

TRANSIENT ACCOMMODATIONS IN SOUTH MAUI

South Maui Community Plan Advisory Committee

Maui County Planning Department

November 30, 2022

COMMUNITY PLAN LANGUAGE

1998 Kihei-Makena Community Plan

- Page 17 – Land Use – Objectives and Policies d. Limit hotel uses to those areas presently planned for hotel use, and limit hotel development until adequate public facilities and services are established to meet existing needs.
- Page 27 – Economic Activity – Objectives and Policies d. Establish balance between visitor industry employment and non-visitor industry employment.

South Maui Community Plan – August 2022 Planning Department Draft

- Page 38 – Policy 2.2.22 Increase the inventory of long-term housing units, whether owner-occupied or long-term rental, and whether single-family or multi-family, by phasing out and converting existing vacation rentals to long-term occupancy.
- Page 38 – Policy 2.2.24 Prohibit new transient units and second homes until adequate workforce housing, public facilities and services are established to meet existing needs.

DEFINITIONS

HTA definition of visitor:

Visitor – the out-of-state traveler who stays in Hawaii for at least one night but less than one year.

Transient definition from Maui County Code Title 19:

"Transient" or "transients" means any visitor or person who owns, rents or uses a lodging or dwelling unit, or portion thereof, **for less than one hundred eighty days** and whose permanent address for legal purposes is not the lodging or dwelling unit occupied by the visitor.

This definition shall not apply to nonpaying guests of the family occupying the unit and to patients or clients in health care facilities, full-time students, employees who receive room and/or board as part of their salary or compensation, military personnel, low-income renters receiving rental subsistence from state or federal governments whose rental periods are for durations shorter than sixty days, or lodging provided by nonprofit corporations or associations for religious, charitable or education purposes; provided, that no rental income is produced.

TYPES OF TRANSIENT ACCOMMODATIONS

Single-family dwellings:

- Short-term rental home (STRH) – owner does NOT live on property, permit required
35 permits issued; 46 allowed (5 max @ Maui Meadows)
- Bed & breakfast home (B&B) – owner lives on property, permit required
46 permits issued; 100 allowed
- Residential and Rural zoning districts with permit, or other zoning districts that allow transient use
- Nonconforming

Hotels or condos:

- Hotel zoning districts
- Apartment zoning districts (with restrictions)
- B-2 Community Business district
- B-R Resort Commercial district
- Maui Research & Tech Park in Employment/Campus and Mixed-Use districts
- Project Districts

APARTMENT ZONING DISTRICTS

Approximately 4,449 units in 65 properties

- Of these, 1,537 units in 30 properties are within or abutting the 3.2' SLR-XA

Criteria: Transient vacation rentals in building 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 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 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.
4. If a building or structure is reconstructed, renovated, or expanded, transient vacation rental use is limited to the building envelope and number of bedrooms that can be confirmed as approved or lawfully existing on April 20, 1989.
5. 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.

