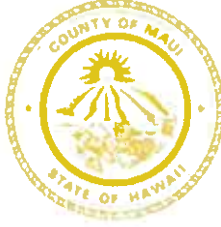


MICHAEL P. VICTORINO
Mayor

MICHELE CHOUREAU MCLEAN, AICP
Director

JORDAN E. HART
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**DEPARTMENT OF PLANNING
COUNTY OF MAUI
ONE MAIN PLAZA
2200 MAIN STREET, SUITE 315
WAILUKU, MAUI, HAWAII 96793**

September 16, 2020

MEMORANDUM

TO: MAUI PLANNING COMMISSION
MOLOKA`I PLANNING COMMISSION
LANA`I PLANNING COMMISSION

FROM: MICHELE CHOUREAU MCLEAN, AICP *M*
PLANNING DIRECTOR

**SUBJECT: A BILL FOR AN ORDINANCE AMENDING CHAPTERS 19.35, 19.64,
AND 19.65, MAUI COUNTY CODE, RELATING TO ACCESSORY
DWELLINGS, BED AND BREAKFAST HOME AND SHORT-TERM
RENTAL HOME PERMITS**

The Department of Planning (Department) proposes to revise Chapters 19.35, 19.64, and 19.65 of the Maui County Code to allow for some flexibility in transient vacation rental use in accessory dwelling units while encouraging long-term occupancy, clarify trusts and ownership requirements, expand vacation rental notification requirements to neighbors of properties, and other minor revisions to Chapters 19.64 and 19.65 for clarity and consistency purposes. The bill does not propose any changes to permit number limits for Maui or Moloka`i, and follows recent planning commission recommendations on permit numbers for Lana`i.

A summary of the proposed changes and rationale are as follows:

<u>Page and Line No.</u>	<u>Summary of Change</u>	<u>Rationale</u>
P. 2, Lines 3-6	An accessory dwelling may be used for short-term rental home (STRH) if main and/or other accessory dwelling is occupied on a long-term residential basis	A main or an accessory dwelling may be used as STRH, which allows for flexibility for the property owner and requires some long-term residency
P. 2, Lines 7-8	Bed & breakfast home (B&B) allowed in one accessory dwelling	B&B may operate in main dwelling(s) and/or one accessory dwelling, not to exceed two dwelling units; other

<u>Page and Line No.</u>	<u>Summary of Change</u>	<u>Rationale</u>
		dwelling units must be occupied on a long-term residential basis
P. 2, Lines 16-19	B&B allowed in two dwellings, one of which may be an accessory dwelling.	B&B may operate in main dwelling(s) and/or one accessory dwelling, not to exceed two dwelling units
P. 3, Lines 28-32	Dwelling unit for B&B must be constructed and owned by applicant for five years prior to application date	Construction and ownership requirement is aimed to reduce speculation and encourage a connection to the neighborhood
P. 4, Line 24	Lana`i community plan B&B permit cap: 21	The Lana`i Planning Commission recommends a cap of 21 B&B permits
P. 5, Lines 10-24	B&B sign requirements revised	Sign requirements consistent with STRH sign requirements
P. 5, Lines 30 to P. 6, Line 11	B&B public hearing notification requirements revised	Public hearing notification requirements consistent with STRH requirements
P. 7, Lines 1-2	B&B public hearing criteria revised from one to two existing B&B homes within 500' distance	Public hearing criteria consistent with STRH criteria of 2 neighboring STRHs
P. 8, Lines 13-14	Adds real property tax class as prima facie evidence of operation	Adds a resource for enforcement
P. 10, Line 4-6	STRH allowed in main or accessory dwelling	A main or an accessory dwelling may be used as STRH, which allows for flexibility for the property owner and requires some long-term residency
P. 11, Line 34	Trust must be in name of applicant	Ensures applicant is a natural person or persons
P. 12, Lines 3-5	"Family trust" defined	Clarifies relationship of family members in family trust
P. 12, Lines 6-13	Deletes options for applicants to hold multiple STRH permits	Only one STRH permit per applicant regardless of wealth, allows others an opportunity to profit from STRH investments
P. 12, Line 14	Adds that a permit is not transferable "in any way to another party"	Eliminates loopholes that may be used for investment purposes
P. 13, Lines 20-24	Adds criteria for consideration in the STRH permit application – benefits to the community and justification for STRH use.	Additional criteria assists the STRH applicant in conforming to the character of the existing neighborhood and being part of the community

<u>Page and Line No.</u>	<u>Summary of Change</u>	<u>Rationale</u>
P. 13, Lines 26-28	Construction and ownership requirement increased from five to fifteen years for STRH application	Increased construction and ownership requirement is intended to encourage a connection to the neighborhood
P. 14, Line 23	Lana`i community plan STRH permit cap: 21	The Lana`i Planning Commission recommends a cap of 21 STRH permits
P. 14, Lines 33-34	Dwellings in Experimental and Demonstration Housing Projects may not be used for STRH	The purpose of Experimental and Demonstration Housing Projects is to reduce the cost of housing in the state, in accordance with HRS 46-15
P. 14, Lines 35-37	No STRH permit may be issued to anyone holding a B&B permit or has been banned from applying for a B&B permit	Allows others an opportunity to profit from STRH investments and eliminates a loophole for rule-breakers
P. 15, Lines 6-7	STRH ads must include physical address	Allows for verification and enforcement
P. 16, Lines 25-27	STRH permit applicant may not have financial interest in B&B or STRH	Allows others an opportunity to profit from STRH investments
P. 17, Lines 6, 14, 38 P. 18 Lines 25, 31, 36 P. 20, Lines 29-30, 35	Includes residents of the physical addresses as part of the notification process	Existing notification procedures include owners and lessees who are often non-residents; neighbors are currently excluded
P. 19, Lines 7-13	Excludes trust language	Covered in definition of "family trust" on P. 12
P. 19, Lines 21-22	Permits may be extended up to 5 years	Differentiation between Maui, Molokai, and Lana`i no longer necessary
P. 22, Lines 19-20	Adds real property tax class as prima facie evidence of operation	Adds a resource for enforcement
P. 23, Lines 10-38	Deletes grace period that expired in 2016	No longer relevant

The proposed bill was transmitted to the Realtors Association of Maui and the Maui Vacation Rental Association (MVRA). The MVRA has responded that "this is simply not the time for this proposal. Besides working through new high tax rates that may not be payable by many

STRH and B&B permit holders this year, general inability to operate, and the basic shut-down of so many resident-owned, small businesses in our County, it's just not the time for this bill.”

