ORDINANCE NO. _____

BILL NO. 9 (2025)

A BILL FOR AN ORDINANCE AMENDING CHAPTERS 19.12, 19.32, AND 19.37 MAUI COUNTY CODE, RELATING TO TRANSIENT VACATION RENTALS IN APARTMENT DISTRICTS

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

SECTION 1. Findings and purpose. In 1980, Ordinance 1134 (1980) created Title 19.37, Maui County Code, which was the first ordinance to clearly define Transient Vacation Rental use. Transient Vacation Rentals were defined as rentals for less than 30 days in "multi-unit" buildings. The ordinance allowed Transient Vacation Rentals in Apartment and Hotel Districts only.

In 1989, Ordinance 1797 (1989) amended Title 19.12.010(C), Maui County Code, and removed Transient Vacation Rentals as a permissible use in Apartment Districts. Specifically, Ordinance 1797 directed that "buildings and structures in the apartment district shall be occupied on a long-term residential basis." It defined "long term residential basis" as structures "occupied by an owner, lessee or tenant for a continuous period of six months or more per year." The ordinance also recognized, in Section 11, that the new law would not apply to Apartment District structures that had received certain development approvals prior to the ordinance's enactment.

This recognition, provided in Ordinance 1797, Section 11, was not codified at that time, but in practice it allowed multi-unit buildings built or approved prior to 1989 in an Apartment District to operate Transient Vacation Rentals as

lawful non-conforming uses. Shortly thereafter, Ordinance 1989 (1991) amended Title 19.37, Maui County Code, striking Transient Vacation Rental use in Apartment Districts.

In 2014, Ordinance No. 4167 (2014) was passed with the purpose of codifying the language of Ordinance 1797, Section 11. This ordinance explicitly allowed those structures built or approved prior to 1989 to operate Transient Vacation Rentals in Apartment Districts. This exception was codified in section 19.12.020(G), Maui County Code. This Section was modified at least four times since its passage in Ordinance Nos. 5126 (2020), 5301 (2021), 5473 (2022) and 5502 (2023), which all identified additional requirements for qualifying for the exception.

The County is in a housing crisis which has become increasingly severe over time. The August 2023 Wildfires magnified and exacerbated that crisis when more than 5,400 households were destroyed, displacing approximately 12,000 people for an indefinite time.

Apartment Districts are, among other things, intended to provide higher density, long-term housing to residents. *See* 19.12.010(A), Maui County Code. The purpose of this ordinance is to revert all Apartment District properties to their intended long-term residential use; remove the exception provided to those properties built or approved prior to 1989; and fully discontinue Transient Vacation Rental use in Apartment Districts.

SECTION 2. Section 19.12.020, Maui County Code, is amended to read as follows:

"**19.12.020 Permitted Uses.** Within the A-1 and A-2 districts, the following uses are permitted:

A. Any use permitted in the residential and duplex districts.

B. Apartment houses.

C. Boarding houses, rooming houses, and lodging houses.

D. Bungalow courts.

E. Apartment courts.

F. Townhouses.

[G. Transient vacation rentals in 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.]

[H.] G. Bed and breakfast homes, subject to the provisions of chapter 19.64.

[I.] H. Short-term rental homes, subject to the provisions of chapter 19.65."

SECTION 3. Section 19.32.040, Maui County Code, is amended by amending Section I to read as follows:

"I. Transient vacation rentals are permitted in planned developments, except for developments that have been publicly funded, if:

[1. The planned development received a planned development site plan approval that was lawfully issued by and valid on April 20, 1989, and the land is zoned A-1 or A-2 apartment district; or]

[2.] 1. The planned development meets all of the following:

a. The planned development received final approval as provided in this chapter, and at least one unit in the planned development was operating as a vacation rental on or before April 20, 1981.

b. The planned development is located on parcels with at least some residential district zoning.

c. The planned development consists of only:

i. Duplexes or multi-family dwelling units; or

ii. A combination of single-family dwelling units and duplexes or multi-family dwelling units.

[3.] 2. Existing transient vacation rentals may be reconstructed, renovated, or expanded if no new rooms or transient vacation rental units are added."

