

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

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

SECTION 1. Findings and purpose. The purpose of this ordinance is to allow bed and breakfast and short-term rental homes in accessory dwellings, subject to restrictions that encourage long-term occupancy in residential neighborhoods; limit short-term rental homes to one per property and one per applicant whether individual or trustee; clarify trusts and ownership requirements; expand notification requirements to neighbors of the property; and other minor revisions.

SECTION 2. Section 19.35.010 Maui County Code is amended to read as follows:

**Chapter 19.35 - ACCESSORY DWELLINGS**

19.35.010 - Generally.

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

- A. Any person who wishes to construct, or in any manner otherwise establish, an accessory dwelling shall apply for a building permit therefor in accordance with this chapter.
- B. All provisions of the County zoning district, or State land use district as the case may be, in which the accessory dwelling is proposed to be constructed shall apply, except the provisions on the number of dwelling units permitted on a lot and except as the provisions of such district may be inconsistent with the provisions applicable to accessory dwellings. To

the extent of such inconsistency, if any, the accessory dwelling provisions shall prevail.

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

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

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

19.64.030 - Restrictions and standards. Bed and breakfast homes [shall be] are subject to the following restrictions and standards:

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

[shall] is not [be] transferable. No more than one permit [shall] may be approved for any lot.

- F. The number of bedrooms used for short-term rental in the bed and breakfast home [shall] may be no greater than six on Lana'i and Maui, and no greater than three on Moloka'i, and [shall be] is subject to the provisions of section 19.64.050. The total number of guests [shall] is be limited to up to two adult guests and up to two minor guests per bedroom.
- G. A bed and breakfast home [shall] may make breakfast available to onsite guests, but [shall] may not operate as a food service establishment (for example, restaurant), unless a food service establishment is a permitted use in the zoning district.
- H. A bed and breakfast home [shall] must be in compliance with all other applicable federal, state, and local laws.
- I. In permitting bed and breakfast homes, the planning director, the planning commissions, and the council [shall] must not consider, nor 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.
- J. All advertising for any bed and breakfast home in a residential district [shall] must include the number of the permit granted to the owner-proprietor.
- K. Single-station smoke detectors [shall] must be provided in all guest bedrooms.
- L. Single-family dwellings used as bed and breakfast homes [shall] do not qualify for real property tax exemptions pursuant to chapter 3.48 of this code.
- M. No bed and breakfast home [shall] may create any impact greater than those theretofore existing in that district, and [shall] must conform to the character of the neighborhood.
- N. On Lana`i and Moloka`i, [Bed] bed and breakfast homes [shall be] are limited to single-family dwelling units constructed at least five years prior to [structures existing and constructed as of] the date of application for the bed and breakfast permit. On Maui, bed and breakfast homes are limited to single family dwelling units existing and constructed as of the date of the application for the bed and breakfast permit.

- O. Within the Hana community plan area, on Lana'i, and on Moloka'i, a one-square foot sign identifying the bed and breakfast home permit number [shall] must be placed at the front of the property along the main access road. On Lana'i and Moloka'i, the sign [shall] must be attached to an existing structure, such as a fence. On Moloka'i, the sign [shall] must state the owner-proprietor's telephone number.
- P. All guest parking must be off-street. Grasscrete and tandem parking [shall] may be allowed for any required parking stalls.
- Q. The proprietor [shall] must post "house policies" within each guest room and [shall] must be responsible for enforcing such policies. The house policies [shall] must include the following provisions:
1. Quiet hours [shall] must be maintained from 9:00 p.m. to 8:00 a.m., during which noise in the bed and breakfast home [shall] may not disturb anyone on a neighboring property.
  2. Amplified sound that is audible beyond the property boundaries of the bed and breakfast is prohibited.
  3. Vehicles [shall] must be parked in the designated onsite parking area and [shall] may not be parked on the street overnight.
- R. The County [shall be] is restricted in approving permits for bed and breakfast 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.
  3. Makawao-Pukalani-Kula: 40.
  4. Paia-Haiku: 88.
  5. Wailuku-Kahului: 36.
  6. West Maui: 88.
  7. Lana`i: 21.
- S. No B&B permit may be issued to any person who holds a valid STRH permit or who has been banned from applying for a STRH permit
- T. The planning director or planning commission may impose conditions on the granting of a request for a bed and breakfast home if the conditions are reasonably conceived to mitigate the impacts emanating from the proposed land use.

