



**UPDATED:** April, 23, 2021

City Department of Planning and Permitting

## **Frequently Asked Questions and Answers: Ordinances Relating to Short-Term Rentals**

Bill 89 CD2 was adopted by the City Council on June 17, 2019 and signed into law as Ordinance 19-18 by Mayor Kirk Caldwell on June 25, 2019. Ordinance 19-18:

- Allows a limited number of new Bed and Breakfast Homes (B&Bs) in non-resort areas under a new registration process, with annual renewal required.
- Continues to prohibit Transient Vacation Units, or “unhosted” short term rentals, in non-resort areas, unless permitted by a Nonconforming Use Certificate (NUC).
- Makes it illegal to advertise short-term rentals that do not comply with the zoning regulations provided in Ordinance 19-18.

A copy of Ordinance 19-18 can be obtained here: [http://bit.ly/HNL\\_Ord19-18](http://bit.ly/HNL_Ord19-18)

Bill 50, FD1, CD1 was signed into law as Ordinance 20-30 by Mayor Kirk Caldwell on September 17, 2020. Ordinance 20-30 changes the effective date of certain provisions in Ordinance 19-18.

A copy of Ordinance 20-30 can be obtained here: [http://bit.ly/HNL\\_Ord20-30](http://bit.ly/HNL_Ord20-30)

### **ADVERTISING**

**I own an unhosted, “whole house,” short-term rental or Transient Vacation Unit. I pay taxes. Can I continue to advertise online and in the local newspaper?**

Paying TAT and GET taxes on short-term rental transactions does not excuse noncompliance with local zoning laws. Properties can only be advertised for unhosted, less than thirty day rentals if the short-term rental is permitted by a nonconforming use certificate. In addition, all advertisements for permitted, unhosted short-term rentals, must include the nonconforming use certificate number for the advertised property.

**When did the department start enforcing the new advertising restrictions?**

The effective date for enforcement began August 1, 2019.

### **What are the fines for illegal advertising?**

The minimum fine for an illegal advertisement is \$1,000.00 and the maximum fine is \$10,000.00. Fines are assessed against a violation on a daily basis and can accumulate to large sums if the advertisement is not promptly removed. To avoid the imposition of fines after an illegal advertisement is removed, violators should contact DPP immediately upon removal of the offending advertisement to confirm that the violation has been addressed to DPP's satisfaction. For more information, refer to Ordinance 19-18: [http://bit.ly/HNL\\_Ord19-18](http://bit.ly/HNL_Ord19-18)

### **How do I distinguish my legal long-term rental advertisement from an illegal short-term rental?**

Advertisements that contain a clearly stated minimum rental period of 30 days or more will not be cited for violating Ordinance 19-18. However, advertisements that include a mechanism for prorating a 30 day rental price based on less than 30 days of occupancy will be scrutinized by DPP and may be found to violate Ordinance 19-18.

### **I only rent my property for 30 days or longer, but when I advertise on a certain platform, the monthly rate is automatically broken down into daily rates. These rates become part of my ad and I have no ability to change that. Will I be liable, even though I don't rent by the day?**

Displaying daily rates is not specifically prohibited by Ordinance 19-18. If your advertisement clearly states that your minimum rental period is 30 days, it is unlikely that DPP will find your advertisement to be in violation of Ordinance 19-18. However, DPP will scrutinize all advertisements for statements that offer to prorate the price of a 30 day rental based on the days of occupancy and may determine that an advertisement violates Ordinance 19-18 because it amounts to an offer to rent property for less than 30 days.

### **If the management company for my property places an illegal ad, will the company get cited?**

DPP can and will cite management companies that are responsible for publishing illegal advertisements. However, property owners will generally be held responsible for advertisements concerning their property. Therefore, property owners that are affected by management companies that are acting without their knowledge and consent should take timely action to remove illegal advertisements from circulation and contact DPP to discuss their circumstances before a Notice of Order is issued.

## **REGISTRATION OF NEW BED AND BREAKFAST HOMES**

**I have been operating a Bed and Breakfast Home for several years. Do I still have to obtain a registration number?**

Yes, unless you already have a NUC.

**I only rent out my house for 30 days or more at a time. Do I need to register?**

No.

