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Massachusetts enacts new laws taxing and regulating short-term rentals

Ben Lane

4 minutes

A few months after [initially approving](#) new laws that regulate and tax short-term rentals in the state of Massachusetts, the state's governor signed the laws into effect late last week.

Back in August, the Massachusetts legislature approved a bill that extended the state's current 5.7% hotel tax to most short-term rentals, along with giving municipalities the option of tacking on an additional 6% onto the tax; 9% if an owner rents out two or more units in the same community.



The law took aim at the rise of **Airbnb** and similar short-term rental platforms in the state.

According to MassLive.com, Massachusetts Gov. Charlie Baker said he wouldn't sign the bill without adding an exemption to some of the bill's provisions for people who rent out their rooms for two weeks or less per year.

The legislature then reached an agreement on the proposed changes and sent the bill back to Baker last week for his signature.

From [MassLive.com](#):

The new law will apply the 5.7 percent hotel room tax to short term rentals, with an exemption for those who rent out their rooms for 14 days or less. Cities and towns can choose to add an additional 6 percent local excise tax (6.5 percent in Boston) and a 3 percent community impact fee, with an additional 2.75 percent fee levied in Cape Cod.

Additionally, the law requires short-term rentals to be registered with the state. The law also requires people who rent out their rooms to obtain \$1 million in liability insurance.

The law, as per Baker's request, exempts those who rent out their units for 14 days or less from being required to register with the state or obtain the \$1 million in insurance.

Beyond the laws at the state level, cities and towns will also be permitted to place their own restrictions on short-term rentals. The city of Boston has already done this, with a set of short-term rental laws that are due to go into effect on Tuesday.

Those laws, which are designed to limit the growing number of short-term rentals in the city by restricting who can list their house

or apartment on a short-term rental site, drew the ire of Airbnb.

The company [sued Boston](#), claiming that the city's laws violate the Constitution, multiple federal laws, and Massachusetts state law and threaten short-term rental sites with "draconian" punishments should they violate the city's rules.

Regardless of what happens in the Boston case, the state-level laws are now in effect.

"Our administration has long supported leveling the playing field for short term rental operators who use their properties as de facto hotels, and I appreciate the Legislature's work to reach a compromise on this bill that adopts our proposal to avoid placing undue burdens on occasional renters," Baker said in a statement provided to HousingWire.

As for Airbnb, the company said that it is "deeply disappointed" in the state's new laws.

"We're proud of the community we've built in Massachusetts, with over 1.2 million travelers using Airbnb to visit the Commonwealth and nearly 2 million Bay Staters using Airbnb to travel at home and abroad in 2018 alone," Airbnb said in a statement provided to HousingWire. "While we are deeply disappointed in the flawed bill that emerged from Beacon Hill during the lame duck session, we will continue the fight to protect our community and the economic engine of short-term rentals for hosts, guests, and local small businesses."

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Room Occupancy frequently asked questions

The overview and FAQs on this page provide information on the law that expanded room occupancy excise to include short-term rentals and changes that apply to traditional lodging establishments.

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Overview

Legislation was signed into law in December, 2018 which expands the room occupancy excise, G.L. c. 64G, to short-term rentals of property for more than 14 days in a calendar year, starting July 1, 2019 for which a rental contract was entered into on or after January 1, 2019.

There were also changes made to the law that apply to operators of lodging establishments that were already subject to the excise, and new rules were added that allow all operators to allow an intermediary or other agent to handle the rental of their property and register with and submit returns and tax due. You can find that law on the [General Court Website](https://malegislature.gov/Laws/SessionLaws/Acts/2018/Chapter337) (<https://malegislature.gov/Laws/SessionLaws/Acts/2018/Chapter337>).

New legislation was recently signed making all changes effective for all operators and intermediaries as of July 1, 2019. You can find the [new law](https://malegislature.gov/Laws/SessionLaws/Acts/2019/Chapter5) (<https://malegislature.gov/Laws/SessionLaws/Acts/2019/Chapter5>) on the General Court Website. See [830 CMR 64G.1.1: Massachusetts Room Occupancy Excise \(PROPOSED REGULATION\)](https://www.mass.gov/info-details/830-CMR-64G11-massachusetts-room-occupancy-excise-proposed-regulation) ([/regulations/830-CMR-64g11-massachusetts-room-occupancy-excise-proposed-regulation](https://www.mass.gov/info-details/830-CMR-64G11-massachusetts-room-occupancy-excise-proposed-regulation)) for more information.

In the meantime, the following provides important information about the new law, including changes for all types of operators, intermediaries, and municipalities.

Definition FAQs

Who is an operator?

An operator is anyone operating a bed and breakfast establishment, hotel, lodging house, short term rental or motel. An operator can be an owner, lessee, sublessee, the holder of a mortgage, licensee, or anyone else operating a short-term rental. An operator does not have to be a resident of Massachusetts or a Massachusetts-based business for the room occupancy rental rules to apply.

Who is an intermediary or operator's agent?

An intermediary is anyone besides an operator who helps to arrange a property rental with any operator and who also collects rent. An intermediary can arrange a property rental and collect rent for any operator whether they operate a bed and breakfast establishment, hotel, lodging house, short-term rental or motel.

An intermediary includes a broker, hosting platform, or operator's agent.

An operator's agent is anyone who manages a property for rent or books reservations of a property for rent. An operator's agent includes a property manager, property management company, or real estate agent.

What is a short-term rental?

A short-term rental is an occupied property that is not a hotel, motel, lodging house or bed and breakfast establishment, where at least 1 room or unit is rented out by an operator through the use of advance reservations. A short-term rental includes an apartment, house, cottage, and condominium. It does not include property that is rented out through tenancies at will or month-to-month leases. It also does not include time-share property. A short-term rental is a rental that is not for more than 31 consecutive calendar days. The new law imposes state and local excises on short-term rentals of property for more than 14 days in a calendar year, starting July 1, 2019 for which a rental contract was entered into on or after January 1, 2019.

What is "rent" that is subject to tax?

The total amount of rent that is subject to tax includes all amounts collected by an operator or intermediary from an occupant, in exchange for occupancy. The term "rent" includes all optional charges, including but not limited to insurance, linen fees, cleaning fees, and booking fees. Specifically excluded from rent are:

- Bona fide refundable security deposits;
- Amounts paid by an occupant that were previously reported by the operator as taxable gross receipts for sales or use tax purposes; and
- Amounts paid by an occupant for services offered by the operator on similar terms to non-occupants in the regular course of the operator's business.

If the total amount of rent is less than \$15 per day, no tax is required to be collected.

Registration FAQs

Who should register?

All operators of short-term rental or traditional lodging properties that are not exempt from state and local room occupancy excise and local fees must register through MassTaxConnect. You can review a [list of](#)

[exemption](#)

[s \(/regulations/830-CMR-64g11-massachusetts-room-occupancy-excise-proposed-regulation#-4-exemptions\)](#) under Exemptions in the guidance. An intermediary who collects rent for an operator of traditional lodging or short-term rental properties subject to the excise and fees must also register.

Who does not need to register?

An operator of a property that is exempt from state and local room occupancy excise and local fees, or an intermediary collecting rents for that operator, do not need to register for that property.

Please review the [list of](#)

[exemption](#)

[s \(/regulations/830-CMR-64g11-massachusetts-room-occupancy-excise-proposed-regulation#-4-exemptions\)](#) under Exemptions in the guidance.

How do I register as an operator?

All operators must register with DOR using MassTaxConnect. Operators will list their properties and receive a registration certificate for each one. Also, operators should be aware that cities and towns may have separate registration or licensing requirements. Check with local officials in the city or town in which the property is located to find out more. See the [video](#)

[tutoria](#)

[l \(/info-details/room-occupancy-frequently-asked-questions#video-tutorials:-masstaxconnect-room-occupancy-excise-\)](#) at the bottom of this page for a preview of the new process.

As an operator, how do I register my property on MassTaxConnect if I don't have a business?

If there is no separate legal entity that owns the property (a partnership, trust, LLC, etc.) then you would register as an individual. Take the following steps:

If you already have an account on MassTaxConnect:

- Log in to MassTaxConnect
- Select “Add Account Type/New location” to register for the Room Occupancy Consolidated tax type
- Select “Room Occupancy Consolidated” (for activity for July, 2019 and after).