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

19.64.040 - Procedures for application and public notice.

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.
  - d. The applicant will provide notice of the public hearing date on the application to the owners and lessees of record located within a five-hundred-foot radius from the parcel identified in the application by complying with the following procedures:
    - (1) Mailing, by certified mail, a notice of the date of the public hearing of the application in a form prescribed by the director to each of the owners and lessees not less than thirty calendar days prior to the public hearing.
    - (2) Submitting each of the receipts for the certified mail to the director not less than ten business days prior to the public hearing.
6. For purposes of this chapter, notice [shall] must be considered validly given if the planning director finds that the applicant has made a good faith effort to comply with the requirements of this subsection.
- C. If an application does not meet the legal requirements of this chapter, it [shall] must be denied.

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

19.64.050 - Permit processing.

- A. Bed and Breakfast Home. Short-term rental of one to six bedrooms on Lana'i or Maui or of one to three bedrooms on Moloka'i in a bed and breakfast home [shall] may be permitted by a bed and breakfast home permit.
  1. The applicant for a bed and breakfast home permit [shall] must file an application with the planning director as provided in section 19.64.040.

2. The planning director [shall] must approve or deny the application pursuant to the requirements of this chapter.
3. The application [shall] must be processed as provided in subsection B of this section, if any of the following occur:
  - a. If written protests pursuant to section 19.64.040.B.4 comprise thirty percent or more of the owners and lessees of record within a five-hundred-foot distance from the lot on which the bed and breakfast home is proposed;
  - b. If a variance was obtained to meet the requirements for a bed and breakfast home permit;
  - c. If two or more [an] existing bed and breakfast homes are [is] operating [on a lot] within a five-hundred-foot distance from the lot on which the bed and breakfast home is proposed;
  - d. For bed and breakfast homes located within the Hana community plan area, the number of bedrooms used for short-term rental in the bed and breakfast home shall be greater than three; or
  - e. For bed and breakfast home located on Moloka'i and Lana'i, the application is for an initial bed and breakfast home permit.
4. The planning director [shall] must specify in the department's annual report the number of bed and breakfast home permit applications received and approved.

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

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

19.64.065 – Revocation and enforcement.

A. Revocation procedures.

1. The permit may be revoked if the director finds any of the following:
    - a. The owner-proprietor provided false or misleading information during the application process.
    - b. The owner-proprietor is delinquent in payment of State or County taxes, fines, or penalties assessed in relation to the bed and breakfast home.
    - c. Evidence of non-responsive management.
    - d. Police reports of noise or other disturbances on the property.
    - e. Warnings or violations resulting from requests for service.
    - f. Neighbor complaints of noise and other disturbances relating to the bed and breakfast home operations; provided that the department has received at least three complaints about the bed and breakfast home within a twelve-month period. 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 bed and breakfast home.
    - g. Noncompliance with permit conditions.
    - h. Noncompliance with this chapter.
    - i. Noncompliance with other governmental requirements.
  2. If the permit is revoked, the department [shall] will not accept a new application for a bed and breakfast home permit from the owner-proprietor for two years after the date of revocation.
- B. Advertising that offers a property as a bed and breakfast home [shall] constitute prima facie evidence of the operation of a bed and breakfast 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 bed and breakfast home or is not in operation as a bed and breakfast home.
- C. 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 bed and breakfast home on the property [shall] constitute prima facie evidence of the operation of a bed and breakfast home on the property and the burden of proof shall be on the owner, operator, or lessee to establish that the subject property is being used as a legal bed and breakfast home or is not in operation as a bed and breakfast home.
- D. Advertising for a bed and breakfast home without a valid permit number is prohibited, constitutes a violation of this title, and [shall] will result in an enforcement action pursuant to section 19.530.030 of this title; provided that:



1. The alleged violator and the property owner [shall] must be notified that all advertising without a valid permit number [shall] will be terminated within seven days after issuance of the notice of warning. The notice of warning [shall] must specify that failure to cease such advertising by the deadline [shall] will result in issuance of a notice of violation and an order to pay a civil fine in the amount set forth in section 19.530.030 of this title for each day such advertising continues after the deadline.
  2. For a complaint of advertising without a valid permit number that is initiated by the public and confirmed by the department, the department [shall] must send a notice of warning to the alleged violator and the property owner following receipt of a request for service, provided the person who initiated the request for service supplied a valid physical address for the property.
  3. A notice of violation, including an order to pay daily fines, [shall] must be sent to the alleged violator and the property owner pursuant to section 19.530.030 of this title after the deadline if advertising without a valid permit number continues after the deadline, unless the alleged violator or property owner has submitted evidence satisfactory to the director that such advertising is not in their control.
  4. All repeat violations for advertising without a valid permit number [shall] must result in a notice of violation without prior issuance of a notice of warning. A notice of violation, including an order to pay daily fines, [shall] will be sent to the alleged repeat violator and the property owner pursuant to section 19.530.030 of this title, unless the alleged violator or property owner has submitted evidence satisfactory to the director that such advertising is not in their control. For purposes of this section, a repeat violation is one where the alleged violator has previously been issued a notice of warning for advertising without a valid permit number.
- E. Operating a bed and breakfast home without a valid permit is prohibited. Evidence of operation may include: advertising, guest testimony, online reviews, rental agreements, receipts, or any other information deemed relevant by the department. Operating without a valid permit [shall] will result in a property owner being ineligible to apply for a permit for two years.
- F. The department [shall] must notify the department of finance, real property tax division, of violations of this chapter.
- G. The department [shall] must file a report with the state department of taxation for properties with violations of this chapter.
- H. Sixty days from the effective date of this ordinance, and each year thereafter, the department [shall] must provide to the state department of

taxation and the department of finance, real property tax division, a current list of:

1. Unpermitted operations with internet advertisements for bed and breakfast homes.
2. Unpermitted bed and breakfast home operations identified by a department request for service form.

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

### **Chapter 19.65 - SHORT-TERM RENTAL HOMES**

#### 19.65.030 - Restrictions and standards.

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

- A. The short-term rental home use is permitted in no more than one [two] single-family dwelling unit[s] per lot[, except that short-term rental use shall not be permitted in any accessory dwelling]. No more than one short-term rental home permit shall be approved for any lot, except for lots that are subject to a condominium property regime under chapter 514A or chapter 514B, Hawaii Revised Statutes, the following shall apply:
  1. If the applicant owns all condominium units on the lot, only one permit may be granted for that lot.
  2. If the applicant does not own all condominium units on the lot, each condominium unit will be considered a lot for purposes of this chapter and each unit owner will be eligible to apply for a short-term rental home permit, except that no owner may hold more than one short-term rental home permit.
  3. Irrespective of ownership, each condominium unit shall be considered a separate lot for purposes of notification and planning commission review thresholds under subsection 19.65.060(A)(2).
  4. For the purposes of this chapter, any reference to a short-term rental home property shall mean a property, lot, or condominium unit.
- 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 Lana`i.

2. Any short-term rental home where the owner resides on an adjacent lot.
- C. The permit holder [shall] must have a current transient accommodations tax license and general excise tax license for the short-term rental home.
- D. The permit holder [shall] must:
1. Hold a minimum of a fifty percent interest in the legal title to the lot on which the short-term rental home is located, except as provided in subsection 19.65.030(G).
  2. Serve as manager of the short-term rental home; except 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, 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, except for properties located in the Hana or Lana'i community plan areas, where an individual may act as a manager as allowed by State law.
    - c. An adult to serve as a temporary manager for up to forty-five days in a twelve-month period.
  3. Notify the department and the immediate adjacent neighbors of:
    - a. Any designation of an individual as manager under this section, including a statement of the designated manager's tenure, residential and business addresses, and telephone numbers.
    - b. Any change in the manager's addresses or telephone numbers.
- E. The manager of the short-term rental home [shall] must:
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.
  4. Collect all rental fees.
- F. The short-term rental home [shall] must only be rented when the manager is accessible.

G. The short-term rental home permit is issued in the name of the applicant, who [shall] must be a natural person or persons holding a minimum of a fifty percent interest in the legal title in the lot; except that, a permit may be issued for a lot owned by a family trust, a corporation, a limited liability partnership, or a limited liability company if the following criteria are met:

1. The applicant is a natural person or persons who is a trustee or who are trustees of the family trust, or who represents fifty percent or more of the partners of a limited liability partnership, fifty percent or more of the corporate shareholders of a corporation, or fifty percent or more of the members of a limited liability company.