The proposed revisions in this bill offer options to permit holders, and should help protect the character of the neighborhood in which these vacation rentals operate. It also does not affect existing permit holders whose permits can be renewed under current requirements. And as stated previously, it does not reduce permit number limits.

Recommendation and Options

The Department is recommending approval of the proposed bill with the amendments described above. The commission has the following options:

1. Recommend approval of the proposed bill to the Maui County Council.
2. Recommend approval of the proposed bill with amendments to the Maui County Council.
3. Recommend denial of the proposed bill to the Maui County Council.
4. Vote to defer action on the proposed bill in order to gather specific additional information.

Attachment

MCM:JMCT:atw

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1
2 A BILL FOR AN ORDINANCE AMENDING
3 CHAPTERS 19.35, 19.64 AND 19.65, MAUI COUNTY CODE,
4 RELATING TO ACCESSORY DWELLINGS, BED AND BREAKFAST HOME AND
5 SHORT-TERM RENTAL HOME PERMITS
6
7

8 BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:
9

10 SECTION 1. Findings and purpose. The purpose of this ordinance is to
11 allow bed and breakfast and short-term rental homes in accessory dwellings,
12 subject to restrictions that encourage long-term occupancy; limit short-term
13 rental homes to one per property and per applicant; clarify trusts and
14 ownership requirements; expand notification requirements to neighbors of the
15 property; and other minor revisions.
16

17 SECTION 2. Section 19.35.010 Maui County Code is amended by
18 amending subsection 19.35.010 to read as follows:
19

20 **Chapter 19.35 - ACCESSORY DWELLINGS**

21 19.35.010 - Generally.

22 The limitations and requirements of this chapter shall apply to any
23 accessory dwelling.

24 A. Any person who wishes to construct, or in any manner otherwise establish,
25 an accessory dwelling shall apply for a building permit therefor in
26 accordance with this chapter.

27 B. All provisions of the County zoning district, or State land use district as the
28 case may be, in which the accessory dwelling is proposed to be constructed
29 shall apply, except the provisions on the number of dwelling units permitted
30 on a lot and except as the provisions of such district may be inconsistent
31 with the provisions applicable to accessory dwellings. To the extent of such
32 inconsistency, if any, the accessory dwelling provisions shall prevail.

- 1 C. The provisions of this chapter shall apply to any zoning district that allows
2 accessory dwellings.
- 3 D. [No accessory dwelling shall] An accessory dwelling may only be used as a
4 [bed and breakfast home,] short-term rental home[, or transient vacation
5 rental] if the main dwelling, and other accessory dwelling if applicable, are
6 occupied on a long-term residential basis.
- 7 E. Only one accessory dwelling per lot may be used as a bed and breakfast
8 home.

9
10 SECTION 3. Section 19.64.030 Maui County Code is amended to read as
11 follows:

12 **Chapter 19.64 – BED AND BREAKFAST HOMES**

13
14 19.64.030 - Restrictions and standards. Bed and breakfast homes shall be
15 subject to the following restrictions and standards:

- 16 A. The bed and breakfast [short-term rental] use [shall] may be permitted in no
17 more than two single-family dwelling units per lot, [except that short-term
18 rental use shall not be permitted in any accessory dwelling] pursuant to
19 chapter 19.35 of this title.
- 20 B. The owner-proprietor [shall] must have a current transient accommodations
21 tax (TAT) license and general excise tax (GET) license for the bed and
22 breakfast home.
- 23 C. The owner-proprietor [shall] must be a resident of the County and [shall]
24 must reside, on a full-time basis, on the same lot being used as the bed and
25 breakfast home.
- 26 D. The owner-proprietor [shall] must have legal title to the property on which
27 the bed and breakfast home is located.
- 28 E. The bed and breakfast home permit [shall] must be in the name of the
29 owner-proprietor, who [shall] must be a natural person and the owner of the
30 real property where the short-term rental use [shall be] is permitted. No bed
31 and breakfast home permit [shall] may be held by a corporation,
32 partnership, limited liability company, or similar entity. The permit [shall] is
33 not [be] transferable. No more than one permit [shall] may be approved for
34 any lot.

- 1 F. The number of bedrooms used for short-term rental in the bed and
2 breakfast home [shall] may be no greater than six on Lana'i and Maui, and
3 no greater than three on Moloka'i, and [shall be] is subject to the provisions
4 of section 19.64.050. The total number of guests [shall] is be limited to up to
5 two adult guests and up to two minor guests per bedroom.
- 6 G. A bed and breakfast home [shall] may make breakfast available to onsite
7 guests, but [shall] may not operate as a food service establishment (for
8 example, restaurant), unless a food service establishment is a permitted use
9 in the zoning district.
- 10 H. A bed and breakfast home [shall] must be in compliance with all other
11 applicable federal, state, and local laws.
- 12 I. In permitting bed and breakfast homes, the planning director, the planning
13 commissions, and the council [shall] must not consider, nor be bound by,
14 any private conditions, covenants, or restrictions upon the subject parcel.
15 Any such limitations may be enforced against the property owner through
16 appropriate civil action.
- 17 J. All advertising for any bed and breakfast home in a residential district
18 [shall] must include the number of the permit granted to the owner-
19 proprietor.
- 20 K. Single-station smoke detectors [shall] must be provided in all guest
21 bedrooms.
- 22 L. Single-family dwellings used as bed and breakfast homes [shall] do not
23 qualify for real property tax exemptions pursuant to chapter 3.48 of this
24 code.
- 25 M. No bed and breakfast home [shall] may create any impact greater than those
26 theretofore existing in that district, and [shall] must conform to the
27 character of the neighborhood.
- 28 N. Bed and breakfast homes [shall be] are limited to single-family dwelling
29 units constructed at least five years prior to [structures existing and
30 constructed as of] the date of application for the bed and breakfast permit,
31 and the dwelling unit must be owned by the applicant for at least five years
32 prior to the date of application.
- 33 O. Within the Hana community plan area, on Lana'i, and on Moloka'i, a one-
34 square foot sign identifying the bed and breakfast home permit number
35 [shall] must be placed at the front of the property along the main access
36 road. On Lana'i and Moloka'i, the sign [shall] must be attached to an

1 existing structure, such as a fence. On Moloka'i, the sign [shall] must state
2 the owner-proprietor's telephone number.