If you do not have a MassTaxConnect account:

- Go to [MassTaxConnect](https://mtc.dor.state.ma.us/mtc/) (<https://mtc.dor.state.ma.us/mtc/>)
- Choose “Create my username”
- Choose “Create my username” again
- Select “I am an individual who has previously filed taxes in the state of Massachusetts”
- Choose Social Security Number as ID type, enter the number, select “Personal Income Tax” as the account type and proceed with the verification process
 - You will be asked to provide one of the following: A tax return amount OR a tax refund amount from one of your past three (2016, 2017 or 2018) Personal Income Tax returns.
 - The amount must be greater than \$0. If you can't provide a tax return or refund amount, call the Trustee Tax Contact Center at (617) 887-6367 (choose #4, then #3 when prompted).
- After setting up your account password, choose “Add Account Type/New Location” under “I Want To” to register for the Room Occupancy **Consolidated** Tax.

Are there any exemptions from the excise?

There are a number of exemptions to the excise. For more information on these exemptions,

see [TIR 19-3 \(/technical-information-release/tir-19-3-changes-to-the-room-occupancy-excise-in-an-act-regulating\)](#):

Changes to the Room Occupancy Excise in An Act Regulating and Insuring Short-Term Rentals.

How do I register as an intermediary or operator's agent?

An intermediary or operator's agent must register with DOR using

[MassTaxConnect](https://mtc.dor.state.ma.us/mtc/_/) (https://mtc.dor.state.ma.us/mtc/_/). Note that intermediaries who already use MassTaxConnect do not need to re-register. They will log in under their existing username and password and just add the Room Occupancy Consolidated account type. Intermediaries will register just once. There's no need to register separately for each rental property. Check out the

[video](#)

[tutoria](#)

[l \(/info-details/room-occupancy-frequently-asked-questions#video-tutorials:-masstaxconnect-room-occupancy-excise-\)](#) at

the bottom of this page for a preview of the new process.

I am a real estate agent. Do I need to register and file returns as an intermediary?

Generally, a real estate agent works for a real estate brokerage or company and any rent associated with a listing by a real estate agent is collected by the company. In such cases, it is the responsibility of the company to register as the intermediary and file returns on behalf of its agents for all the properties that any of its agents list for rent. Individual agents only need to register and file returns if they are independent agents not affiliated with any company and collect rent directly.

I am an intermediary or operator's agent. Do I have to register under each operator's name?

No, you will only need to register one time. When you file your monthly tax return, you will list each property and the rent collected for that property.

Is the intermediary responsible for confirming operator registration?

As an intermediary, you must confirm that the operator whose rent you are collecting is registered with the Department of Revenue through MassTaxConnect and ask for the operator's certificate number for your return. It's the responsibility of the intermediary to confirm that operators are registered. We understand that during the transition to this new tax type an intermediary may not be able to obtain operator certificate numbers in time to file the return. Up until November 1, if you don't have the certificate number, you must instead include the operator's Federal ID number or Social Security number. As of November 1, **all** returns must include the certificate number.

I own my property with my brother and the property will be rented as a short-term rental. Does each of us have to register as an operator?

No. Only one owner per property has to register as an operator. The owner who registers as the operator must collect the tax, file returns and remit the tax to the Department if the owners are collecting rent directly. Each owner remains responsible for ultimately making sure the proper amount of tax is collected and remitted.

I only rent my property a few days a year as a short-term rental. Do I have to register or collect the tax?

No matter how many days you rent out your property each year, you must register with DOR using [MassTaxConnect](https://mtc.dor.state.ma.us/mtc/_/) (https://mtc.dor.state.ma.us/mtc/_/). However, if you rent out your property for 14 days or less in a calendar year, you are not required to collect any tax. If that exception applies to you, you must let us know at the time of registration that you will not be renting out your property for more than 14 days.

Return and payment FAQs

When are returns and taxes due?

Room occupancy returns are due monthly, on or before the 20th day of the month reporting the tax due on occupancies in the previous month. The state excise and any local option excise, including the Convention Center Financing fee, the new Cape Cod and Islands Water Protection Fund excise, and any community impact fee are to be paid with the return.

When is the first return and payment due for short-term rentals after July 1, 2019?

Starting July 1, 2019, the first return and payment is due on August 20, 2019. After that date, returns are due on the 20th day of each month.

Who is required to file returns and pay the taxes due?

Generally, all operators are required to collect tax from the occupant and remit these amounts to the Department. An operator may enter into an agreement with an intermediary for the intermediary to collect rent. An intermediary who agrees to collect the rent will also be responsible for collecting and remitting the related tax.

How do I file returns and make payments?

If you collect rent for rentals from July 1, 2019, you will be required to collect taxes, fees, and excise for those rentals, and remit the collections to DOR through MassTaxConnect. There are two options. You can enter information for one property or you can upload a consolidated return for multiple properties using Excel. An Excel template is available for uploading through MassTaxConnect with all the appropriate cells in the appropriate order. If you choose to attach your own spreadsheet, the cells must be in the same order as the template. Information on the return must include a certificate number **or** Federal ID [or Social Security Number] for each operator along with the name and address of the operator and taxes. See video tutorials for how to file and pay or upload a spreadsheet.

How much tax am I required to collect?

The total amount of tax required to be collected will depend on where the short-term rental is located. The following is a breakdown of the various state and local excises that may apply.

State excise 5.7% (Note that while the statute provides for a 5% rate, an uncodified surtax adds .7% to the rate)

Local option excise 0-6.5% (the rate varies depending on the city or town; Visit the Division of Local Service's [Municipal](#)

[Databank](https://dls.gateway.dor.state.ma.us/reports/rdPage.aspx?rdReport=LocalOptions.Room_Tax_Impact_Fee) (https://dls.gateway.dor.state.ma.us/reports/rdPage.aspx?rdReport=LocalOptions.Room_Tax_Impact_Fee))

Convention Center Finance fee 2.75% (only for Boston, Worcester, Cambridge, Springfield, West Springfield, and Chicopee)

Cape Cod and Islands Water Protection Fund excise 2.75% (only for those cities and towns in those localities that are currently a member of the Fund)

Community Impact fee 0-3% (the fee is only imposed on short-term rentals and the rate will vary depending on whether a city or town votes to adopt this fee)

As a hotel in Barnstable County, am I required to collect the 2.75% Cape Cod & Islands Water Protection Fund Excise beginning on July 1, 2019 even if it's for a room booked prior to January 1, 2019?

Yes. For traditional lodgings (bed and breakfast establishment, hotel, lodging house or motel) the date of booking is not important. All taxes and fees that are effective on July 1st must be collected for occupancies on or after July 1st.

What if a city or town increases its local excise rate or imposes a new fee? How does that affect my tax collection responsibilities?

If an occupancy occurs after a rate increases or a new fee is imposed, whoever collects the rent must collect any amounts due from occupants that were not paid prior to occupancy. Lease contracts should include provisions that all state and local taxes and fees are due as of the date of occupancy, so occupants are aware that additional amounts may be due if rate or fee changes occur after a contract is signed. Whoever collects the rent is responsible for the payment of the tax or fee due based on the effective date of the change, not the date a contract was signed or any money was collected.

My short-term rental begins in June 2019 but ends after July 1, 2019. Is

my rental subject to tax?

No, the new law imposes tax on short-term rentals that begin on or after July 1, 2019. If your rental begins before July 1, 2019, it is not subject to tax.

For a short term rental, how do I report the exempt rent from contracts entered into before January 1, 2019?

When you file your room occupancy consolidated tax return, include all rents in line 1, total rent. On line 2, taxable rent, do not include exempt rent from pre-January 1st contracts.

I only rent my property at certain times of the year. Do I have to file a return even if I have no rental every month?

No. A return is required to be filed only for any month when tax is due. If no tax is due, no return is required to be filed.

What is a rental contract?

A rental contract is an agreement by an operator, intermediary or operator's agent to rent a property to an occupant for a certain time period. The rental contract must create a binding obligation between the operator, intermediary or operator's agent and the occupant.

What records do I need to keep as an operator?