2. The trust must be in the name of the applicant.

[2]3. The limited liability partnership, corporation, or limited liability company is not publicly traded.

[3]4. All of the trustees, partners, corporation's shareholders, or limited liability company's members are natural persons, and if there is more than one [trustee,] partner, shareholder, or member, they shall be related by blood, adoption, marriage, or civil union.

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

H. An applicant 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.

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

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

J. The applicant [shall] must provide the department 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] will 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] must be no greater than six on Lana`i

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 approved bedrooms.

- L. Single-station smoke detectors [shall] must be installed in all guest bedrooms.
- M. Single-family dwellings used as short-term rental homes [shall] do not qualify for real property tax exemptions permitted under chapter 3.48.
- N. Short-term rental homes [shall] must 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] must consider the following:
  - 1. If a proposed short-term rental home 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] must include specific conditions that determine whether the proposed short-term rental home use is allowed. The correspondence [shall] will be used to assist the department in determining the character of the neighborhood. If no association or entity exists, this requirement [shall] does not apply. The director and the planning commissions [shall] are not [be] bound by any private conditions, covenants, or restrictions upon the subject parcel. Any 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.
  - 6. The number of permitted short-term rental homes surrounding the proposed short-term rental home property and their distance to the property.
  - 7. The number and substance of protests to the short-term rental home application and protests related to the cumulative short-term rental homes in the neighborhood or area.
  - 8. Existing or past complaints about rental operations on the property.
  - 9. Existing or past noncompliance with government requirements and the degree of cooperation by the applicant to become compliant.
  - 10. The benefits that the short-term rental home will bring to the community.

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

- O. On Maui, short-term [Short-term] rental homes [shall be] are limited to single-family dwelling units constructed at least five years prior to the date of application for the short-term rental home permit, and the dwelling unit [shall] must be owned by the applicant for at least five years prior to the date of application. On Lana`i and Moloka`i, short-term rental homes are limited to single-family dwelling units constructed at least fifteen years prior to the date of application for the short-term rental home permit, and the dwelling unit must be owned by the applicant for at least fifteen years prior to the date of application.
- P. A two-square-foot sign [shall] must 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] are not [be] subject to the provisions of chapter 16.13.
- Q. The permit holder or manager [shall] must prominently display "house policies" within the dwelling. The house policies [shall] must be included in the rental agreement, which [shall] must be signed by each registered adult guest. At a minimum, the house policies [shall] must 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] must not unreasonably disturb adjacent neighbors. Sound that is audible beyond the property boundaries during non-quiet hours [shall] must 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] must be parked in the designated onsite parking area and [shall] must not be parked on the street.
  4. Parties or group gatherings are not allowed.
- R. The County shall be restricted in approving the number of 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: thirty.
  2. Kihei-Makena: one hundred; with no more than five permitted short-term rental homes in the subdivision commonly known as Maui Meadows.
  3. Makawao-Pukalani-Kula: forty.

4. Paia-Haiku: fifty-five; except that new permits shall not be issued for properties within the special management area so as to avoid proliferation of this use and subsequent changes in the character of the region's coast.
5. Wailuku-Kahului: thirty-six.
6. West Maui: eighty-eight.
7. Moloka'i: zero.
8. Lana`i: twenty-one.

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

- S. Prior to issuing a permit, the director or planning commissions 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 in accordance with chapter 201H, Hawaii Revised Statutes, [or] chapter 2.96 of this code, or chapter 16.28 of this code [shall] must not be used as a short-term rental home.
- U. No short-term rental home permit may be issued to any person who holds a valid bed and breakfast home permit or who has been banned from applying for a bed and breakfast home permit.

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

19.65.040 - Advertising.

- A. All advertising for a short-term rental home [shall] must include the valid permit number issued to the permit holder and must include the tax map key number of the property.
- B. Reservation websites [shall] must include the short-term rental home house policies or a working link to the short-term rental home house policies.

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

19.65.050 - Procedures for application and public notice.