**I only rent my house while my family spends 2 weeks each year visiting family on the mainland. Do I need to register?**

Yes.

**When can I register?**

Registration has been temporarily suspended until further notice.

**Why do we have to wait to register?**

Ordinance 19-18 initially called for registration to begin on October 1, 2020, but in September 2020 the City Council extended the date when registration can start. For detailed information, see Ordinance 20-30: [http://bit.ly/HNL\\_Ord20-30](http://bit.ly/HNL_Ord20-30).

Councilmembers believed that allowing more legal vacation rentals during the COVID-19 pandemic would be detrimental to Oahu's communities and residents.

However, comments provided by the public at the April 6, 2021 hearing on draft administrative rules revealed potential problems with the registration components of the Ordinance. Therefore, as of April 22, 2021, the adoption of the administrative rules and start of the registration process have been put on hold while DPP reconsiders the registration process. To stay updated on further developments, please visit our website at [www.honolulu.gov/dppstr](http://www.honolulu.gov/dppstr).

**What are the registration requirements?**

There are more than a dozen requirements. Most notable:

- Applicants must be "natural persons," and not an organization or company
- Applicants must have a home exemption granted under real property tax law
- There must be insurance coverage for bed and breakfast use
- The initial registration fee is \$1,000. For annual renewals, the fee is \$2,000
- No more than 2 bedrooms can be used for visitor accommodations
- Quiet hours must be observed between 10 p.m. and 8 a.m.
- If part of a homeowner's or apartment owner's association, approval by that association must be obtained

- Neighbors within 250 feet must be given a phone number to contact to make complaints, 24 hours a day

For the complete list of requirements, refer to Ordinance 19-18: [http://bit.ly/HNL\\_Ord19-18](http://bit.ly/HNL_Ord19-18)

**I heard that the NUC program will be discontinued and we will no longer be able to renew a NUC. Is that true?**

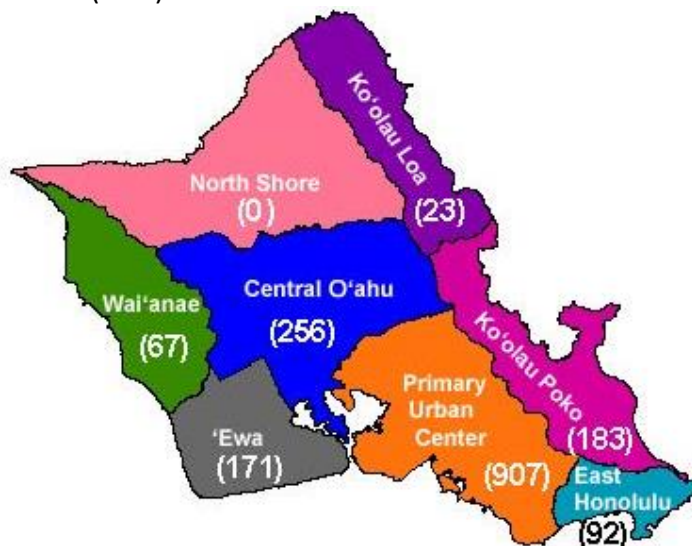
No, the NUC program will continue as usual, meaning they have to be renewed every even-numbered year. Ordinance 19-18 only requires those with NUCs to include the NUC number in advertisements beginning August 1, 2019.

**Where can I find a list of NUCs?**

For a complete list, please click on this link: <http://www.honolulu.gov/dppstr/approved-stra.html>

**Are there other requirements?**

Density Limit. No more than 0.5% of the total number of dwelling units in each regional development plan area (DPA) can be used as B&Bs. Here are the limits by area:



New B&Bs are not allowed in the North Shore area, based on directives of the North Shore Sustainable Communities Plan: <http://bit.ly/2Y4QpLg>

Condominium Limit. Up to 50% of units in a condominium building may be allowed a B&B, subject to AOA approval.

Separation Minimum. B&Bs must be at least 1,000 feet from each other. This does not apply to units in resort areas and NUCs. At this time, DPP does not view the 1,000 foot

separation requirement as applicable to dwelling units located within the same condominium building.

Nontransferable. Registration numbers are not transferable to another property or person.

Renewal Criteria. Noise and other nuisance complaints can be grounds to deny the renewal of a B&B registration.