An operator is required to keep records relating to charges and receipts for all transfers of occupancy, as well as copies of returns filed. You can find more information on specific records to be kept by clicking on the Record Retention Regulation link at the bottom of this page.

Besides filing returns and paying taxes due, are there any other responsibilities for intermediaries?

Like operators, intermediaries are required to keep records related to amounts collected and

provide those records to the Department upon request. Intermediaries must also make sure the operator they are working for is registered with the Department before collecting any rent from the occupant. It is the responsibility of the intermediary to notify the operator of its responsibility to comply with all applicable municipal, state and federal laws and to report to them any amounts they have collected and remitted to the Department.

General FAQs

As the owner of a bed and breakfast, what does the new law mean for me?

If you paid room occupancy tax previously as a bed and breakfast establishment, the new definition of rent applies to you. If you were exempt as a bed and breakfast home (defined as a private owner-occupied house where not more than 3 rooms are rented, a breakfast is included in the rent and all accommodations are reserved in advance) you will remain exempt from paying room occupancy tax. A bed and breakfast home is not required to register with DOR.

As an intermediary am I responsible for collecting taxes, excise and fees?

If an intermediary collects rent payments, the intermediary is also responsible for collecting and remitting all applicable taxes, fees, and excise associated with the rent. Because the intermediary is responsible for payment of tax, operators do not pay tax on rent amounts that are paid over to them by an intermediary.

Municipal Official FAQs

The Division of Local Services has compiled [Frequently Asked Questions \(FAQs\) \(/doc/room-occupancy-excise-faqs-short-term-rentals/download\)](#) to explain the changes for municipal governments.

For information about local rules, including whether a city or town is a member of the Cape Cod and Islands Water Protection Fund or has adopted a community impact fee, please check with local officials in the city or town in which the rental property is located.

Short-Term Rental FAQs

Legislation was signed into law in December, 2018 which expands the room occupancy excise, G.L. c. 64G, to short-term rentals of property for more than 14 days in a calendar year, starting July 1, 2019 for which a rental contract was entered into on or after January 1, 2019. Visit the Short-term rental [overview](/info-details/room-occupancy-frequently-asked-questions#overview-) for more information.

What is a short-term rental?

A short-term rental is an occupied property that is not a hotel, motel, lodging house or bed and breakfast establishment, where at least 1 room or unit is rented out by an operator through the use of advance reservations. A short-term rental includes an apartment, house, cottage, and condominium. It does not include property that is rented out through tenancies at will or month-to-month leases. It also does not include time-share property. A short-term rental is a rental that is not for more than 31 consecutive calendar days. The new law imposes state and local excises on short-term rentals of property for more than 14 days in a calendar year, starting July 1, 2019 for which a rental contract was entered into on or after January 1, 2019.

I only rent my property a few days a year as a short-term rental. Do I have to register or collect the tax?

No matter how many days you rent out your property each year, you must register with DOR using [MassTaxConnect](https://mtc.dor.state.ma.us/mtc/_/) (https://mtc.dor.state.ma.us/mtc/_/). However, if you rent out your property for 14 days or less in a calendar year, you are not required to collect any tax. If that exception applies to you, you must let us know at the time of registration that you will not be renting out your property for more than 14 days.

You can review a [list of exemption](#)

[s](/regulations/830-CMR-64g11-massachusetts-room-occupancy-excise-proposed-regulation#-4-exemptions) (</regulations/830-CMR-64g11-massachusetts-room-occupancy-excise-proposed-regulation#-4-exemptions>) under Exemptions in the guidance. An intermediary who collects rent for an operator of traditional lodging or short-term rental properties subject to the excise and fees must also register.

My short-term rental begins in June 2019 but ends after July 1, 2019. Is

my rental subject to tax?

No, the new law imposes tax on short-term rentals that begin on or after July 1, 2019. If your rental begins before July 1, 2019, it is not subject to tax.

When is the first return and payment due for short-term rentals after July 1, 2019?

Starting July 1, 2019, the first return and payment is due on August 20, 2019. After that date, returns are due on the 20th day of each month.

For a short term rental, how do I report the exempt rent from contracts entered into before January 1, 2019?

When you file your room occupancy consolidated tax return, include all rents in line 1, total rent. On line 2, taxable rent, do not include exempt rent from pre-January 1st contracts.

Video Tutorials: MassTaxConnect Room Occupancy Excise

How To Register As An Intermediary



Playlist

This is a collection of tutorial videos for the MassTaxConnect for Room Occupancy Excise.

Contact

DOR Contact

Phone

Tax Department (617) 887-6367 (tel:+16178876367)

Toll-free in Massachusetts (800) 392-6089 (tel:+18003926089)

8:30 a.m.-4:30 p.m., Monday through Friday

Online

Contact Us

Your one-stop connection to DOR. (</info-details/dor-contact-us>)

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Record Retention Regulation (</regulations/830-CMR-62c251-record-retention>)

Room Occupancy Excise Tax (</service-details/room-occupancy-excise-tax>)

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Taxes (</service-details/local-options-relating-to-property-taxation-cpa-meals-and-room-occupancy>)

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Acts (2018)

Chapter 337

AN ACT REGULATING AND INSURING SHORT-TERM RENTALS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 23A of the General Laws is hereby amended by adding the following section:-

Section 68. (a) The executive office of housing and economic development, in consultation with the executive office of technology services and security and the department of revenue, shall establish and maintain a registry for all operators under chapter 64G who file an application and are issued a certificate of registration in accordance with section 67 of chapter 62C.

(b) The executive office of housing and economic development shall promulgate regulations, in accordance with section 2 of chapter 30A, that are necessary to: (i) develop and implement a registry that is accessible and available to the public; and (ii) support the competitive operation of the traditional lodging industry, short-term rental industry and hosting platforms to operate competitively in the commonwealth. The regulations shall require that a public hearing be held and that a small business impact statement be filed.

(c) The executive office of housing and economic development shall, in developing regulations to implement the registry, consider: (i)

existing practices of peer states; (ii) data security practices, protocols and standards; (iii) technological feasibility of existing digital systems, including the feasibility of developing and maintaining a searchable online directory; (iv) information required to be collected and maintained for operators in the registry, which shall, at a minimum, include a list of accommodations offered for rent by operators who are registered in accordance with section 67 of chapter 62C, provided, however, that the location information for any accommodation offered for rent shall be limited to the name of the street and the city or town where the accommodation is located; (v) any forms or records necessary to implement this section and meet such requirements under this chapter and chapter 64G; (vi) practices utilized to disclose or report information to cities and towns by request; (vii) impacts on the traditional lodging industry, short-term rental industry and hosting platforms; (viii) the fiscal impact to the commonwealth; and (ix) any relevant federal or state laws and regulations.

The executive office of housing and economic development shall establish procedures and protocols to protect the confidentiality and security of an operator's personal information and tax information and prohibit the disclosure of such personal information and tax information maintained pursuant to this section.

SECTION 2. Chapter 29C of the General Laws is hereby amended by adding the following 2 sections:-

Section 19. There shall be a separate fund to be known as the Cape Cod and Islands Water Protection Fund. The fund shall be subject to this chapter, except as otherwise provided in this section. There shall be credited to the fund revenue from appropriations or other money authorized by the general court and specifically designated to be

credited to the fund including, but not limited to, revenues received under the excise imposed under section 3C of chapter 64G, any investment income earned on the fund's assets and all other sources, each source being tracked separately for accounting purposes as of June 30 of each year.

The trust shall hold the fund in an account separate from other funds of the trust. Proceeds of the fund shall not be used to offset or otherwise replace contract assistance funds or reserve funds used for pool financing. The trust shall apply and disburse amounts credited to the fund, without further appropriation, to provide subsidies and other assistance, which may include principal forgiveness, to local governmental units and other eligible borrowers in the payment of debt service costs on loans and other forms of financial assistance made by the trust for water pollution abatement projects in municipalities that are members of the fund. Each municipality within Barnstable or Nantucket counties or within the county of Dukes County shall be a member of the fund if it is subject to: (i) an area wide wastewater management plan under section 208 of the federal Clean Water Act, 33 U.S.C. 1288; or (ii) a suitable equivalent plan determined by the department of environmental protection. Water pollution abatement projects eligible for subsidies and other assistance under this section may include the utilization of innovative strategies and alternative septic system technologies that result in nutrient reduction for marine and fresh waters.