3 P. All guest parking must be off-street. Grasscrete and tandem parking [shall]
4 may be allowed for any required parking stalls.

5 Q. The proprietor [shall] must post "house policies" within each guest room and
6 [shall] must be responsible for enforcing such policies. The house policies
7 [shall] must include the following provisions:

- 8 1. Quiet hours [shall] must be maintained from 9:00 p.m. to 8:00 a.m.,
9 during which noise in the bed and breakfast home [shall] may not
10 disturb anyone on a neighboring property.
- 11 2. Amplified sound that is audible beyond the property boundaries of the
12 bed and breakfast is prohibited.
- 13 3. Vehicles [shall] must be parked in the designated onsite parking area
14 and [shall] may not be parked on the street overnight.

15 R. The County [shall be] is restricted in approving permits for bed and
16 breakfast homes as distributed per the following community plan areas and
17 as further restricted by the applicable community plan:

- 18 1. Hana: 48.
- 19 2. Kihei-Makena: 100.
- 20 3. Makawao-Pukalani-Kula: 40.
- 21 4. Paia-Haiku: 88.
- 22 5. Wailuku-Kahului: 36.
- 23 6. West Maui: 88.
- 24 7. Lana'i: 21.

25 S. The planning director or planning commission may impose conditions on
26 the granting of a request for a bed and breakfast home if the conditions are
27 reasonably conceived to mitigate the impacts emanating from the proposed
28 land use.

29

30 SECTION 4. Section 19.64.040 Maui County Code is amended to read as

31 follows:

32 19.64.040 - Procedures for application and public notice.

33

34 B. Notice of Application.

1. All applicants **[shall] must**, by certified mail, provide a notice of application for a bed and breakfast permit to the owners, **and** lessees of record located within a five-hundred-foot distance from the lot on which the proposed bed and breakfast home is to be located.
2. The notice of application **[shall] must** contain a description of the proposed bed and breakfast home operation, parking on the site, and number of bedrooms to be used for short-term rental, together with a location map identifying the bed and breakfast lot in relationship to all other lots within a five-hundred-foot distance.
3. **[A project notice sign must be posted at the front of the property along the main access road. On Lana'i and Maui, the sign must be sixteen square feet; on Moloka'i, the sign must be four square feet. The sign must be clearly visible from the roadway and must contain information and wording as prescribed by the department of planning. The sign must be placed five days prior to remitting an application and must be removed no later than five days after a final decision has been rendered by the planning director or the planning commission.] No more than ten days prior to mailing the notice of application, a four-square-foot project notice sign must be posted at the front of the property along the main access road. The sign must be clearly visible from the roadway and must contain information and wording as prescribed by the department. The sign may be removed after forty-five days from the mailing of the notice of application. The sign is not subject to chapter 16.13 of this code.**
4. The notice of application **[shall] must** state that the noticed owners and lessees of record may file a written protest against the proposed bed and breakfast home with the planning director, provided that all protests must be postmarked or received within forty-five days of the mailing of the notice of application.
5. **[If planning commission review is required, pursuant to section 19.64.050.B, the application shall be subject to the requirements of section 19.510.020 of this code.]**
5. If planning commission review is required pursuant to subsection 19.64.050.B, the processing requirements will be as follows:
 - a. The director will set the application for public hearing on the agenda of the planning commission.
 - b. The director will notify the applicant and the appropriate State and County agencies of the date of the public hearing not less than forty-five calendar days prior to the public hearing.
 - c. The director will publish the notice of the date, time, place, and subject matter of the public hearing once in a newspaper printed and issued at least twice weekly and generally circulated throughout the County, at least thirty calendar days prior to the public hearing.

1 d. The applicant will provide notice of the public hearing date on the
2 application to the owners and lessees of record located within a five-
3 hundred-foot radius from the parcel identified in the application by
4 complying with the following procedures:

5 1. Mailing, by certified mail, a notice of the date of the public
6 hearing of the application in a form prescribed by the director to
7 each of the owners and lessees not less than thirty calendar days
8 prior to the public hearing.

9 2. Submitting each of the receipts for the certified mail to the
10 director not less than ten business days prior to the public
11 hearing.

12 6. For purposes of this chapter, notice [shall] must be considered validly
13 given if the planning director finds that the applicant has made a good
14 faith effort to comply with the requirements of this subsection.

15 C. If an application does not meet the legal requirements of this chapter, it
16 [shall] must be denied.

17
18 SECTION 5. Section 19.64.050 Maui County Code is amended to read as
19 follows:

20
21 19.64.050 - Permit processing.

22
23 A. Bed and Breakfast Home. Short-term rental of one to six bedrooms on
24 Lana'i or Maui or of one to three bedrooms on Moloka'i in a bed and
25 breakfast home [shall] may be permitted by a bed and breakfast home
26 permit.

27 1. The applicant for a bed and breakfast home permit [shall] must file an
28 application with the planning director as provided in section
29 19.64.040.

30 2. The planning director [shall] must approve or deny the application
31 pursuant to the requirements of this chapter.

32 3. The application [shall] must be processed as provided in subsection B
33 of this section, if any of the following occur:

34 a. If written protests pursuant to section 19.64.040.B.4 comprise
35 thirty percent or more of the owners and lessees of record within a five-
36 hundred-foot distance from the lot on which the bed and breakfast
37 home is proposed;

38 b. If a variance was obtained to meet the requirements for a bed and
39 breakfast home permit;

- 1 c. If two or more [an] existing bed and breakfast homes s are [is]
2 operating [on a lot] within a five-hundred-foot distance from the lot on
3 which the bed and breakfast home is proposed;
- 4 d. For bed and breakfast homes located within the Hana community
5 plan area, the number of bedrooms used for short-term rental in the
6 bed and breakfast home shall be greater than three; or
- 7 e. For bed and breakfast home located on Moloka'i and Lana'i, the
8 application is for an initial bed and breakfast home permit.
- 9 4. The planning director [shall] must specify in the department's annual
10 report the number of bed and breakfast home permit applications
11 received and approved.

12
13 B. Bed and breakfast home permit applications described in subsection A.3
14 of this section [shall] must be submitted to the appropriate planning
15 commission. The appropriate commission [shall] will review and either
16 approve or deny the application pursuant to the requirements of this
17 chapter, the effects the proposed use would have on surrounding uses,
18 and the cumulative impacts within the region and island; provided that,
19 the Maui planning commission [shall] will conduct a public hearing prior
20 to approving an application for a bed and breakfast home permit within
21 the Hana community plan area for which the number of bedrooms used
22 for short-term rental in the bed and breakfast home shall be greater than
23 three.