- A. Applicants [shall] must 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] will be set forth in the annual budget. Permit applications [shall] must include all of 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.
  5. A site and floor plan identifying the location of parking and bedrooms 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 radius 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 home 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. A certification form signed by the owner of the property attesting to the following:
    - a. No part of the property has been used for any rentals of less than one hundred eighty days at a time, with or without the owner's permission, since January 1, 2013; or, if any part of the property has been used for any rentals of less than one hundred eighty days since January 1, 2013, the owner shall:
      - (1) Identify the periods the property was rented for less than one hundred eighty days.



- (2) Provide proof that the owner paid applicable general excise taxes and transient accommodations taxes for the periods the property was rented for less than one hundred eighty days.
  - (3) Provide a State tax clearance showing all applicable State taxes have been paid.
  - (4) Pay an after-the-fact permit fee to the County in an amount as set forth in the annual budget ordinance.
- b. The owner has not previously advertised, or has ceased advertising, for the short-term rental home that is the subject of the application, and will not begin, or resume, any advertising until a permit is approved.
  - c. The owner either has no financial interest in any property within the county associated with a bed-and-breakfast home permit or a short-term rental home permit; or, if the owner has a financial interest in a property that is subject to a bed-and-breakfast home permit or a short-term rental home permit, the nature of the financial interest and the property address.
  - d. The owner has paid, or will pay, all fines that have been assessed as a result of a notice of violation previously issued to the owner for unpermitted short-term rental use or activity, prior to the processing of the short-term rental home permit application.
  - e. All statements made by the owner on the certification form and provided during the short-term rental home permit application process are correct to the best of the owner's knowledge.
  - f. The owner acknowledges that any false information or misrepresentations made in the application or during the application process shall result in an enforcement action pursuant to section 19.530.030 of this title, the denial or revocation of the permit, and a prohibition against the current property owner applying for a short-term rental home permit for the property for a period of two years after the date of denial or revocation of the permit.
9. Additional information as may be requested by the director.
- B. All applicants [shall] must 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 radius of the lot of the proposed short-term rental home. All applicants must send, by regular mail or hand delivery, written notice of the application for a short-term rental home permit to the physical addresses located within a five-hundred-foot radius of the lot of the proposed short-term rental home; if the owner or lessee's mailing address is the physical address,

then the certified mailing will fulfill this requirement. The written notice shall include all of the following:

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 rental home use.
  4. A map identifying the short-term rental home lot in relation to all other lots within a five-hundred-foot radius.
  5. A provision that the owners and lessees of record and physical addresses within a five-hundred-foot radius 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 within forty-five days of the mailing of the notice of application.
- C. No more than ten days prior to mailing the notice of application, a four-square-foot project notice sign [shall] must be posted at the front of the property along the main access road. The sign [shall] must be clearly visible from the roadway and [shall] must contain information and wording as prescribed by the department. The sign [shall] may be removed after forty-five days from the mailing of the notice of application. The sign is not 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), the processing requirements [shall] will be as follows:
1. The director [shall] will set the application for public hearing on the agenda of the planning commission.
  2. The director [shall] 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.
  3. The director [shall] 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.
  4. The applicant [shall] will provide notice of the public hearing date on the application to the owners and lessees of record and physical addresses located within a five-hundred-foot radius from the parcel identified in the application by complying with the following procedures:
    - a. Mailing, by certified mail, a notice of the date of the public hearing of the application in a form prescribed by the director to each of the owners and lessees not less than thirty calendar days prior to the public hearing.

- b. Submitting each of the receipts for the certified mail to the director not less than ten business days prior to the public hearing.
  - c. Mailing, by regular mail or hand delivery, a notice of the date of the public hearing of the application in a form prescribed by the director to each of the physical addresses located within a five-hundred-foot radius not less than thirty calendar days prior to the public hearing; if the owner or lessee's mailing address is the physical address, then the certified mail will fulfill this requirement.
- 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 requirements of this chapter, it shall be denied.

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

19.65.060 - Permit processing.