The fund may provide subsidies and other assistance as provided in this section with respect to debt incurred prior to the establishment of the fund in the towns of Nantucket, Edgartown, Tisbury, Oak Bluffs, Falmouth, Chatham and Provincetown and the city of Barnstable for

water pollution abatement projects apart from the trust.

Amounts credited to the fund shall be expended or applied only with the approval of the Cape Cod and Islands Water Protection Fund Management Board established under section 20 and in a manner determined by the board, in addition to any approvals required under this chapter. The board, subject to a memorandum of understanding with the department of environmental protection, may direct the comptroller to transfer a specified amount not to exceed 10 per cent of the annual revenue deposited into the fund to the department for the department to contract with a regional planning agency, institution of higher education or non-profit corporation to evaluate and report on the efficacy of adaptive management measures to reduce nitrogen pollution of coastal waterways undertaken pursuant to an area wide wastewater management plan or a suitable equivalent plan, to monitor the water quality and watersheds of areas subject to the study and to support further assessment and water quality modeling to further refine area wide wastewater management plans or suitable equivalent plans in Barnstable and Nantucket counties and the county of Dukes County. Any amounts remaining in the fund at the end of a fiscal year shall be carried forward into the following fiscal year and shall remain available for application and disbursement without further appropriation.

A municipality that is a member of the fund under this section may withdraw from the fund by a $\frac{2}{3}$ vote of its legislative body; provided, however, that a municipality shall not withdraw from the fund during the term of any financial assistance award from the fund to the municipality. A municipality that has withdrawn from the fund shall not have representation on the Cape Cod and Islands Water Protection Fund Management Board established under section 20. A municipality

that has withdrawn from the fund and votes, by majority vote of its legislative body, to return to the fund shall not receive money from the fund until not less than 2 years from the date of its vote to return.

Section 20. There shall be a Cape Cod and Islands Water Protection Fund Management Board that shall consist of 1 person to be appointed by each board of selectmen or town council in each municipality that is a member of the Cape Cod and Islands Water Protection Fund; provided, however, that an appointee of a board of selectmen or town council shall be a member of the respective appointing authority, a town manager, town administrator or other municipally employed professional staff. The executive director of the Cape Cod commission, the executive director of the Martha's Vineyard commission and the town manager of Nantucket shall serve as non-voting ex-officio members of the board.

Each member of the management board shall serve for a term of 3 years and until a successor is appointed and qualified and each member of the management board shall be eligible for reappointment. Each member of the management board appointed to fill a vacancy on the management board shall be appointed for the unexpired term of the vacant position. The members of the management board shall select a member to serve as chairperson and vice-chairperson for a term established by vote of the management board. The Cape Cod commission, in consultation with the Martha's Vineyard commission, shall provide administrative and technical support to the management board and may be compensated for its associated costs by vote of the management board. The management board's duties shall be limited to determining the method for subsidy allocation, including, but not limited to, an equitable distribution among participating municipalities

consistent with revenue deposited from each municipality into the fund, and to ensuring that money from the Cape Cod and Islands Water Protection Fund is spent only for the purposes in section 19.

SECTION 3. Section 1 of chapter 40U of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by striking out, in line 5, the words “regulating the” and inserting in place thereof the following words:- related to the use of property for short-term rental use or regulating a.

SECTION 4. Section 16 of chapter 62C of the General Laws, as so appearing, is hereby further amended by inserting after subsection (g) the following subsection:-

(g^{1/2}) Notwithstanding subsection (g), the department of revenue shall promulgate regulations to minimize the administrative burden relative to filing returns under said subsection (g) on operators who offer their accommodations to the public for not less than 1 day in 5 separate months, or fewer, in the taxable year. The regulations may authorize an operator to file a return only for a month that the operator’s accommodation is offered to the public.

SECTION 5. Subsection (b) of section 21 of said chapter 62C, as amended by section 3 of chapter 90 of the acts of 2018, is hereby amended by adding the following 2 paragraphs:-

(29) the disclosure of information necessary for administration of the community impact fee imposed pursuant to section 3D of chapter 64G.

(30) the disclosure of information to the executive office of housing and economic development necessary for the establishment and maintenance of a registry pursuant to section 68 of chapter 23A.

SECTION 6. Chapter 64G of the General Laws is hereby amended by striking out sections 1 to 6, inclusive, as appearing in the 2016 Official Edition, and inserting in place thereof the following 11 sections:-

Section 1. As used in this chapter, the following words shall have the following meanings unless the context clearly requires otherwise:

“Bed and breakfast establishment”, a private owner-occupied house where not less than 4 rooms are let, a breakfast is included in the rent and all accommodations are reserved in advance.

“Bed and breakfast home”, a private owner-occupied house where not more than 3 rooms are let, a breakfast is included in the rent and all accommodations are reserved in advance.

“Commissioner”, the commissioner of revenue.

“Hosting platform”, a service through a digital platform, third-party website, software, online-enabled application, mobile phone application or some other, similar electronic process that allows: (i) an operator to advertise, list or offer the use of an accommodation subject to the excise under this chapter in exchange for rent; (ii) an operator to collect the payment of rent on an accommodation; and (iii) a person to arrange, book, reserve or rent an accommodation.

“Hotel”, a building used for the feeding and lodging of guests licensed or required to be licensed under section 6 of chapter 140.

“Intermediary”, a person or entity, other than an operator, that facilitates the sale, use or possession of an occupancy and charges a room charge to the general public; provided, however, that the term “facilitates” shall include a person or entity that brokers, coordinates or in any other way arranges for the purchase, sale, use or possession of

occupancies by the general public; provided further, that the term “intermediary” shall include a hosting platform and operator’s agent.

“Lodging house”, a house licensed or required to be licensed under section 23 of chapter 140 and where lodgings are rented to not less than 4 people who shall not be within the second degree of kindred to the owner or operator of such lodging house.

“Motel”, a building or portion of a building in which a person is lodged for hire with or without meals and that is licensed or required to be licensed under section 32B of chapter 140; provided, however, that a “motel” shall not include a hotel or lodging house.

“Occupancy”, the use or possession or the right to the use or possession of a room in a bed and breakfast establishment, hotel, lodging house or motel designed and normally used for sleeping and living purposes for a period of not more than 90 consecutive calendar days, regardless of whether such use and possession is as a lessee, tenant, guest or licensee, or the use or possession or the right to the use or possession of a room in a short term rental normally used for sleeping and living purposes for a period of not more than 31 consecutive calendar days, regardless of whether such use and possession is as a lessee, tenant, guest or licensee; provided, however, that “occupancy” shall include the right to the use or possession of the furnishings or the services and accommodations, including breakfast in a bed and breakfast establishment, accompanying the use and possession of such a room.

“Occupant”, a person who uses, possesses or has a right to use or possess a room in a bed and breakfast establishment, hotel, lodging house, short-term rental or motel for rent under a lease, concession, permit, right of access, license or agreement.

“Operator”, a person operating a bed and breakfast establishment, hotel, lodging house, short-term rental or motel in the commonwealth including, but not limited to, the owner or proprietor of such premises, the lessee, sublessee, mortgagee in possession, licensee or any other person otherwise operating such bed and breakfast establishment, hotel, lodging house, short-term rental or motel.

“Operator’s agent”, a person who on behalf of an operator of a bed and breakfast establishment, hotel, motel, short-term rental or lodging house: (i) manages the operation or upkeep of a property offered for rent; or (ii) books reservations at a property offered for rent; provided, however, that an “operator’s agent” shall include, but not be limited to, a property manager, property management company or real estate agent.

“Person”, an individual, partnership, trust or association, with or without transferable shares, joint-stock company, corporation, society, club, organization, institution, estate, receiver, trustee, assignee or referee and any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, or any combination of individuals acting as a unit.

“Professionally-managed unit”, 1 of 2 or more short-term rental units that are located in the same city or town, operated by the same operator and are not located within a single-family, two-family or three-family dwelling that includes the operator’s primary residence.