24
25 SECTION 5. Section 19.64.065 Maui County Code is amended to read as
26 follows:

27 19.64.065 – Revocation and enforcement.

28
29 A. Revocation procedures.

- 30 1. The permit may be revoked if the director finds any of the following:
 - 31 a. The owner-proprietor provided false or misleading information
32 during the application process.
 - 33 b. The owner-proprietor is delinquent in payment of State or County
34 taxes, fines, or penalties assessed in relation to the bed and breakfast
35 home.
 - 36 c. Evidence of non-responsive management.
 - 37 d. Police reports of noise or other disturbances on the property.
 - 38 e. Warnings or violations resulting from requests for service.

1 f. Neighbor complaints of noise and other disturbances relating to
2 the bed and breakfast home operations; provided that the department
3 has received at least three complaints about the bed and breakfast home
4 within a twelve-month period. Complaints must be from property owners
5 or lessees of record located on two or more different lots within a five-
6 hundred-foot radius of the bed and breakfast home.

7 g. Noncompliance with permit conditions.

8 h. Noncompliance with this chapter.

9 i. Noncompliance with other governmental requirements.

10 2. If the permit is revoked, the department [shall] will not accept a new
11 application for a bed and breakfast home permit from the owner-
12 proprietor for two years after the date of revocation.

13 B. Advertising that offers a property as a bed and breakfast home, or a
14 property's real property tax classification as short-term rental, [shall]
15 constitutes prima facie evidence of the operation of a bed and breakfast
16 home on the property and the burden of proof shall be on the owner,
17 operator, or lessee of record to establish that the subject property is being
18 used as a legal bed and breakfast home or is not in operation as a bed and
19 breakfast home.

20 C. Any communication by a property owner, operator, or lessee to any person
21 where the owner, operator, or lessee offers their home for rent as a bed and
22 breakfast home on the property [shall] constitutes prima facie evidence of
23 the operation of a bed and breakfast home on the property and the burden
24 of proof shall be on the owner, operator, or lessee to establish that the
25 subject property is being used as a legal bed and breakfast home or is not in
26 operation as a bed and breakfast home.

27 D. Advertising for a bed and breakfast home without a valid permit number is
28 prohibited, constitutes a violation of this title, and [shall] will result in an
29 enforcement action pursuant to section 19.530.030 of this title; provided
30 that:

31 1. The alleged violator and the property owner [shall] must be notified that
32 all advertising without a valid permit number [shall] will be terminated
33 within seven days after issuance of the notice of warning. The notice of
34 warning [shall] must specify that failure to cease such advertising by the
35 deadline [shall] will result in issuance of a notice of violation and an
36 order to pay a civil fine in the amount set forth in section 19.530.030 of
37 this title for each day such advertising continues after the deadline.

38 2. For a complaint of advertising without a valid permit number that is
39 initiated by the public and confirmed by the department, the department
40 [shall] must send a notice of warning to the alleged violator and the
41 property owner following receipt of a request for service, provided the

1 person who initiated the request for service supplied a valid physical
2 address for the property.

3 3. A notice of violation, including an order to pay daily fines, [shall] must be
4 sent to the alleged violator and the property owner pursuant to section
5 19.530.030 of this title after the deadline if advertising without a valid
6 permit number continues after the deadline, unless the alleged violator
7 or property owner has submitted evidence satisfactory to the director
8 that such advertising is not in their control.

9 4. All repeat violations for advertising without a valid permit number [shall]
10 must result in a notice of violation without prior issuance of a notice of
11 warning. A notice of violation, including an order to pay daily fines,
12 [shall] will be sent to the alleged repeat violator and the property owner
13 pursuant to section 19.530.030 of this title, unless the alleged violator or
14 property owner has submitted evidence satisfactory to the director that
15 such advertising is not in their control. For purposes of this section, a
16 repeat violation is one where the alleged violator has previously been
17 issued a notice of warning for advertising without a valid permit number.

18 E. Operating a bed and breakfast home without a valid permit is prohibited.
19 Evidence of operation may include: advertising, guest testimony, online
20 reviews, rental agreements, receipts, or any other information deemed
21 relevant by the department. Operating without a valid permit [shall] will
22 result in a property owner being ineligible to apply for a permit for two
23 years.

24 F. The department [shall] must notify the department of finance, real property
25 tax division, of violations of this chapter.

26 G. The department [shall] must file a report with the state department of
27 taxation for properties with violations of this chapter.

28 H. Sixty days from the effective date of this ordinance, and each year
29 thereafter, the department [shall] must provide to the state department of
30 taxation and the department of finance, real property tax division, a current
31 list of:

32 1. Unpermitted operations with internet advertisements for bed and
33 breakfast homes.

34 2. Unpermitted bed and breakfast home operations identified by a
35 department request for service form.

36
37
38 **Chapter 19.65 - SHORT-TERM RENTAL HOMES**

39 SECTION 6. Section 19.65.030 Maui County Code is amended to read as
40 follows:

1 19.65.030 - Restrictions and standards.

2 Short-term rental homes are subject to the following restrictions and
3 standards:

- 4 A. The short-term rental home use is permitted in no more than one [two]
5 single-family dwelling unit[s] per lot on Maui and Lana`i], except that short-
6 term rental use shall not be permitted in any accessory dwelling]. No more
7 than one short-term rental home permit shall be approved for any lot,
8 except for lots that are subject to a condominium property regime under
9 chapter 514A or chapter 514B, Hawaii Revised Statutes, the following shall
10 apply:
- 11 1. If the applicant owns all condominium units on the lot, only one permit
12 may be granted for that lot.
 - 13 2. If the applicant does not own all condominium units on the lot, each
14 condominium unit will be considered a lot for purposes of this chapter
15 and each unit owner will be eligible to apply for a short-term rental home
16 permit, except that no owner may hold more than one short-term rental
17 home permit.
 - 18 3. Irrespective of ownership, each condominium unit shall be considered a
19 separate lot for purposes of notification and planning commission review
20 thresholds under subsection 19.65.060(A)(2).
 - 21 4. For the purposes of this chapter, any reference to a short-term rental
22 home property shall mean a property, lot, or condominium unit.
- 23 B. Each permitted dwelling unit on a short-term rental home property shall be
24 rented to one group with a single rental agreement, except:
- 25 1. On the island of Lanai.
 - 26 2. Any short-term rental home where the owner resides on an adjacent lot.
- 27 C. The permit holder [shall] must have a current transient accommodations tax
28 license and general excise tax license for the short-term rental home.
- 29 D. The permit holder [shall] must:
- 30 1. Hold a minimum of a fifty percent interest in the legal title to the lot on
31 which the short-term rental home is located, except as provided in
32 subsection 19.65.030(G).
 - 33 2. Serve as manager of the short-term rental home; except that, the permit
34 holder may designate:
 - 35 a. An immediate adult family member of the permit holder to serve as
36 manager. Immediate family includes a person's parents, spouse, children
37 and their spouses, siblings, stepparents, stepchildren, adopted children
38 and their spouses, and hanai children.