- A. The short-term rental home permit process [shall] will be as follows:
- 1. The applicant for a short-term rental home permit [shall] will submit an application to the department as provided in section 19.65.050.
  - 2. The director [shall] will 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 or residents of the physical addresses of two or more lots adjacent to or directly across the street from the driveway access area for the proposed short-term rental home. Roadway lots and road widening lots abutting the access street shall not be considered lots for purposes of this section.
    - b. Thirty percent or more of the owners, [and] lessees of record or residents of the physical addresses of within a five-hundred-foot radius of the proposed short-term rental home lot submit written protests to the director when there are less than forty lots within a five-hundred-foot radius of the proposed short-term rental home lot.

- c. Fifteen percent or more of the owners, [and] lessees of record or residents of the physical addresses within a five-hundred-foot radius of the proposed short-term rental home lot submit written protests to the director when there are forty or more lots within a five-hundred-foot radius of the proposed short-term rental home lot.
  - d. For subsections a., b., and c., written protests from multiple owners, lessees or residents from the same lot will count as one protest.
  - e[d]. A variance is obtained to meet the requirements for a short-term rental home.
  - f[e]. Two or more existing short-term rental homes are operating within a five-hundred-foot radius of the proposed short-term rental home lot.
  - g. The short-term rental home is proposed on the islands of Lana`i or Molokai.
  - f. An owner of the lot for which a short-term rental home permit application has been submitted or a trustee, partner, corporate shareholder, or limited liability company member of the entity which holds title to the lot is also an owner, trustee, partner, corporate shareholder, or limited liability company member of an entity which holds title to or an ownership interest in a lot with a short-term rental home permit.]
- B. The director may transmit applications for public hearing by the appropriate planning commission in accordance with complaints received or some other substantive reason.
- C. For short-term rental homes operating under existing conditional permits that meet the criteria set forth in section 19.65.030, those operations [shall] will be given the option of changing existing permits to short-term rental home permits, subject to section 19.65.070(B), and upon expiration, such permits may be extended for periods of up to five years on Lana`i 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] will 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] will specify the number of short-term rental home permit applications received and approved.
- F. Substantive amendments to a permit, including but not limited to an increase in the number of bedrooms or dwellings used for short-term rental home purposes or the addition of a new dwelling to the permit, [shall] will be processed in the same manner as the initial application.

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

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

- A. Initial short-term rental home permits are valid for a maximum period of three years, except that shorter periods may be approved to mitigate impacts.
- B. Permit renewal applications [shall] must be submitted to the department no later than sixty days prior to expiration of the permit, after which the department [shall] will not accept any renewal application. Permit renewals may be granted by the director for terms of up to five years on Lana`i and Maui and up to one year on Molokai; except that renewals for permits initially approved by the Molokai planning commission may only be granted by the Molokai planning commission for terms up to one year. In reviewing a renewal application, the director or Molokai planning commission as appropriate shall require evidence of compliance with conditions of the short-term rental home permit and this chapter. The permit [shall] will remain in effect while the renewal application is being processed for up to six months after the expiration date, unless the applicant fails to provide requested information to the department within sixty days.  
  
No permit [shall] will be renewed without written verification of appropriate State and County tax filings.
- C. Compliance inspections may be conducted prior to granting a permit renewal or during the permit period. Permit holders [shall] must allow compliance inspections to be conducted within one hour of notice. Refusal to allow access within one hour may result in permit revocation.
- D. Upon approval of the permit, the permit holder [shall] must send the permit number, a copy of the short-term rental home's house rules, twenty-four hour contact information for the manager, and the

department's contact information to the owners, [and] lessees and residents of the physical addresses of abutting 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] must send by certified mail notification of any change to contact information for the manager to the department, the owners and lessees of abutting properties and those directly across the street from the short-term rental home. The permit holder must send by regular mail or hand delivery the same information to residents of the physical addresses of abutting properties and those directly across the street from the short-term rental home; if the owner or lessee's mailing address is the physical address, then the certified mailing will fulfill this requirement. Such notification [shall] must 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. Nonrenewal procedures.

1. The director may decline to renew the permit if the director finds any of the following:
  - a. The permit holder provided false or misleading information during the application process.
  - b. The permit holder is delinquent in payment of State or County taxes, fines, or penalties assessed in relation to the short-term rental home.
  - c. Evidence of non-responsive management.
  - d. Police reports of noise or other disturbances on the property.
  - e. Warnings or violations resulting from requests for service.
  - f. Neighbor complaints of noise and other disturbances relating to the short-term rental home operations; provided that the department has received at least three complaints about the short-term rental home within a twelve-month period. 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 short-term rental home.
  - g. Noncompliance with permit conditions.
  - h. Noncompliance with this chapter.
  - i. Noncompliance with other governmental requirements.
2. If the permit is not renewed by the director, the department [shall] must not accept a new application for a short-term rental home

permit from the permit holder for two years after the date of the previous permit's expiration.