“Rent”, the total consideration paid by or on behalf of an occupant, including any service, cleaning or other charge, to an operator or an intermediary collecting and remitting the excise on behalf of an operator under section 13 for occupancy, valued in money, whether received in money or otherwise, including all receipts, cash, credits and

property or services of any kind or nature.

“Short-term rental”, an owner-occupied, tenant-occupied or non-owner occupied property including, but not limited to, an apartment, house, cottage, condominium or a furnished accommodation that is not a hotel, motel, lodging house or bed and breakfast establishment, where: (i) at least 1 room or unit is rented to an occupant or sub-occupant; and (ii) all accommodations are reserved in advance; provided, however, that a private owner-occupied property shall be considered a single unit if leased or rented as such.

Section 2. This chapter shall not include: (i) lodging accommodations at a federal, state or municipal institution; (ii) lodging accommodations, including dormitories, at religious, charitable, educational and philanthropic institutions; provided, however, that the exemption allowed shall not apply to accommodations provided by any such institution at a hotel or motel generally open to the public and operated by the institution; (iii) privately-owned and operated convalescent homes or homes for the aged, infirm, indigent or chronically ill; (iv) religious or charitable homes for the aged, infirm, indigent or chronically ill; (v) summer camps for children up to 18 years of age or developmentally disabled individuals; provided, however, that a summer camp that offers its facilities off season to individuals 60 years of age or older for a period of not more than 30 days in a calendar year shall not lose its exemption under this section; (vi) bed and breakfast homes; (vii) lodging accommodations provided to seasonal employees by employers; (viii) alcohol and drug free housing that is certified pursuant to section 18A of chapter 17; (ix) tenancies at will or month-to-month leases; and (x) time-shares, as defined in section 2 of chapter 183B.

For the purposes of this section, “developmentally disabled individual” shall mean an individual who has a severe chronic disability that: (i) is attributable to a mental or physical impairment or combination of mental and physical impairments; (ii) is likely to continue indefinitely; (iii) results in substantial functional limitations in not less than 3 of the following areas of major life activity: (A) self-care; (B) receptive and expressive language; (C) learning; (D) mobility; (E) self-direction; (F) capacity for independent living; and (G) economic self-sufficiency; and (iv) reflects the individual’s need for a combination and sequence of special, interdisciplinary or generic care, treatment or other services that are of lifelong or extended duration and are individually planned and coordinated.

Section 3. An excise shall be imposed upon the transfer of occupancy of a room or unit in a bed and breakfast establishment, hotel, lodging house, short-term rental or motel by an operator at the rate of 5 per cent of the total amount of rent for each such occupancy. An excise shall not be imposed if the total amount of rent is less than \$15 per day or its equivalent.

The operator shall pay the excise to the commissioner at the time provided for filing the return required under section 16 of chapter 62C.

No excises or fees established under this chapter shall be imposed upon the transfer of occupancy of a short-term rental if the operator transfers such short-term rental for not more than 14 days in a calendar year, provided, that the operator has first: (i) registered with the commissioner in accordance with section 67 of chapter 62C; and (ii) filed a declaration with the commissioner, signed by the operator and subject to section 5 of chapter 62C, setting forth the intention to transfer the short-term rental for not more than 14 days in a calendar

year. Such a declaration, if applicable, shall be required annually in a manner determined by the commissioner. If the operator transfers the short-term rental for 15 days or more in the same calendar year, or fails to register and file a declaration as required by this section, then the operator shall be liable for the payment of required excises and fees under this chapter, including payment of required taxes and fees on the first 14 days the short-term rental was transferred in the calendar year.

Section 3A. A city or town that accepts this section may impose a local excise upon the transfer of occupancy of a room in a bed and breakfast establishment, hotel, lodging house, short-term rental or motel located within that city or town by an operator at a rate of not more than 6 per cent of the total amount of rent for each such occupancy; provided, however, that the city of Boston may impose such local excise upon the transfer of occupancy of a room in a bed and breakfast establishment, hotel, lodging house, short-term rental or motel located within the city by an operator at the rate of not more than 6.5 per cent of the total amount of rent of each such occupancy. No excise shall be imposed if the total amount of rent is less than \$15 per day or its equivalent or if the accommodation is exempt under section 2. An operator shall pay the local excise imposed under this section to the commissioner at the same time and in the same manner as the excise due to the commonwealth. All sums received by the commissioner under this section as excise, penalties or forfeitures, interest, costs of suit and fines shall at least quarterly be distributed, credited and paid by the state treasurer upon certification of the commissioner to each city or town that has adopted this section in proportion to the amount of such sums received from the transfer of occupancy in each such city or town. Acceptance of this section shall be: (i) by a majority vote of the city council with the approval of the

mayor in the case of a city with a mayor elected to serve as the chief executive officer of the city; (ii) by a majority vote of the city council in every other city; (iii) by a majority vote of the annual town meeting or a special meeting called for that purpose in the case of a municipality with a town meeting form of government; or (iv) by a majority vote of the town council in the case of a municipality with a town council form of government. This section shall take effect on the first day of the calendar quarter following 30 days after its acceptance or on the first day of a later calendar quarter as the city or town may designate. The city or town, in accepting this section, shall not revoke or otherwise amend the applicable local tax rate more often than once in a 12-month period.

The commissioner shall make available to a city or town requesting such information the total amount of room occupancy tax collected in the preceding fiscal year in the city or town requesting the information.

Section 3B. Notwithstanding sections 9 and 10 of chapter 152 of the acts of 1997, the convention center financing fee imposed upon the transfer of occupancy of a short-term rental in the cities of Boston, Cambridge, Springfield, Worcester, West Springfield and Chicopee shall revert half to the General Fund and half to the city in which the short-term rental was transferred.

Section 3C. In addition to the excise imposed under section 3 and any excise imposed under section 3A, an excise shall be imposed on the transfer of occupancy of a room in a bed and breakfast establishment, hotel, lodging house, short-term rental or motel located within a municipality that is a member of the Cape Cod and Islands Water Protection Fund established under section 19 of chapter 29C at a rate of 2.75 per cent of the total amount of rent for each such

occupancy; provided, however, that all revenues received from the excise under this section shall be credited to the Cape Cod and Islands Water Protection Fund. An excise shall not be imposed if the total amount of rent is less than \$15 per day or its equivalent. An operator shall pay the excise due to the Cape Cod and Islands Water Protection Fund to the commissioner at the same time and in the same manner as the excise due to the commonwealth.

Section 3D. (a) A city or town that accepts section 3A may, by a separate vote and in the same manner of acceptance as set forth in section 3A, impose upon an operator a community impact fee of not more than 3 per cent of the total amount of rent for each transfer of occupancy of a professionally managed unit that is located within that city or town.

(b) A city or town that votes to impose a community impact fee under subsection (a) may, by a separate additional vote and in the same manner of acceptance as set forth in section 3A, also impose the community impact fee upon each transfer of occupancy of a short-term rental unit that is located within a two-family or three-family dwelling that includes the operator's primary residence.

(c) All community impact fees under this section shall be paid monthly by the operator to the municipality. A city or town shall dedicate not less than 35 per cent of the community impact fees collected under this section to affordable housing or local infrastructure projects.

Section 4. Except as provided in section 13, reimbursement for the excise imposed under this chapter shall be paid by the occupant of any such room to the operator and each operator shall add to the rent and collect from the occupant the full amount of the excise imposed by this

chapter or an amount equal as nearly as possible or practical to the average equivalent thereof and such excise shall be a debt from the occupant to the operator when so added to the rent and shall be recoverable at law in the same manner as other debts.

Section 5. The amount of the excise collected by the operator from the occupant pursuant to this chapter shall be stated and charged separately from the rent and shown separately on any record of the excise at the time the transfer of occupancy is made or on any evidence of such transfer issued or used by the operator.

Section 6. A person shall not operate a bed and breakfast establishment, hotel, lodging house, short-term rental or motel unless a certificate of registration has been issued to the person in accordance with section 67 of chapter 62C.

Section 6A. No person subject to this chapter shall engage in an unlawful practice under section 4 of chapter 151B.

