

ORDINANCE NO. 4167

BILL NO. 75 (2014)

A BILL FOR AN ORDINANCE AMENDING SECTIONS 19.12.020, 19.32.040, AND  
19.37.010, MAUI COUNTY CODE, RELATING TO  
TRANSIENT VACATION RENTALS IN THE APARTMENT DISTRICT

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

SECTION 1. Findings and purpose. Prior to April 20, 1989, transient vacation rentals were a permitted use within the Apartment District. Ordinance 1797 (1989) amended Chapter 19.12, Maui County Code, to require that buildings and structures within the Apartment District be occupied on a long-term residential basis. Section 11 of Ordinance 1797 ("Section 11") states that the ordinance "shall not apply to building permits, special management area use permits, or planned development approval which were lawfully issued and valid on the effective date of this ordinance." Ordinance 1797 became effective April 20, 1989.

2014.  
The purpose of this ordinance is to expressly restate the exceptions set forth in Section 11 and declare the intent of the Council in enacting Ordinance 1797 was originally, and is now, to exclude the requirement of long-term-residential occupancy from buildings or structures having, on or before April 20, 1989, lawfully issued and valid building permits, special management area use permits, or planned development approval. Accordingly, such buildings or structures are expressly permitted to be operated as transient vacation rentals. The ordinance also amends Sections 19.32.040 and 19.37.010, Maui County Code, for consistency.

Additionally, the bill allows transient vacation rental uses for reconstructed buildings and structures, subject to certain requirements.

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 shall be permitted:

- A. Any use permitted in the residential and duplex districts[;].
- B. Apartment houses[;].
- C. [Boardinghouses, roominghouses, and lodginghouses;] Boarding houses, rooming houses, and lodging houses.
- D. Bungalow courts[;].
- E. Apartment courts[;].
- F. Townhouses[; and].
- G. Home occupations.
- H. Transient vacation rentals in buildings and structures having building permits, special management area use permits, or planned development approval that were lawfully issued by and valid on April 20, 1989. Buildings and structures with such permits and approvals may be reconstructed, and transient vacation rental use shall be permitted, provided that:

- 1. The reconstruction conforms to the original building permit plans, special management area use permits, and/or planned development approval; and
- 2. The reconstruction complies with the building code and all other applicable laws in effect at the time of the reconstruction.”

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

“H. Transient vacation rentals shall be permitted in planned developments, except for developments that have been publicly funded; provided[,] that [all of the following shall apply to the planned development:] either:

- 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. The planned development meets all of the following:
  - a. The planned development received final approval [pursuant to] 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;
  - [2.] b. The planned development [must be] is located on parcels with at least some residential district zoning; and
  - [3.] c. The planned development consists of only duplexes or multi-family dwelling units.”

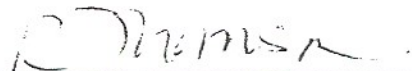
SECTION 4. Section 19.37.010, Maui County Code, is amended by amending subsection A to read as follows:

“A. Except as provided in this chapter, time share units and time share plans are prohibited. Transient vacation rentals are prohibited, excluding bed and breakfast homes permitted under chapter 19.64 of this title, short-term rental homes permitted under chapter 19.65 of this title, transient vacation rental units permitted by a conditional permit under chapter 19.40 of this title, transient vacation rentals permitted under [chapter] chapters 19.12 and 19.32 of this title, and hotels that are permitted based on the applicable zoning in the comprehensive zoning ordinance.”

SECTION 5. 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 6. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM AND  
LEGALITY:

  
\_\_\_\_\_  
MICHAEL J. HOPPER  
Deputy Corporation Counsel  
County of Maui

WE HEREBY CERTIFY that the foregoing BILL NO. 75 (2014)

1. Passed FINAL READING at the meeting of the Council of the County of Maui, State of Hawaii, held on the 5th day of December, 2014, by the following vote:

Gladys C. BAISA Chair	Robert CARROLL Vice-Chair	Eleanora COCHRAN	Donald G. COUCH, JR.	S. Stacy CRIVELLO	Donald S. GUZMAN	G. Riki HOKAMA	Michael P. VICTORINO	Michael B. WHITE
Aye	Aye	Aye	Aye	Aye	Aye	Excused	Aye	Aye

2. Was transmitted to the Mayor of the County of Maui, State of Hawaii, on the 5th day of December, 2014.

DATED AT WAILUKU, MAUI, HAWAII, this 5th day of December, 2014.

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OFFICE OF THE  
COUNTY CLERK

*Gladys C. Baisa*  
GLADYS C. BAISA, CHAIR  
Council of the County of Maui

*Dennis A. Mateo*  
DENNIS A. MATEO, COUNTY CLERK  
County of Maui

THE FOREGOING BILL IS HEREBY APPROVED THIS 8 DAY OF December, 2014.

*Alan Arakawa*  
ALAN M. ARAKAWA, 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. 4167 of the County of Maui, State of Hawaii.

*Dennis A. Mateo*  
DENNIS A. MATEO, COUNTY CLERK  
County of Maui

Passed First Reading on November 21, 2014.  
Effective date of Ordinance December 8, 2014.

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COUNTY CLERK

I HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. 4167, 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