- 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.

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

19.65.080 - Revocation and Enforcement.

A. Revocation procedures.

1. The permit may be revoked if the director finds any of the following:
  - a. The permit holder provided false or misleading information during the application process.
  - b. The permit holder is delinquent in payment of State or County taxes, fines, or penalties assessed in relation to the short-term rental home.
  - c. Evidence of non-responsive management.
  - d. Police reports of noise or other disturbances on the property.
  - e. Warnings or violations resulting from requests for service.
  - f. Neighbor complaints of noise and other disturbances relating to the short-term rental home operations; provided that the department has received at least three complaints about the short-term rental home within a twelve-month period. 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 short-term rental home.
  - g. Noncompliance with permit conditions.
  - h. Noncompliance with this chapter.
  - i. Noncompliance with other governmental requirements.
2. 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.

- B. 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] will 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 as a short-term rental home.
- C. 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] will be on the owner, operator, or lessee of record to establish that the subject property is being used as 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 to establish that the subject property is being used as a legal short-term rental home or is not in operation as a short-term rental home.
- D. Advertising for a short-term rental home without a valid permit number and tax map key number is prohibited and constitutes a violation of this title 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] must be notified that all advertising without a valid permit number and tax map key number shall be terminated within seven days of the notice.
  2. Enforcement action, including fines, may commence pursuant to section 19.530.030 of this title if advertising without a valid permit number and tax map key number continues after such warning.
- E. Operating a short-term rental home without a valid permit is prohibited. Evidence of operation may include: advertising, guest testimony, online reviews, rental agreements, receipts, or any other information deemed relevant by the department. Operating without a permit [shall] will result in a property owner being ineligible to apply for a permit for five years.], except that:
1. An ineligible applicant may apply for a short-term rental home permit and the permit application may be processed provided that at the time of the application, the ineligible applicant has:
    - a. Provided proof that prior to enactment of the ordinance that created this exception and during the entire period that the applicant has been operating without a permit, the applicant has had valid general excise tax and transient accommodations tax licenses, and has paid all applicable general excise taxes and transient accommodations taxes due and owing.
    - b. Agreed to pay and has paid in full real property taxes at the rate applicable to short-term rental home properties and has claimed



no homeowner's exemption for the tax years in which the applicant has been operating without a permit.

- c. Ceased, and does not resume prior to issuance of a permit, any and all advertising and operations of the short-term rental home that is the subject of the application as of the date of the application.
  - d. Paid, in addition to any other applicable permit fees, an after-the-fact short-term rental home application fee as set forth in the annual budget ordinance.
  - e. Paid any outstanding fees or fines for violations on the property including, but not limited to, initial and unwaived daily fines for unpermitted short-term rental home operation; after-the-fact zoning, special management area, or building permit fees; department of public works or department of planning application fees; or other fees, dues, or fines imposed by the State or County.
2. This exception to the five-year ineligible status for owners operating without a permit shall apply from July 1, 2016 to December 31, 2016.]
- F. The department [shall] must notify the department of finance, real property tax division, of violations of this chapter.
- G. The department [shall] must file a report with the State department of taxation for properties with violations of this chapter.
- H. Sixty days from the effective date of this ordinance, and each year thereafter, the department [shall] must provide to the state department of taxation and the department of finance, real property tax division, a current 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.

SECTION 12. Existing permits for bed and breakfast homes and short-term rental homes remain valid and may be renewed. Such operations are subject to the zoning restrictions and standards in effect when they were originally permitted; renewal applications are subject to the renewal procedures of this ordinance. Applications submitted within six months of the effective

date of this ordinance may be processed and approved pursuant to the zoning restrictions and standards in effect immediately prior to the effective date of this ordinance.

SECTION 13. 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 14. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM AND LEGALITY:

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Department of the Corporation Counsel  
County of Maui