SECTION 7. Said chapter 64G is hereby further amended by striking out sections 7A and 7B, as so appearing, and inserting in place thereof the following 2 sections:-

Section 7A. An operator who has paid to the commissioner an excise pursuant to section 3 upon an account later determined to be worthless shall be entitled to an abatement of the excise paid on the worthless account. A claim for abatement shall be filed not later than April 15 annually and shall cover the amount of the excise on accounts determined to be worthless in the prior calendar year.

An operator who recovers an excise on an account determined to be worthless and for which an application for abatement has been filed shall report and include the same in a monthly return at the time of

recovery.

Section 7B. An operator who fails to pay to the commissioner money required to be paid by this chapter shall be personally and individually liable therefor to the commonwealth. As used in this section, the term “operator” shall include an officer or employee of a corporation or a member or employee of a partnership or a limited liability company who, as such officer, employee or member, is under a duty to pay the excises imposed by this chapter.

An operator who misrepresents to an intermediary that the transfer of occupancy of the operator’s property is exempt from the excise imposed by sections 3, 3A and 3C and the community impact fee imposed by section 3D shall be liable for any unpaid excise under said sections 3, 3A and 3C and the community impact fee imposed by said section 3D and shall be deemed to have committed an unfair trade practice under chapter 93A in making such a misrepresentation to the intermediary.

SECTION 8. Said chapter 64G is hereby further amended by striking out section 12, as so appearing, and inserting in place thereof the following 7 sections:-

Section 12. No excise shall be imposed under this chapter upon the transfer of occupancy of a room in a hotel, lodging house, short-term rental or motel if the occupant is an employee of the United States military traveling on official United States military orders that encompass the date of such occupancy. Each operator shall maintain such records as the commissioner shall require to substantiate exemptions claimed under this section.

Section 13. (a) An operator may elect to allow an intermediary to

collect rent or facilitate the collection or payment of rent on its behalf through a written agreement on an accommodation subject to the excise under this chapter. An intermediary that enters into a written agreement with the operator to collect rent or facilitate the collection or payment of rent on behalf of the operator of an accommodation subject to the excise under this chapter shall: (i) apply for and obtain a certificate of registration from the commissioner in accordance with section 67 of chapter 62C on behalf of the operator; (ii) assess, collect, report and remit the excise to the commissioner as described for operators in sections 3, 3A, 3B, 3C, 5, 7A, 7B and 12; (iii) assess, collect and remit the community impact fee to the municipality as described for operators in section 3D; (iv) maintain records of any excises collected that have been remitted to the commissioner and shall make these records available to the department upon request; (v) ensure that the operator is registered pursuant to said section 67 of said chapter 62C prior to permitting such operator to list or offer an accommodation for rent through the use of the intermediary; and (vi) notify the operator that the operator must comply with all applicable municipal, state and federal laws including, but not limited to, the collection and remittance of required excises. The certificate of registration obtained from the commissioner pursuant to this subsection shall identify and be in the name of the individual operator, not the intermediary.

(b) An intermediary collecting and remitting the excise on behalf of an operator shall provide notification within a reasonable time to the operator that the excise has been collected and remitted to the commissioner pursuant to section 3. The notification may be delivered in hand or by mail or conveyed by electronic message, mobile or smart phone application or another similar electronic process, digital media or communication portal. An operator shall not be responsible for

collecting and remitting the excise on a transaction for which the operator has received notification from an intermediary that the excise has been collected and remitted to the commissioner on their behalf.

(c) The intermediary shall not be liable for faults in collecting or remitting the excise proximately caused by the intermediary's reasonable reliance on representations made to it by the operator about the nature of the property being rented, the duration of the occupancy or other similar misrepresentations made by the operator to the intermediary. The operator shall be liable for any unpaid excise resulting from any such misrepresentation. An intermediary shall not be liable for any over collection of the excise if the excise collected was remitted to the commissioner and the over collection resulted from the intermediary's reasonable reliance on the operator's representations about the nature of the property being rented or the nature of the occupancy or whether such property was exempt from the excise. The operator shall be liable for monetary damages to the occupant resulting from any such misrepresentations.

Section 14. A city or town, by ordinance or by-law, may regulate operators registered pursuant to section 67 of chapter 62C and impose penalties for the violation of such an ordinance or by-law. A city or town, by ordinance or by-law, may:

(i) regulate the existence or location of operators under this section within the city or town, including regulating the class of operators and number of local licenses or permits issued to operators under this section and the number of days a person may operate and rent out an accommodation in a calendar year;

(ii) require the licensing or registration of operators within the city or town; provided, however, that a city or town may: (A) accept a

certificate of registration issued to an operator in accordance with section 67 of chapter 62C in lieu of requiring an operator to obtain a local license or registration under this section; or (B) issue a provisional license or registration to permit an operator to offer accommodations on temporary or seasonal basis;

(iii) require operators to demonstrate that any properties or premises controlled, occupied, operated, managed or used as accommodations subject to the excise under this chapter are not subject to any outstanding building, electrical, plumbing, mechanical, fire, health, housing or zoning code enforcement, including any notices of violation, notices to cure, orders of abatement, cease and desist orders or correction notices;

(iv) require properties or premises controlled, occupied, operated, managed or used by operators as an accommodation subject to the excise under this chapter to undergo health and safety inspections; provided, however, that the cost of any inspection conducted under this section shall be charged to and solely paid by the operator under this section; provided further, that after any initial health and safety inspection, the city or town may determine the frequency of any subsequent inspections;

(v) establish a civil penalty for violation of an ordinance or by-law enacted pursuant to this section; provided, however, that a city or town that suspends or terminates an operator's right to operate an accommodation for a violation of any ordinance or bylaw shall notify the commissioner of revenue of the suspension or termination; and

(vi) establish a reasonable fee to cover the costs associated with the local administration and enforcement of regulating operators and accommodations.

Notwithstanding any ordinance or by-law adopted by a city or town pursuant to this section, an operator of a short-term rental shall post inside the short-term rental unit information regarding the location of any fire extinguishers, gas shut off valves, fire exits and fire alarms in the unit and building.

Nothing in this section shall preclude a city or town from publishing a public registry of all short-term rental accommodations located within that city or town offered for rent by operators who are registered in accordance with section 67 of chapter 62C. A city or town may determine what relevant information shall be listed, including where the accommodation is located.

Section 15. Nothing in this chapter shall confer a right to lease, sublease or otherwise offer a residential unit as a short-term rental where such use is prohibited by a homeowner's association agreement or requirements, a rental agreement or any other restriction, covenant, requirement or enforceable agreement.

Section 16. For residential units subject to rent control provisions, operators of short-term rentals shall charge not more than the prorated maximum amount allowed.

Section 17. The commissioner shall annually publish a report on the economic activity of short-term rentals in the commonwealth rented for occupancy through a hosting platform or intermediary. The commissioner may require a hosting platform, intermediary or operator of a short-term rental to submit to the department of revenue, in a form approved by the commissioner, information necessary to compile the report including, but not limited to: (i) the aggregate rent paid by all occupants during the reporting period: (ii) the total amount of revenue collected from the excise on the transfer of occupancy of the short-term

rentals; and (iii) the total amount of revenue collected from the local excise on the transfer of occupancy of the short-term rentals.

The department shall make available any data set used pursuant to this section to a regional planning agency, municipality or other public agency requesting such information; provided, however, that the department shall utilize the practices that are necessary to prevent the public disclosure of personal information regarding operators and occupants. The department shall annually publish local summary statistics on its website. The department shall take all measures necessary to protect the confidentiality and security of an operator's personal tax information from any disclosure pursuant to this section.

Section 18. The commissioner shall promulgate rules and regulations for assessing, reporting, collecting, remitting and enforcing the room occupancy excise pursuant to this chapter.

SECTION 9. Chapter 175 of the General Laws is hereby amended by inserting after section 4E the following section:-

Section 4F. (a) As used in this section, the terms "hosting platform", "operator" and "short-term rental" shall have the same meanings as under section 1 of chapter 64G unless the context clearly requires otherwise.

(b) An operator shall maintain liability insurance of not less than \$1,000,000 to cover each short-term rental, unless such short-term rental is offered through a hosting platform that maintains equal or greater coverage. Such coverage shall defend and indemnify the operator and any tenants or owners in the building for bodily injury and property damage arising from the short-term rental.