- 1 b. An individual with an active State of Hawaii real estate license to
2 serve as manager, except for properties located in the Hana or Lanai
3 community plan areas, where an individual may act as a manager as
4 allowed by State law.
- 5 c. An adult to serve as a temporary manager for up to forty-five days
6 in a twelve-month period.
- 7 3. Notify the department and the immediate adjacent neighbors of:
- 8 a. Any designation of an individual as manager under this section,
9 including a statement of the designated manager's tenure, residential
10 and business addresses, and telephone numbers.
- 11 b. Any change in the manager's addresses or telephone numbers.
- 12 E. The manager of the short-term rental home [shall] must:
- 13 1. Be accessible to guests, neighbors, and County agencies. For purposes of
14 this section, "accessible" means being able to answer the telephone at all
15 times, being able to be physically present at the short-term rental home
16 within one hour following a request by a guest, a neighbor, or a County
17 agency, and having an office or residence within thirty driving miles.
- 18 2. Ensure compliance with State department of health regulations, this
19 chapter, permit conditions, and other applicable laws and regulations.
- 20 3. Enforce the house policies.
- 21 4. Collect all rental fees.
- 22 F. The short-term rental home [shall] must only be rented when the manager
23 is accessible.
- 24 G. The short-term rental home permit is issued in the name of the applicant,
25 who [shall] must be a natural person or persons holding a minimum of a
26 fifty percent interest in the legal title in the lot; except that, a permit may be
27 issued for a lot owned by a family trust, a corporation, a limited liability
28 partnership, or a limited liability company if the following criteria are met:
- 29 1. The applicant is a natural person or persons who is a trustee or who are
30 trustees of the family trust, or who represents fifty percent or more of the
31 partners of a limited liability partnership, fifty percent or more of the
32 corporate shareholders of a corporation, or fifty percent or more of the
33 members of a limited liability company.
- 34 2. The trust must be in the name of the applicant
- 35 [2]3. The limited liability partnership, corporation, or limited liability
36 company is not publicly traded.
- 37 [3]4. All of the trustees, partners, corporation's shareholders, or limited
38 liability company's members are natural persons, and if there is more

1 than one [trustee,] partner, shareholder, or member, they shall be related
2 by blood, adoption, marriage, or civil union.

3 “Family trust” is defined as a self-settled revocable trust where the trustee(s)
4 is also the trustor(s) or grantor(s) or is related by blood, adoption,
5 marriage, or civil union to the beneficiary(ies).

6 H. An applicant may hold no more than one short-term rental home permit[,]
7 except when:

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

11 2. The permit holder filed complete applications for the short-term rental
12 home permits within one year of this chapter's original effective date of
13 May 23, 2012.]

14 I. A permit is not transferable in any way to another party; except that[,]
15 a permit may be transferred upon the death of a permit holder to an
16 immediate family member as defined in subsection 19.65.030(D)(2)(a).

17 J. The applicant [shall] must provide the department with the application,
18 copies of any applicable homeowner or condominium association bylaws or
19 rules and any other applicable private conditions, covenants, or restrictions.
20 The documents, if any, [shall] will assist the department in determining the
21 character of the neighborhood.

22 K. The number of bedrooms used for short-term rental home use on a short-
23 term rental home lot [shall] must be no greater than six on Lanai and Maui
24 [and no greater than three on Molokai]. The total number of guests staying
25 in the short-term rental home at any one time shall be no greater than two
26 times the number of approved bedrooms.

27 L. Single-station smoke detectors [shall] must be installed in all guest
28 bedrooms.

29 M. Single-family dwellings used as short-term rental homes [shall] do not
30 qualify for real property tax exemptions permitted under chapter 3.48.

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

35 1. If a proposed short-term rental home property is subject to any
36 homeowner, condominium association, or other private conditions,
37 covenants, or restrictions, then correspondence from the association or
38 other entity responsible for the enforcement of the conditions, covenants,
39 or restrictions is required. The correspondence [shall] must include
40 specific conditions that determine whether the proposed short-term
41 rental home use is allowed. The correspondence [shall] will be used to

1 assist the department in determining the character of the neighborhood.
2 If no association or entity exists, this requirement [shall] does not apply.
3 The director and the planning commissions [shall] are not [be] bound by
4 any private conditions, covenants, or restrictions upon the subject
5 parcel. Any limitations may be enforced against the property owner
6 through appropriate civil action.

7 2. Existing land-use entitlements and uses.

8 3. The applicable community plan.

9 4. Community input.

10 5. Potential adverse impacts, including excessive noise, traffic, and garbage.

11 6. The number of permitted short-term rental homes surrounding the
12 proposed short-term rental home property and their distance to the
13 property.

14 7. The number and substance of protests to the short-term rental home
15 application and protests related to the cumulative short-term rental
16 homes in the neighborhood or area.

17 8. Existing or past complaints about rental operations on the property.

18 9. Existing or past noncompliance with government requirements and the
19 degree of cooperation by the applicant to become compliant.

20 10. The benefits that the short-term rental home will bring to the
21 community.

22 11. The applicant's justification and reasons for applying for short-term
23 rental home use, and how the property would be used if the permit is not
24 granted.

25 O. Short-term rental homes [shall be] are limited to single-family dwelling units
26 constructed at least [five] fifteen years prior to the date of application for the
27 short-term rental home permit, and the dwelling unit [shall] must be owned
28 by the applicant for at least [five] fifteen years prior to the date of
29 application.