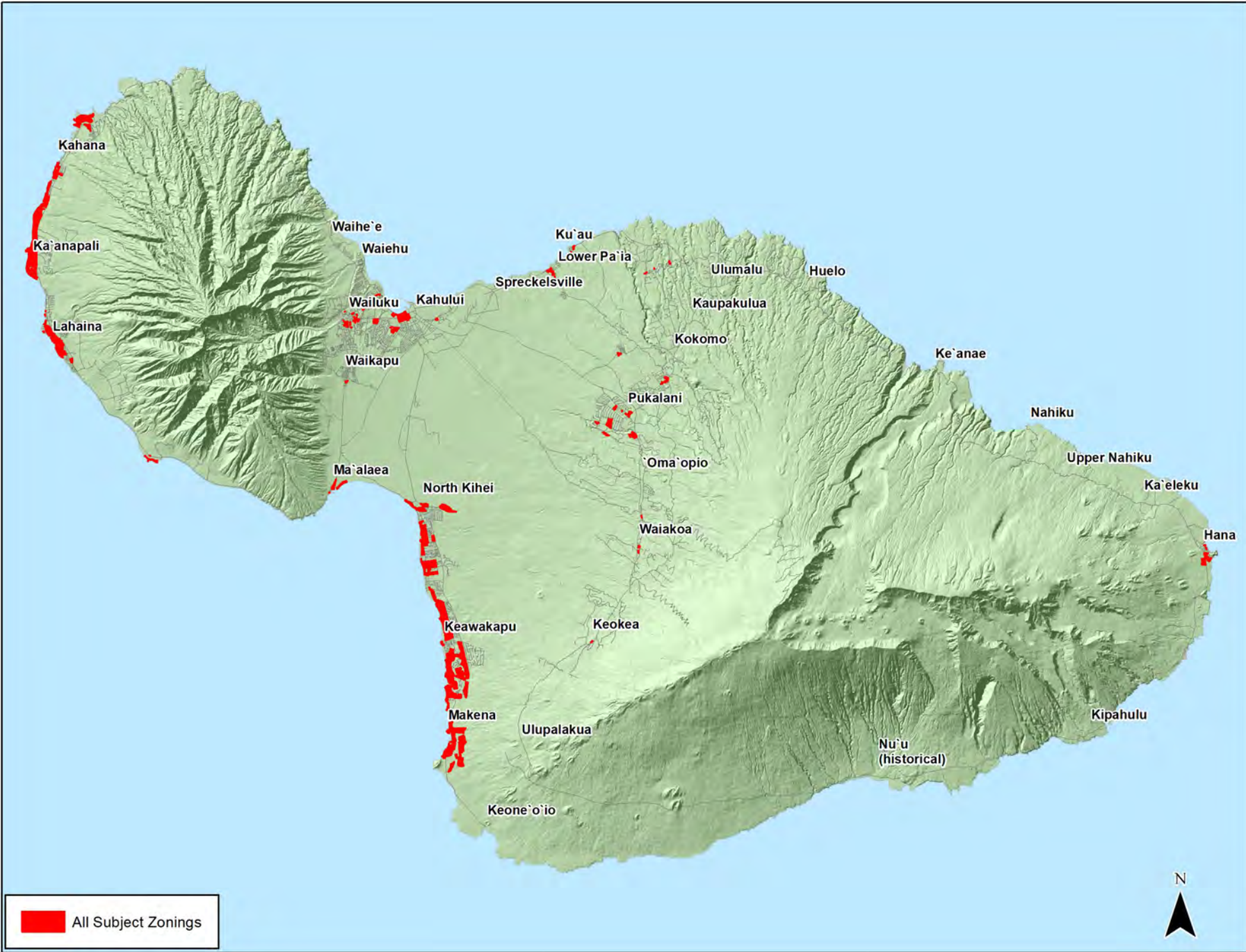
APARTMENT ZONING DISTRICTS TVR CHRONOLOGY

- **1981** – Ordinance 1134 established Chapter 19.37 – Time Sharing Plans which stated TVRs are allowed in Apartment District
- **1989** – Ordinance 1797 removed motels from the Apartment District and specified that only long-term residential uses be allowed. But Section 11 of the ordinance specifically excluded properties that had been built or had received their SMA or building permits prior to its enactment.
- **1991** – Ordinance 1989 removed TVR use in the Apartment District, but allowed additional buildings that had been built between 1989 and 1991 and were operating as TVRs to be allowed to continue.
- **2001** – legal opinion: any building in the Apartment District built or receiving permit approvals prior to April 20, 1989 were expressly allowed to conduct TVR use, and buildings constructed and operating as TVRs prior to March 4, 1991 would be exempt from restrictions of TVR uses.
- **2014** – Ordinance 4167 codified the 2001 legal opinion
- **2020** – Ordinance 5126 if TVR use had not started by September 2020, it may not (no new ones).