(c) Prior to an operator offering a short-term rental through the use

of a hosting platform, the hosting platform shall provide notice to the operator that standard homeowners or renters insurance may not cover property damage or bodily injury to a third-party arising from the short-term rental.

(d) Insurers that write homeowners and renters insurance may exclude any and all coverage afforded under the policy issued to a homeowner or lessee for any claim resulting from the rental of any accommodation under chapter 64G. Insurers that exclude the coverage described in this section shall not have a duty to defend or indemnify any claim expressly excluded by a policy. Nothing under this section shall preclude an insurer from providing coverage for short-term rentals.

(e) Any policy or policy form intended to cover operators of short-term rentals from liabilities, whether the policy or policy form is provided by a hosting platform or an operator itself, shall be filed according to instructions provided by the division of insurance.

(f) An operator who intends to operate a short-term rental shall provide notice to any insurer that writes a homeowners or renters insurance policy for the property where such short-term rental is to be located of the operator's intent to operate such short-term rental.

SECTION 10. There shall be a commission to study the feasibility and potential for use of lodging units within the hospitality industry, including hotel, motel, bed and breakfast and short-term rentals, as resources to increase the availability of emergency shelter for individuals and families displaced during extreme weather events or other states of emergency declared by the governor. The commission shall study and make recommendations relating to: (i) ways to maintain up-to-date inventories of units available for shelter during emergencies;

(ii) networks to alert local officials about the availability of hospitality industry units as emergency shelter; (iii) platforms and protocol for communication and coordination between the hospitality industry and state and local officials during emergencies; and (iv) any other factors deemed relevant by the chair of the commission.

The commission shall consist of: the director of the Massachusetts emergency management agency or a designee, who shall serve as chair; 2 members appointed by the Massachusetts Lodging Association, Inc.; 3 members appointed by the Massachusetts Municipal Association, Inc., 2 of whom shall have experience in local emergency planning and management and 1 of whom shall have experience in municipal licensure processes; and 3 members appointed by the governor, 1 of whom shall be a representative of the department of revenue, 1 of whom shall be a representative of a hosting platform, as defined in section 1 of chapter 64G of the General Laws, and 1 of whom shall be a representative of a non-profit entity with experience in national-level emergency management and relief.

The commission shall report the results of its study, together with drafts of recommended legislation, if any, by filing the report with the clerks of the house of representatives and senate not later than January 1, 2020.

SECTION 11. The transfer of occupancy of a room in a bed and breakfast establishment, hotel, lodging house, short-term rental or motel in a municipality that becomes a member of the Cape Cod and Islands Water Protection Fund under section 19 of chapter 29C of the General Laws after June 1, 2019 shall be subject to the excise under section 3C of chapter 64G of the General Laws on the first day of a calendar quarter after it has joined the fund, as the municipality may

designate.

SECTION 12. Notwithstanding section 19 of chapter 29C of the General Laws, a municipality included in the Cape Cod and Islands Water Protection Fund shall not withdraw from the fund for 1 year after the effective date of this act.

SECTION 13. The executive office of housing and economic development shall promulgate regulations necessary to implement a registry pursuant to section 68 of chapter 23A of the General Laws not later than September 30, 2019.

SECTION 14. Sections 3, 3A, 3C and 3D of chapter 64G of the General Laws shall take effect for transfers of occupancies of short-term rentals that commence on or after July 1, 2019 and for which contracts with occupants were entered into on or after January 1, 2019.

SECTION 14A. Section 3B of chapter 64G of the General Laws shall take effect for transfers of occupancies on short-term rentals that commence 90 days after the commonwealth has discharged its obligations on the payment of special obligation bonds of the commonwealth issued pursuant to sections 11 and 12 of chapter 152 of the acts of 1997, as amended, as certified by the secretary of administration and finance.

SECTION 15. A city or town that accepted section 3A of chapter 64G of the General Laws before July 1, 2019 shall be deemed to have accepted said section 3A of said chapter 64G for the purposes of this act.

SECTION 16. Section 9 shall take effect on July 1, 2019.

Approved, December 28, 2018.

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Honolulu Council Adopts Two Approaches To Short-Term Rental Regulations

Ryan Finnerty

4-5 minutes



UPDATED: June 17, 6:36 p.m.

The Honolulu City Council on Monday unanimously approved Bill 89 that would implement stiffer regulations for short-term vacation rentals. A related, but conflicting measure, Bill 85, also passed,

although with two fewer votes. The two proposals next go to Mayor Kirk Caldwell for action.


Earlier in the day, approximately 50 protesters lined the sidewalk in front of Honolulu Hale to demonstrate their opposition to two proposed laws. The [highly emotional issue](#) has galvanized supporters and opponents for the past year.

The protesters were a mix residents tied in some way to the industry, including gardeners, caretakers, property owners, and realtors.

A single counter-protester walked the line in support of Bills 85 and 89, citing increased traffic, noise, and a lack of available housing for residents in her Kaneohe neighborhood.

Today's votes culminated a year-long effort to regulate vacation rentals on Oahu, which have been growing in number despite being largely banned.





Rentals of less than 30 days are currently permitted in the resort areas of Waikiki, Ko Olina, and Turtle Bay. Approximately 800 permits for properties outside those areas have been issued by the City and County of Honolulu.

In 2018, the city estimated there were 10,000 properties on Oahu being listed as short-term rentals.

Lack of enforcement, and tremendous profit potential, has led to the development of a grey market industry that is now worth in excess of \$1 billion annually.

Many local companies have evolved to incorporate vacation rentals into their business. That made curtailing the industry, which by one estimate is worth 7,000 jobs, an economically and politically painful process.

That was reflected in May, when the City Council appeared on the verge of passing the restrictions, but [walked them back](#) after hours of angry testimony.

A few changes have been made, like the removal of a provision that would explicitly authorize residents to sue one another for operating unpermitted rentals. However, the core of Bills 85 and 89 appear largely the same as in previous versions.

[Bill 89](#) allows for the owners of approximately 1,700 properties islandwide to rent out individual rooms in those properties, what the city classifies as a bed-and-breakfast.

Only one half of one percent of total homes in each of Oahu's eight [Development Plan Areas](#) would be permitted for short-term rentals.

Under [Bill 85](#), no short-term rentals would be permitted outside of

resort areas.

Both proposals would require property owners to register with the City and County of Honolulu and obtain a permit number. That number would then have to be displayed on listing sites like Airbnb and VRBO.

Those companies, which typically take a cut of the owner's profit, would be required to take down any listing that does not display a city permit number. Booking platforms would also have to submit regular reports to the city detailing which properties are being rented.

Philip Minardi, policy communications director for Expedia Group, which owns listing sites HomeAway and VRBO, told HPR that the company is prepared to comply with those stipulations if city officials meet it halfway.

“As long as we're living in a world where the vacation rental industry continues to operate on the island, we're willing to remove listings that do not display a permit number when the city brings them to us.”

For Expedia, that means allowing some whole-home rentals, which the city has dubbed transient vacation units or TVUs, to continue operating on Oahu.

The company had suggested an alternative regulatory plan which would do that, but cap the number of units in each development area based on specific concerns about housing or economic activity in those neighborhoods.

Expedia Group was seeking to delay Monday's vote to gain traction for its proposal, but the two proposals moved ahead after a full day

of testimony.

Limited provisions of both laws would take effect in August, with the full rules becoming enforceable in October 2020.

[avalara.com](https://www.avalara.com)

Honolulu council passes short-term rental bill with strict penalties

4-5 minutes

Short-term rentals on Oahu will be strictly regulated under [new legislation passed by the Honolulu City Council](#). Bill 89 prohibits new permits for whole-home rentals, called “transient vacation units,” but allows roughly [1,700 units](#) on the island to be rented for short terms, as long as they’re in homes where the owner lives (called “bed-and-breakfast homes”).

The law also requires short-term rental owners to obtain a permit from the City and County of Honolulu and include the permit number on any advertisement. Listings without permit numbers are prohibited. Operators would also have to provide neighbors within 250 feet of a property a number that can be called 24 hours a day to receive complaints.