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

35 Q. The permit holder or manager [shall] must prominently display "house
36 policies" within the dwelling. The house policies [shall] must be included in
37 the rental agreement, which [shall] must be signed by each registered adult
38 guest. At a minimum, the house policies [shall] must include:

39 1. Quiet hours from 9:00 p.m. to 8:00 a.m., during which time the noise
40 from the short-term rental home [shall] must not unreasonably disturb

1 adjacent neighbors. Sound that is audible beyond the property
2 boundaries during non-quiet hours [shall] must not be more excessive
3 than would be otherwise associated with a residential area.

4 2. Amplified sound that is audible beyond the property boundaries of the
5 short-term rental home is prohibited.

6 3. Vehicles [shall] must be parked in the designated onsite parking area
7 and [shall] must not be parked on the street.

8 4. Parties or group gatherings are not allowed.

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

12 1. Hana: thirty.

13 2. Kihei-Makena: one hundred; with no more than five permitted short-term
14 rental homes in the subdivision commonly known as Maui Meadows.

15 3. Makawao-Pukalani-Kula: forty.

16 4. Paia-Haiku: fifty-five; except that new permits shall not be issued for
17 properties within the special management area so as to avoid
18 proliferation of this use and subsequent changes in the character of the
19 region's coast.

20 5. Wailuku-Kahului: thirty-six.

21 6. West Maui: eighty-eight.

22 7. Moloka'i: zero.

23 8. Lana'i: twenty-one.

24 The council [shall] must review the community plan short-term rental home
25 restrictions when the number of approved short-term rental homes exceeds
26 ninety percent of the restriction number. [Transient vacation rentals operating
27 with a conditional permit under chapter 19.40 [shall] must be included in the
28 number of short-term rental homes permitted under this subsection.]

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

32 T. Any dwelling unit developed in accordance with chapter 201H, Hawaii
33 Revised Statutes, [or] chapter 2.96 of this code, or chapter 16.28 of this
34 code [shall] must not be used as a short-term rental home.

35 U. No short-term rental home permit may be issued to any person who holds a
36 valid bed and breakfast home permit or who has been banned from applying
37 for a bed and breakfast home permit.

38

1 SECTION 7. Section 19.65.040 Maui County Code is amended to read as
2 follows:

3
4 19.65.040 - Advertising.

- 5 A. All advertising for a short-term rental home [shall] must include the valid
6 permit number issued to the permit holder and must include the physical
7 street address of the home.
- 8 B. Reservation websites [shall] must include the short-term rental home house
9 policies or a working link to the short-term rental home house policies.

10
11 SECTION 8. Section 19.65.050 Maui County Code is amended to read as
12 follows:

13
14 19.65.050 - Procedures for application and public notice.

- 15 A. Applicants [shall] must submit an application for a short-term rental home
16 permit to the department in accordance with the provisions of this chapter.
17 Permit application fees and permit renewal fees [shall] will be set forth in the
18 annual budget. Permit applications [shall] must include all of the following
19 information:
- 20 1. The name, address, and telephone number of the applicant.
 - 21 2. Verification of property ownership, and signatures of all owners of the
22 property unless waived by the director in cases where the requirement is
23 unduly burdensome.
 - 24 3. The tax map key number of the lot on which the proposed short-term
25 rental home is situated.
 - 26 4. Proof of compliance with section 19.65.030.
 - 27 5. A site and floor plan identifying the location of parking and bedrooms for
28 short-term rental home use.
 - 29 6. A list of the names and addresses of the owners, and lessees of record,
30 within a five-hundred-foot radius of the lot of the proposed short-term
31 rental home.
 - 32 7. A planning department short-term rental home inspection report that
33 states the structures proposed for short-term rental home use meet the
34 minimum health and safety standards established by the department, or

1 a miscellaneous inspection report issued by the department of public
2 works. The planning department report is to be completed and signed by
3 a home inspector certified by the American Society of Home Inspectors.

4 8. A certification form signed by the owner of the property attesting to the
5 following:

6 a. No part of the property has been used for any rentals of less than
7 one hundred eighty days at a time, with or without the owner's
8 permission, since January 1, 2013; or, if any part of the property has
9 been used for any rentals of less than one hundred eighty days since
10 January 1, 2013, the owner shall:

11 (1) Identify the periods the property was rented for less than one
12 hundred eighty days.

13 (2) Provide proof that the owner paid applicable general excise
14 taxes and transient accommodations taxes for the periods the property
15 was rented for less than one hundred eighty days.

16 (3) Provide a State tax clearance showing all applicable State
17 taxes have been paid.

18 (4) Pay an after-the-fact permit fee to the County in an amount
19 as set forth in the annual budget ordinance.

20 b. The owner has not previously advertised, or has ceased
21 advertising, for the short-term rental home that is the subject of the
22 application, and will not begin, or resume, any advertising until a permit
23 is approved.

24 c. The owner either has no financial interest in any property within
25 the county associated with [a bed-and-breakfast home permit or](#) a short-
26 term rental home permit; or, if the owner has a financial interest in a
27 property that is subject to [a bed-and-breakfast home permit or](#) a short-
28 term rental home permit, the nature of the financial interest and the
29 property address.

30 d. The owner has paid, or will pay, all fines that have been assessed
31 as a result of a notice of violation previously issued to the owner for
32 unpermitted short-term rental use or activity, prior to the processing of
33 the short-term rental home permit application.

34 e. All statements made by the owner on the certification form and
35 provided during the short-term rental home permit application process
36 are correct to the best of the owner's knowledge.

37 f. The owner acknowledges that any false information or
38 misrepresentations made in the application or during the application
39 process shall result in an enforcement action pursuant to section
40 19.530.030 of this title, the denial or revocation of the permit, and a
41 prohibition against the current property owner applying for a short-term

1 rental home permit for the property for a period of two years after the
2 date of denial or revocation of the permit.

3 9. Additional information as may be requested by the director.

4 B. All applicants **[shall] must** send, by certified mail, written notice of the
5 application for a short-term rental home permit to the owners and lessees of
6 record located **and physical addresses** within a five-hundred-foot radius of
7 the lot of the proposed short-term rental home. The written notice shall
8 include all of the following:

9 1. A description of the proposed short-term rental home operation.

10 2. The location of proposed on-site parking.

11 3. The total number of bedrooms proposed for short-term rental home use.

12 4. A map identifying the short-term rental home lot in relation to all other
13 lots within a five-hundred-foot radius.

14 5. A provision that the owners and lessees of record **and physical addresses**
15 within a five-hundred-foot radius of the proposed short-term rental home
16 may file a written protest with the director via fax, email, or letter;
17 provided that, all protests must be postmarked within forty-five days of
18 the mailing of the notice of application.

