

ORDINANCE NO. 5502

BILL NO. 4, CD1, FD1 (2023)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.12, MAUI COUNTY CODE, RELATING TO CONVERTING APARTMENT BUILDINGS FROM TRANSIENT VACATION RENTAL USE TO LONG-TERM RESIDENTIAL USE

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

SECTION 1. This Ordinance's purpose is to allow property owners of buildings located in the Apartment District to convert real property voluntarily and permanently from transient vacation rental use to long-term residential use by filing a declaration with the State of Hawai'i Bureau of Conveyances and providing notice to the County.

SECTION 2. Chapter 19.12, Maui County Code, is amended by adding a new section to be appropriately designated and to read as follows:

**"19.12.025 Conversion of real property from transient vacation rental use to long-term residential use. A. Owners of property where transient vacation rental use is allowed under subsection 19.12.020(G) may permanently discontinue the use by filing a declaration with the State of Hawai'i bureau of conveyances in a form prescribed by the department in accordance with this section.**

**B. The declaration must apply to the entire parcel and must be executed by the percentage of property owners as follows:**

- 1. Island of Lāna'i: 100 percent.**
- 2. Island of Maui: 100 percent.**
- 3. Island of Molokai: 100 percent.**

**C. The declaration must state that the owners must use the property for long-term residential use only.**

**D. A copy of the draft declaration must be filed with the director by September 1 of any calendar year. Within forty-five days of receipt, the director must review the declaration and determine whether it is complete.**

**E. Prior to recording the declaration, property owners are solely responsible for and must update and record any applicable**

bylaws and covenants, conditions, and restrictions associated with the property consistent with the complete declaration.

F. After the director determines the draft declaration to be complete, the property owners must file the declaration with the State of Hawai'i bureau of conveyances on or before December 31 immediately preceding the assessment year in order to be reclassified for real property tax purposes.

G. Recordation of the declaration constitutes a permanent forfeiture on the part of the owners, and all successors and assigns, of any right to transient vacation rental, bed and breakfast, or short-term rental home use on the applicable parcel.

H. The director must notify the department of finance, real property assessment division of the recordation of a declaration permanently converting property from transient vacation rental use to long-term residential use that is determined to be complete.

I. The director must not accept an application for a short-term rental home permit, bed and breakfast home permit, or conditional permit for transient vacation rental use.

J. Whenever the provisions or application of this title impose greater restrictions upon the use of land, buildings, or structures than are imposed by any such covenants, conditions, limitations, or restrictions, the provisions and application of this title govern the use of that land, building, or structure.

K. The director must enforce the failure to abide by the declaration as a violation of this title.”

SECTION 3. Section 19.12.020, Maui County Code, is amended by amending subsection G to read as follows:

“G. Transient vacation rentals in [building] buildings and structures meeting all of the following criteria:

1. The building or structure received a building permit, special management area use permit, or planned development approval that was lawfully issued by and was valid, or is otherwise confirmed to have been lawfully existing, on April 20, 1989.

2. Transient vacation rental use was legally conducted in any lawfully existing dwelling unit within the building or structure prior to September 24, 2020 as determined by real property tax class or payment of general excise tax and transient accommodations tax.

3. The number of rooms or units allowed for transient vacation rental use may not increase beyond those allowed for such use as of January 7, 2022. Existing transient vacation rentals may be reconstructed, renovated, or expanded if no new rooms or transient vacation rental units are added.

4. The property owner or operator holds general excise tax and transient accommodations tax licenses and is current in payment of State and County taxes, fines, or penalties assessed in relation to the transient vacation rental.

5. The planning director and director of finance must maintain a publicly available list of all transient vacation rental units allowed under this section to the best of the departments' knowledge at the time the list is posted. The list is informational only and is not a confirmation of zoning or allowable uses. Inclusion of a property on the list does not establish any right to operate a transient vacation rental unit, and no person may rely upon the list to establish the right to operate as a transient vacation rental unit. Any interested person must consult the department with respect to any specific property's ability to operate as a transient vacation rental unit.

6. Advertisements for transient vacation rental use must include the subject property's registration number, which is the subject property's tax map key number, without punctuation marks.

7. A declaration in accordance with section 19.12.025 must not have been filed."

SECTION 4. Material to be repealed is bracketed. New material is underscored. In printing this bill, the County Clerk need not include the underscoring.

SECTION 5. This Ordinance takes effect on approval.

APPROVED AS TO FORM AND LEGALITY:

/s/Michael J. Hopper

MICHAEL J. HOPPER

Department of the Corporation Counsel

County of Maui

paf:pmg:23-091a

LF2023-0414

PAF 23-091 2023-04-03 Bill 4 CD1 FD1 2023

Amd Ord Ch 19.12

INTRODUCED BY:

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Upon the request of the Mayor.

WE HEREBY CERTIFY that the foregoing BILL NO. 4, CDI, FD1 (2023)

1. Passed FINAL READING at the meeting of the Council of the County of Maui, State of Hawaii, held on the 11th day of April, 2023, by the following vote:

Alice L. LEE Chair	Yuki Lei K. SUGIMURA Vice-Chair	Tom COOK	Gabriel JOHNSON	Natalie A. KAMA	Tamara A. M. PALTIN	Keani N. W. RAWLINS-FERNANDEZ	Shane M. SINENCI	Nohelani U'U-HODGINS
Aye	Aye	Aye	Aye	Aye	Aye	Aye	Aye	Aye

2. Was transmitted to the Mayor of the County of Maui, State of Hawaii, on the 11th day of April, 2023.

DATED AT WAILUKU, MAUI, HAWAII, this 11th day of April, 2023.

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OFFICE OF THE MAYOR

ALICE L. LEE, CHAIR  
Council of the County of Maui

RICHELLE M. THOMSON, DEPUTY COUNTY CLERK  
County of Maui

THE FOREGOING BILL IS HEREBY APPROVED THIS DAY OF April 13, 2023.

RICHARD T. BISSEN, JR. MAYOR  
County of Maui

I HEREBY CERTIFY that upon approval of the foregoing BILL by the Mayor of the County of Maui, the said BILL was designated as ORDINANCE NO. 5502 of the County of Maui, State of Hawaii.

RICHELLE M. THOMSON, DEPUTY COUNTY CLERK  
County of Maui

Passed First Reading on March 24, 2023  
Effective date of Ordinance April 13, 2023

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OFFICE OF THE COUNTY CLERK

I HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. 5502, the original of which is on file in the Office of the County Clerk, County of Maui, State of Hawaii.

Dated at Wailuku, Hawaii, on

County Clerk, County of Maui