SECTION 4. Section 19.37.010, Maui County Code, is amended by amending Sections A and B to read as follows:

"A. Except as provided in this chapter, time share units and time share plans are prohibited in all zoning districts. Transient vacation rentals are prohibited in all zoning districts, excluding bed and breakfast homes permitted under chapter 19.64, short-term rental homes permitted under chapter 19.65, transient vacation

rental units permitted by a conditional permit under chapter 19.40, transient vacation rentals permitted under chapters [19.12,] 19.14, 19.15, 19.18, 19.22, and 19.32, and hotels that are permitted based on the applicable zoning in the comprehensive zoning ordinance.

B. Existing time share units[,] and time share plans[, and transient vacation rentals] that were operating in accordance with and under law and were registered in accordance with chapter 514E of the Hawaii Revised Statutes as of the effective date of the ordinance codified in this section, must 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 by May 3, 1991, a declaration in a form prescribed by the director will be deemed exempt from this section as long as the project [or apartment unit] identified by the declaration continues to operate under a lawful time share plan or registration.

SECTION 5. Section 19.12.025, Maui County Code, is repealed:

"**[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 Hawaii 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 6. Section 19.500.110, Maui County Code is amended by amending Section C as follows:

C. Nonconforming Uses.

1. The County maintains the power to phase out certain nonconforming uses as outlined in Section 46-4(a), Hawaii Revised Statutes. Accordingly, this section shall not apply to any nonconforming use that has been amortized or phased out pursuant to Section 46-4(a), Hawaii Revised Statutes.

[1.**]** 2. A nonconforming use shall not extend to any part of the structure or lot that was not arranged or designed for such use at the time the use became nonconforming.

[2.**]** 3. Any nonconforming use that is discontinued for twelve consecutive months shall not be resumed.

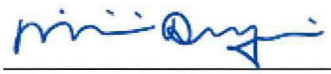
[3.**]** 4. Work may be done on any structure devoted in whole or in part to any nonconforming use if the work is limited to ordinary repairs, including repair or replacement of walls, fixtures, wiring, or plumbing. Further, the work shall not exceed 50 percent of the current replacement cost of the structure within a twelve-month period, and the floor area of the structure, as it existed at the time the nonconforming use was created, shall not be increased.

[4.**]** 5. No nonconforming use shall be changed to another nonconforming use.

SECTION 7. Effect. Pursuant to 46-4(a), Hawaii Revised Statutes, should the County prohibit a previously lawful use in an apartment zone, the County must provide a reasonable period to amortize or phase out the use. This Council deems that approximately six months for West Maui and one year for the remainder of the County, is a reasonable phase-out period due to the pre-existing long-term housing shortage, which was exacerbated by the August 2023 wildfires. Accordingly, this ordinance shall not take effect until July 1, 2025 for the West Maui Community Plan area, as it is defined on the date this ordinance is passed, and for all remaining areas in the County, on January 1, 2026. All Transient Vacation Rentals in the Apartment District of the West Maui Community Plan Area must cease operating no later than July 1, 2025. All other Transient Vacation Rentals in Apartment Districts in the County must cease operations by January 1, 2026. Section 11 of Ordinance 1797 is expressly stricken and inapplicable herein, as this ordinance is applicable to all Transient Vacation Rental uses in the Apartment District. Chapter 19.500.110 of this code shall not apply to the removal of Transient Vacation Rental Use in Apartment Districts after July 1, 2025 for the West Maui Community Plan Area and January 1, 2026 for all remaining areas in the County, the effective dates of this ordinance, in accordance with the powers granted the County in 46-4(a), Hawaii Revised Statutes.

SECTION 8. 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.

APPROVED AS TO FORM AND LEGALITY:



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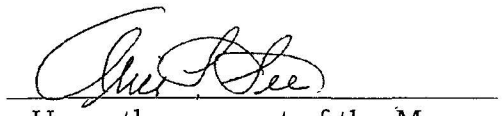
2024-12-27 Ord Amd Ch 19.12 TVA in Apt Districts.docx

INTRODUCED BY:



Upon the request of the Mayor.