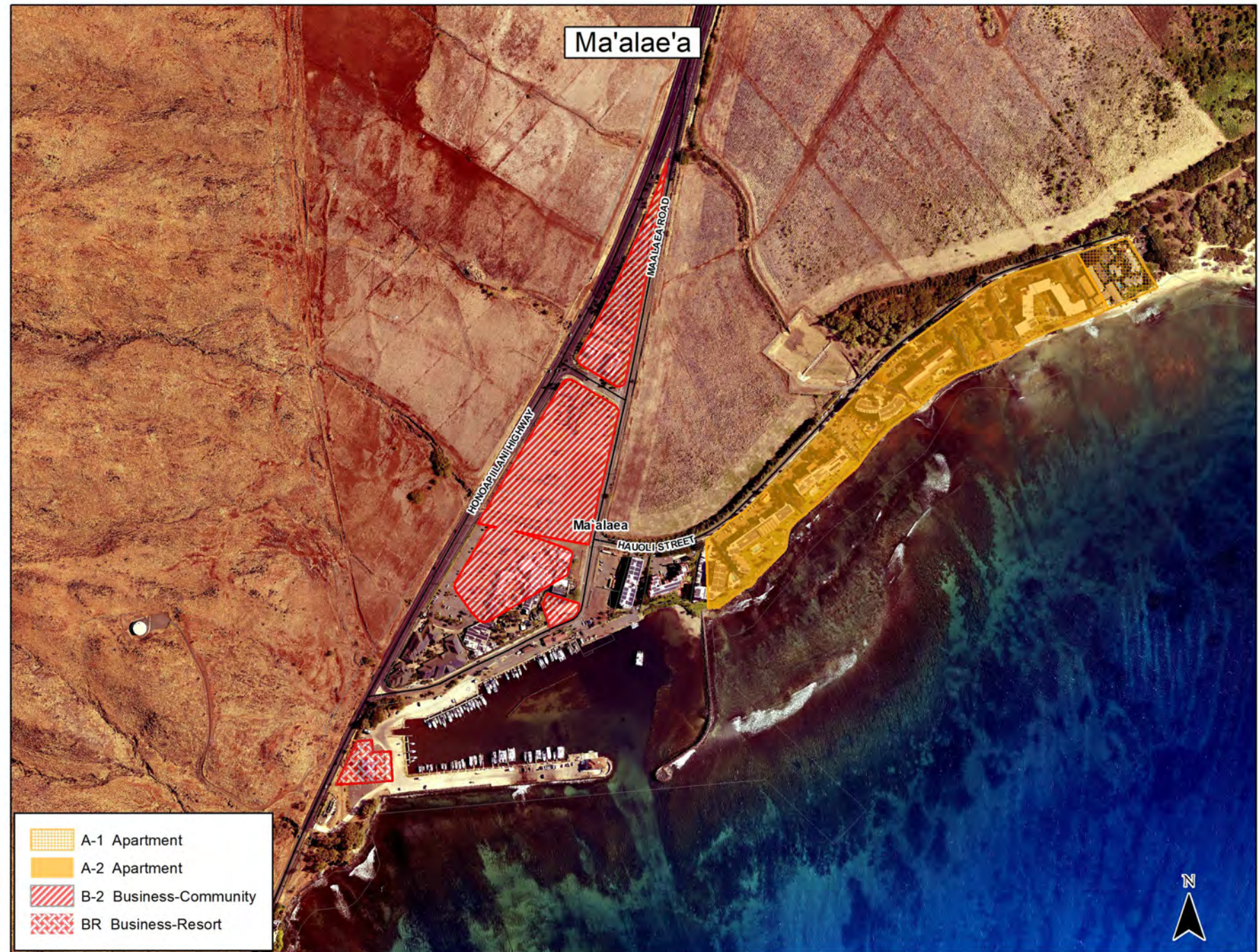
RECENT ORDINANCES AFFECTING TVR USE

- End of 2019 – Civil fines for transient accommodation-related violations increased to \$20,000 initial and \$10,000 daily (County Charter, Ord. 5001, Admin Rules)
- Sept. 2020 – No new TVRs in Apartment district (Ord. 5126)
- Aug. 2021 – STRH permits capped at existing (Kihei-Makena reduced from 100 to 46) (Ord. 5239)
- Nov. 2021 – More restrictions on B&B and STRH permits (Ord. 5300)
- Jan. 2022 – Two-year moratorium for Maui (Ord. 5316)
- Nov. 2022 – County Council passed permanent caps bill – ordinance pending
- In review: bill to allow voluntary conversion of Apartment District properties from transient vacation rental use to long-term residential use
- In review: bill to update definition of “time share plan” and “transient” to increase minimum stay for time shares, include LLC-type entities in definition of transient, and to exclude health care and conservation workers.

ZONING DISTRICTS THAT ALLOW TVR USE



ZONING DISTRICTS THAT ALLOW TVR USE - MAALAEA



ZONING DISTRICTS THAT ALLOW TVR USE – NORTH KIHEI



ZONING DISTRICTS THAT ALLOW TVR USE – SOUTH KIHAI



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- Policy 2.2.24 Prohibit new transient units and second homes until adequate workforce housing, public facilities and services are established to meet existing needs.

South Maui Community Plan – Planning Department Revisions

- Policy 2.2.22 *No change*
- Policy 2.2.24 Proposed revision: Prohibit new transient vacation rental units, and require the development of high-end and luxury homes to provide their required workforce housing on-site until adequate workforce housing is established to meet existing needs.
- Action item proposal: Encourage owner-occupancy and long-term rental occupancy of residential housing units, and discourage short-term and second home use, through real property tax categories and rates

Mahalo!