19 C. No more than ten days prior to mailing the notice of application, a four-
20 square-foot project notice sign **[shall] must** be posted at the front of the
21 property along the main access road. The sign **[shall] must** be clearly visible
22 from the roadway and shall contain information and wording as prescribed
23 by the department. The sign **[shall] may** be removed after forty-five days
24 from the mailing of the notice of application. The sign is not subject to **[the**
25 **provisions of]** chapter 16.13 of this code.

26 D. If planning commission review is required pursuant to subsection
27 19.65.060(A)(2), the processing requirements **[shall] will** be as follows:

28 1. The director **[shall] will** set the application for public hearing on the
29 agenda of the planning commission.

30 2. The director **[shall] will** notify the applicant and the appropriate State
31 and County agencies of the date of the public hearing not less than forty-
32 five calendar days prior to the public hearing.

33 3. The director **[shall] will** publish the notice of the date, time, place, and
34 subject matter of the public hearing once in a newspaper printed and
35 issued at least twice weekly and generally circulated throughout the
36 County, at least thirty calendar days prior to the public hearing.

37 4. The applicant **[shall] will** provide notice of the public hearing date on the
38 application to the owners and lessees of record **and physical addresses**
39 located within a five-hundred-foot radius from the parcel identified in the
40 application by complying with the following procedures:

1 a. Mailing, by certified mail, a notice of the date of the public hearing
2 of the application in a form prescribed by the director to each of the
3 owners and lessees not less than thirty calendar days prior to the public
4 hearing.

5 b. Submitting each of the receipts for the certified mail to the director
6 not less than ten business days prior to the public hearing.

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

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

12
13 SECTION 9. Section 19.65.060 Maui County Code is amended to read as
14 follows:

15
16 19.65.060 - Permit processing.

17 A. The short-term rental home permit process [shall] will be as follows:

18 1. The applicant for a short-term rental home permit [shall] will submit an
19 application to the department as provided in section 19.65.050.

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

24 a. The director receives two or more written protests from the owners,
25 [or] lessees of record or residents of the physical addresses of two or
26 more lots adjacent to or directly across the street from the driveway
27 access area for the proposed short-term rental home. Roadway lots and
28 road widening lots abutting the access street shall not be considered lots
29 for purposes of this section.

30 b. Thirty percent or more of the owners, [and] lessees of record or
31 residents of the physical addresses of within a five-hundred-foot radius
32 of the proposed short-term rental home lot submit written protests to the
33 director when there are less than forty lots within a five-hundred-foot
34 radius of the proposed short-term rental home lot.

35 c. Fifteen percent or more of the owners, [and] lessees of record or
36 residents of the physical addresses within a five-hundred-foot radius of
37 the proposed short-term rental home lot submit written protests to the

1 director when there are forty or more lots within a five-hundred-foot
2 radius of the proposed short-term rental home lot.

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

5 e. Two or more existing short-term rental homes are operating within
6 a five-hundred-foot radius of the proposed short-term rental home lot.

7 [f. An owner of the lot for which a short-term rental home permit
8 application has been submitted or a trustee, partner, corporate
9 shareholder, or limited liability company member of the entity which
10 holds title to the lot is also an owner, trustee, partner, corporate
11 shareholder, or limited liability company member of an entity which
12 holds title to or an ownership interest in a lot with a short-term rental
13 home permit.]

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

17 C. For short-term rental homes operating under existing conditional permits
18 that meet the criteria set forth in section 19.65.030, those operations [shall]
19 will be given the option of changing existing permits to short-term rental
20 home permits, subject to section 19.65.070(B), and upon expiration, such
21 permits may be extended for periods of up to five years [on Lanai and Maui
22 and up to one year on Molokai], or may continue to operate under existing
23 conditional permit requirements and time extension procedures.

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

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

33 F. Substantive amendments to a permit, including but not limited to an
34 increase in the number of bedrooms or dwellings used for short-term rental
35 home purposes or the addition of a new dwelling to the permit, [shall] will be
36 processed in the same manner as the initial application.

37
38 SECTION 10. Section 19.65.070 Maui County Code is amended to read
39 as follows:

1
2 19.65.070 - Duration, renewal, and nonrenewal of permits and compliance
3 with permit conditions.

4 A. Initial short-term rental home permits are valid for a maximum period of
5 three years, except that shorter periods may be approved to mitigate
6 impacts.

7 B. Permit renewal applications [shall] must be submitted to the department no
8 later than sixty days prior to expiration of the permit, after which the
9 department [shall] will not accept any renewal application. Permit renewals
10 may be granted by the director for terms of up to five years[on Lanai and
11 Maui and up to one year on Molokai; except that renewals for permits
12 initially approved by the Molokai planning commission may only be granted
13 by the Molokai planning commission for terms up to one year]. In reviewing
14 a renewal application, the director [or Molokai planning commission as
15 appropriate] shall require evidence of compliance with conditions of the
16 short-term rental home permit and this chapter. The permit [shall] will
17 remain in effect while the renewal application is being processed for up to
18 six months after the expiration date, unless the applicant fails to provide
19 requested information to the department within sixty days.

20 No permit [shall] will be renewed without written verification of appropriate
21 State and County tax filings.

22 C. Compliance inspections may be conducted prior to granting a permit
23 renewal or during the permit period. Permit holders [shall] must allow
24 compliance inspections to be conducted within one hour of notice. Refusal
25 to allow access within one hour may result in permit revocation.

26 D. Upon approval of the permit, the permit holder [shall] must send the permit
27 number, a copy of the short-term rental home's house rules, twenty-four
28 hour contact information for the manager, and the department's contact
29 information to the owners, [and] lessees and residents of the physical
30 addresses of abutting properties and properties directly across the street
31 from the short-term rental home. Proof of mailing shall be submitted to the
32 department within thirty days of the permit approval.

33 E. The permit holder shall send by certified mail notification of any change to
34 contact information for the manager to the department, the owners, [and]
35 lessees and residents of the physical addresses of abutting properties and
36 those directly across the street from the short-term rental home. Such
37 notification [shall] must be sent prior to, or immediately after, the change in
38 contact information occurs. Proof of mailing shall be submitted to the
39 department within thirty days of the mailing.