For the complete list of requirements, refer to Ordinance 19-18: <https://bit.ly/2IS637x>

**If only a limited number of registration numbers will be given out, how can I guarantee to get one?**

You are not able to reserve or guaranteed a B&B registration. However, you can improve your chances of obtaining a registration by submitting a complete application soon after DPP begins accepting registration applications.

**How will it be determined who gets a registration number?**

Generally on first-come, first-served basis. If the number of requests exceeds the limit for a DPA, then a lottery will be held.

**How will the lottery system work?**

This will be fleshed out in the Rules. There will be a public hearing on the draft Rules before they are finalized.

**I am currently operating a B&B, and do not have a NUC, so will need to register. Will I get priority in the registration process?**

No.

**Can I advertise and operate a short-term rental once I file my registration?**

No. To avoid a citation, operation cannot occur until the registration process has been completed and registration number issued.

**I'm registered to pay the transient accommodations tax (TAT) and general excise tax. I'm also required to list my TAT number in my advertisements, which I do. Doesn't that allow me to legally operate a short-term vacation rental on Oahu?**

No. The state Department of Taxation requires all transient accommodations operators to pay TAT and GET, and also to include the registration ID number in ads. These requirements are separate from the county's vacation rental ordinances. Registering with the state does not mean you are legally operating under county ordinances.



**I have bookings through the rest of the year. What should I do?**

If you are legally operating, you can go about your business as usual. If you are illegally renting, the decision is yours as to whether to continue the illegal use. But beginning August 1, 2019 we are vigorously enforcing Ordinance 19-18.

**I live in an area where I belong to a homeowner's association and the zoning allows short-term rentals. The association's rules, however, state that we are not allowed to rent out short-term rentals. Can the city override their rules and grant me a permit?**

No, city zoning does not override private homeowner association rules or deed restrictions.

**What if the zoning doesn't permit short-term rentals, but my homeowners' association allows it. Who has the authority?**

County ordinances will apply. Association rules and deed provisions do not overrule zoning.

**I am a member of homeexchange.com, where owners "swap" the use of their homes with other owners around the world. No money is exchanged and terms of the use can range from a few days to several weeks. Does this activity fall under the new short-term rental law?**

Home exchanges are subject to the new regulations. While home exchanges may not involve cash transactions, owners are compensated for such exchanges with things like "guest points" or a home/lodging. The definition of transient vacation unit contains a broad definition of compensation, i.e., "... compensation includes, but is not limited to, monetary payment, services or labor of transient occupants." The definition was intended to prevent people from renting a dwelling or lodging unit for less than 30 days, regardless of how the owner is compensated.

SECTION 14 OF THE ORDINANCE READS IN PART: "Transient vacation unit" means a dwelling unit or lodging unit that is advertised, solicited, offered, or provided, or a combination of any of the foregoing, for compensation to transient occupants for less than 30 days, other than a bed and breakfast home. For purposes of this definition, compensation includes, but is not limited to, monetary payment, services or labor of transient occupants."

**This new law is going to kill the vacation rental industry and cause financial hardship for many who rely on the extra income to survive in Hawaii. Who can I call to express my concerns or ask for changes to the law?**

You can call your City Councilmember:

Council District 1: Andria Tupola, 768-5001

Council District 2: Heidi Tsuneyoshi, 768-5002

Council District 3: Esther Kiaʻāina, 768-5003

Council District 4: Tommy Waters, 768-5004

Council District 5: Calvin Say, 768-5005

Council District 6: Carol Fukunaga, 768-5006

Council District 7: Radiant Cordero, 768-5007

Council District 8: Brandon Elefante, 768-5008

Council District 9: Augie Tulba, 768-5009

### **MORE INFORMATION**

- Visit the Short Term Rental website: [honolulu.gov/dppstr](http://honolulu.gov/dppstr)
- Refer to the Department's website: [honoluludpp.org](http://honoluludpp.org)
- Follow the Department's Twitter account: [@hnl\\_dpp](https://twitter.com/hnl_dpp)
- Email the Department: [info@honoluludpp.org](mailto:info@honoluludpp.org)
- Call the Department:
  - General Zoning Information: 768-8252
  - Advertising Restrictions: 768-8127
  - Registration Process: 768-8127
  - Make a complaint: 768-8127