term rental home has an exemption pursuant to chapter 3.48 of this code.

**19.65.080 Enforcement.** A. Advertising that offers a property as a short-term rental home shall constitute prima facie evidence of the operation of a short-term rental home on the property and the burden of proof shall be on the owner, operator, or lessee of record to establish that the subject property is being used as a legal short-term rental home or is not in operation.

B. Any communication by a property owner, operator, or lessee to any person where the owner, operator or lessee offers their home for rent as a

short-term rental home on the property shall constitute prima facie evidence of the operation of a short-term rental home on the property and the burden of proof shall be on the owner, operator, or lessee of record to establish that the subject property is being used as a legal short-term rental home or is not in operation.

C. Advertising for a short-term rental home without a valid permit number is prohibited and may result in enforcement action pursuant to section 19.530.030 of this title; provided that:

1. The alleged violator and the property owner shall be notified that all advertising without a valid permit number shall be terminated within seven days of the notice; and

2. Enforcement action, including fines, may commence pursuant to section 19.530.030 of this title if advertising without a valid permit number continues after such warning.

D. Operating without a valid permit is prohibited. Evidence of operation may include: guest testimony, rental agreements, receipts, or any other information deemed relevant by the department. Operating without a permit would result in a property owner being ineligible to apply for a permit for five years.

E. The department shall notify the county department of finance, real property tax division of violations of this chapter.

F. The department shall file a report with the state department of taxation for properties with violations of this chapter.

G. Sixty days from the effective date of this ordinance, and each year thereafter, the department shall provide to the state department of taxation and the county department of finance, real property tax division, a list of:

1. Unpermitted operations with internet advertisements for short-term rental homes; and

2. Unpermitted short-term rental home operations identified by a department request for service form.

The department shall notify listed operations of the need for a short-term rental home permit, and information on how to obtain one. Upon submitting an application, applicants with operations listed by the department shall submit evidence of GET and TAT tax payments for the prior year. If the applicant does not live on the property, the applicant shall also submit documentation showing that the applicant did not receive a home exemption pursuant to section 3.48.450 of this code, and did not receive a circuit breaker credit pursuant to section 3.48.780 of this code, for the short-term rental home during the previous tax year when the short-term operation was in place.

**19.65.090 Administrative rules.** The director may adopt administrative rules to implement the provisions of this chapter.”

SECTION 15. 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 16. Within two years from the effective date of this ordinance, the Department of Planning shall review this chapter, and shall transmit a report with comments, recommendations, and proposed amendments, to the planning commissions for review and transmittal to the Council.

SECTION 17. This ordinance shall take effect upon its approval. A pending application for a Conditional Permit pursuant to Chapter 19.40 of this title shall be deemed an applicant for a short-term rental home and processed in accordance with Chapter 19.65, Maui County Code, if the Planning Director finds that the proposed use qualifies as a short-term rental home.

APPROVED AS TO FORM AND  
LEGALITY:

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Department of the Corporation Counsel  
County of Maui

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