40 F. Nonrenewal procedures.

41 1. The director may decline to renew the permit if the director finds any of
42 the following:

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

3 b. The permit holder is delinquent in payment of State or County
4 taxes, fines, or penalties assessed in relation to the short-term rental
5 home.

6 c. Evidence of non-responsive management.

7 d. Police reports of noise or other disturbances on the property.

8 e. Warnings or violations resulting from requests for service.

9 f. Neighbor complaints of noise and other disturbances relating to
10 the short-term rental home operations; provided that the department has
11 received at least three complaints about the short-term rental home
12 within a twelve-month period. Complaints must be from property owners
13 or lessees of record located on two or more different lots within a five-
14 hundred-foot radius of the short-term rental home.

15 g. Noncompliance with permit conditions.

16 h. Noncompliance with this chapter.

17 i. Noncompliance with other governmental requirements.

18 2. If the permit is not renewed by the director, the department [shall] must
19 not accept a new application for a short-term rental home permit from
20 the permit holder for two years after the date of the previous permit's
21 expiration.

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

28
29 SECTION 11. Section 19.65.080 Maui County Code is amended to read
30 as follows:

31
32 19.65.080 - Revocation and Enforcement.

33 A. Revocation procedures.

34 1. The permit may be revoked if the director finds any of the following:

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

- 1 b. The permit holder is delinquent in payment of State or County
2 taxes, fines, or penalties assessed in relation to the short-term rental
3 home.
- 4 c. Evidence of non-responsive management.
- 5 d. Police reports of noise or other disturbances on the property.
- 6 e. Warnings or violations resulting from requests for service.
- 7 f. Neighbor complaints of noise and other disturbances relating to
8 the short-term rental home operations; provided that the department has
9 received at least three complaints about the short-term rental home
10 within a twelve-month period. Complaints must be from property owners
11 or lessees of record located on two or more different lots within a five-
12 hundred-foot radius of the short-term rental home.
- 13 g. Noncompliance with permit conditions.
- 14 h. Noncompliance with this chapter.
- 15 i. Noncompliance with other governmental requirements.
- 16 2. If the permit is revoked, the department shall not accept a new
17 application for a short-term rental home permit from the permit holder
18 for two years after the date of revocation.
- 19 B. Advertising that offers a property as a short-term rental home, or a
20 property's real property tax classification as short-term rental, shall
21 constitute prima facie evidence of the operation of a short-term rental home
22 on the property and the burden of proof [shall] will be on the owner,
23 operator, or lessee of record to establish that the subject property is being
24 used as a legal short-term rental home or is not in operation as a short-term
25 rental home.
- 26 C. Any communication by a property owner, operator, or lessee to any person
27 where the owner, operator, or lessee offers their home for rent as a short-
28 term rental home on the property [shall] will be on the owner, operator, or
29 lessee of record to establish that the subject property is being used as
30 constitute prima facie evidence of the operation of a short-term rental home
31 on the property and the burden of proof shall be on the owner, operator, or
32 lessee to establish that the subject property is being used as a legal short-
33 term rental home or is not in operation as a short-term rental home.
- 34 D. Advertising for a short-term rental home without a valid permit number is
35 prohibited and constitutes a violation of this title and may result in
36 enforcement action pursuant to section 19.530.030 of this title; provided
37 that:
- 38 1. The alleged violator and the property owner [shall] must be on the owner,
39 operator, or lessee of record to establish that the subject property is

1 being used as be notified that all advertising without a valid permit
2 number shall be terminated within seven days of the notice.

- 3 2. Enforcement action, including fines, may commence pursuant to section
4 19.530.030 of this title if advertising without a valid permit number
5 continues after such warning.

6 E. Operating a short-term rental home without a valid permit is prohibited.
7 Evidence of operation may include: advertising, guest testimony, online
8 reviews, rental agreements, receipts, or any other information deemed
9 relevant by the department. Operating without a permit [shall] will result in
10 a property owner being ineligible to apply for a permit for five years~~],~~ **except**
11 **that:**

- 12 1. An ineligible applicant may apply for a short-term rental home permit
13 and the permit application may be processed provided that at the time of
14 the application, the ineligible applicant has:

15 a. Provided proof that prior to enactment of the ordinance that
16 created this exception and during the entire period that the applicant
17 has been operating without a permit, the applicant has had valid general
18 excise tax and transient accommodations tax licenses, and has paid all
19 applicable general excise taxes and transient accommodations taxes due
20 and owing.

21 b. Agreed to pay and has paid in full real property taxes at the rate
22 applicable to short-term rental home properties and has claimed no
23 homeowner's exemption for the tax years in which the applicant has
24 been operating without a permit.

25 c. Ceased, and does not resume prior to issuance of a permit, any
26 and all advertising and operations of the short-term rental home that is
27 the subject of the application as of the date of the application.

28 d. Paid, in addition to any other applicable permit fees, an after-the-
29 fact short-term rental home application fee as set forth in the annual
30 budget ordinance.

31 e. Paid any outstanding fees or fines for violations on the property
32 including, but not limited to, initial and unwaived daily fines for
33 unpermitted short-term rental home operation; after-the-fact zoning,
34 special management area, or building permit fees; department of public
35 works or department of planning application fees; or other fees, dues, or
36 fines imposed by the State or County.

- 37 2. This exception to the five-year ineligible status for owners operating
38 without a permit shall apply from July 1, 2016 to December 31, 2016.]

39 F. The department [shall] must notify the department of finance, real property
40 tax division, of violations of this chapter.

1 G. The department [shall] must file a report with the State department of
2 taxation for properties with violations of this chapter.

3 H. Sixty days from the effective date of this ordinance, and each year
4 thereafter, the department [shall] must provide to the state department of
5 taxation and the department of finance, real property tax division, a current
6 list of:

- 7 1. Unpermitted operations with internet advertisements for short-term
8 rental homes; and
- 9 2. Unpermitted short-term rental home operations identified by a
10 department request for service form.

11

12 SECTION 12. Existing permitted bed and breakfast homes and short-
13 term rental homes are allowed to continue operations and apply for renewal
14 under the zoning restrictions and standards in effect immediately prior to the
15 effective date of this ordinance. Applications submitted within six months of
16 the effective date of this ordinance may be processed and approved pursuant to
17 the zoning restrictions and standards in effect immediately prior to the effective
18 date of this ordinance.

19 SECTION 13. Material to be repealed is bracketed. New material is
20 underscored. In printing this bill, the County Clerk need not include the
21 brackets, the bracketed material, or the underscoring.

22