The ordinance also sets requirements for short-term rental platforms such as Airbnb and VRBO. Those platforms must take down listings that don’t include permit numbers, and report data on hosts monthly, including names, addresses, tax identification numbers, length of stays, and amount paid.

The new ordinance outlines strong penalties for running illegal short-term rentals. Fines start at \$1,000 for an initial violation and escalate to \$5,000 a day for ongoing noncompliance, and up to

\$10,000 per day. The law also allows the city to confiscate rental earnings.

Honolulu Mayor Kirk Caldwell has indicated he'll sign the bill into law. Part of the law would [go into effect in August](#), with the rest starting October 2020.

The council also passed Bill 85, an even stricter law that would ban all short-term vacation rentals in residential areas, including bed-and-breakfast home units. However, Caldwell has indicated he prefers Bill 89, so he may not sign Bill 85.

It's estimated there are approximately 800 legal Oahu short-term rentals, while around 10,000 are operating illegally without a required permit. Honolulu hasn't issued any new short-term rental permits since 1989.

In Hawaii, short-term rental income is subject to transient accommodations tax (TAT) as well as general excise tax (GET). Short-term rental operators can pass these taxes on to guests, but hosts must register with the state, collect and pay the taxes, and file regular tax returns. [MyLodgeTax](#) automates lodging taxes to simplify compliance for Hawaii short-term rental operators. For more on lodging taxes in Hawaii, see our state [Vacation Rental Tax Guide](#).

This spring, state lawmakers in Hawaii passed legislation that would require short-term rental platforms such as Airbnb, HomeAway, and VRBO to [collect lodging taxes on bookings](#) on behalf of their hosts. Under the bill, vacation rental operators would be required to include tax license numbers in all advertisements. The bill has [yet to be signed](#) into law by Governor David Ige.

While short-term rental taxes come under state jurisdiction, short-

term rental regulations and permits are governed by counties. In addition to Oahu, other counties have been active in passing new regulations.

On the **Big Island**, [new rules](#) for short-term rentals have gone into effect in Hawaii County. Under the ordinance, new short-term vacation rentals are barred in single-family residential and agricultural zones, and only allowed in hotel, resort, commercial, and multifamily commercial zones. Preexisting short-term rentals hoping to be grandfathered in under the new rules must apply by September 28. As part of the permit process under the new rules, applicants must also submit current state GET and TAT licenses.

On **Maui**, voters last year [approved a ballot initiative](#) to dramatically increase penalties for short-term rentals operating without a permit, with fines of up to \$20,000, plus \$10,000 per day that the unlicensed rental continues to operate.

Hawaii is not alone in cracking down on short-term rentals. Cities such as [Boston](#), [New Orleans](#), and [New York City](#) have enacted strict rules and are increasingly enforcing them. In Colorado, for example, a Denver couple [faces felony charges](#) for allegedly operating an illegal short-term rental. They're accused of not using their rental property as a full-time residence, as required by city law.

Lodging tax rates, rules, and regulations change frequently.

Although we hope you'll find this information helpful, this blog is for informational purposes only and does not provide legal or tax advice.



A BILL FOR AN ORDINANCE

RELATING TO SHORT-TERM RENTALS.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Findings and Purpose. The purpose of this ordinance is to better regulate short-term rentals. Short-term rentals, which are the use of residential dwellings for stays of less than 30 days, have grown significantly since being first regulated by the City in 1989. The use of social media has increased opportunities for visitors to consider short-term rentals during their stay on Oahu. Based on on-line advertising, there are an estimated 8,000 to 10,000 short-term rentals available at any given time on Oahu, far exceeding the number of permitted units as currently provided under the Land Use Ordinance. Current Land Use Ordinance enforcement tools are outdated and not effective in regulating the expanding short-term rental industry, particularly with respect to social media advertising and online booking services. In addition, the hotel industry, while not opposed to short-term rentals, takes the position that requirements imposed on hotels should equally apply to short-term rentals. Short-term rentals are currently classified as "residential" for real property tax purposes. The high rents that may be charged for short-term rentals, which may be as much as \$8,000 per night, result in an imbalance in real property tax policy.

Short-term rentals represent economic benefits to the City and State in terms of jobs, tax revenues, and diversification of the visitor accommodations industry. For some residents, short-term rentals are viewed as important supplemental income, serving as sources of revenue, and enabling homeowners to qualify for mortgages. Some residents pride themselves on being sensitive landlords or hosts, serving as "ambassadors of aloha." Many residents desire to use the dwelling for their own use for portions of the year, so they are not able to offer the dwelling for rental on a long-term basis.

However, neighborhoods may be negatively impacted by the presence of short-term rentals, including escalating real property values, increased noise, illegal parking, and increased traffic. There is a concern that homes are being purchased as income-producing investments rather than for domiciliary purposes. Residents are generally comfortable with bed and breakfast homes because an on-site resident manager or owner is responsible for the bed and breakfast home, and can respond to any problems associated with short-term guests. In contrast, residents generally voice strong concerns about "unhosted" transient vacation units, particularly when a significant number of transient vacation units are located in the same neighborhood. Significant numbers of absentee owners and constant change in occupancy may change the social



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patterns of neighborhoods and reduce interactions among neighbors, resulting in a decline in the quality of life for residents.

This ordinance is intended to balance competing views associated with short-term rentals. It continues to differentiate between bed and breakfast homes and transient vacation units, and provides a registration system to allow bed and breakfast homes to operate under express regulatory standards and requirements, which will be monitored through an annual registration renewal process. This ordinance also includes significant penalties for illegally operating a short-term rental, and for advertising an illegal short-term rental. In addition, this ordinance regulates hosting platforms to increase transparency and accountability for hosting platforms providing booking services for bed and breakfast homes and transient vacation units located within the City.

SECTION 2. Section 8-10.5, Revised Ordinances of Honolulu 1990 ("Home, lease, lessees defined"), is amended by amending subsection (b) to read as follows:

"(b) The subletting by the taxpayer of not more than [~~one room~~] two rooms to a tenant shall not affect the exemption provided for by Section 8-10.4."

SECTION 3. Section 21-2.150-2, Revised Ordinances of Honolulu 1990, is amended to read as follows:

"Sec. 21-2.150-2 Administrative enforcement.

(a) In lieu of or in addition to enforcement pursuant to Section 21-2.150-1, if the director determines that any person is violating any provision of this chapter, any rule adopted thereunder or any permit issued pursuant thereto, the director may have the person served, by registered or certified mail, restricted delivery, return receipt requested, or by hand delivery with a written notice of violation and order pursuant to this section. However, if the whereabouts of such person is unknown and cannot be ascertained by the director in the exercise of reasonable diligence and the director provides an affidavit to that effect, then a notice of violation and order may be served by publication once each week for two consecutive weeks in a daily or weekly publication in the city pursuant to HRS Section 1-28.5.

[(a)](b) Contents of the Notice of Violation. The notice must include at least the following information:

(1) Date of the notice;



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- (2) The name and address of the person noticed;
- (3) The section number of the provision or rule, or the number of the permit that has been violated;
- (4) The nature of the violation; and
- (5) The location and time of the violation.

~~[(b)]~~(c) Contents of Order.

- (1) The order may require the person to do any or all of the following:
 - (A) Cease and desist from the violation;
 - (B) Correct the violation at the person's own expense before a date specified in the order;
 - (C) Pay a civil fine not to exceed ~~[\$1,000.00]~~ \$1,000 in the manner, at the place and before the date specified in the order; and
 - (D) Pay a civil fine not to exceed ~~[\$1,000]~~ \$5,000 per day for each day in which the violation persists beyond the date specified in paragraph (C), in the manner and at the time and place specified in the order.
- (2) Notwithstanding the civil fines specified in subdivision (1)(C) and (D), if the violation is a violation of any provision of this chapter relating to the requirements for transient vacation units or bed and breakfast homes, then, in addition to requirements in subdivision (1)(A) and (B), the order may require a person to do any or all of the following:
 - (A) For the initial violation:
 - (i) Pay a civil fine of \$1,000, in the manner, at the place and before the date specified in the order; and
 - (ii) Pay a civil fine of \$5,000 per day for each day in which the violation persists beyond the date specified in subparagraph (i), in the manner and at the time and place specified in the order.



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(B) For a recurring violation:

- (i) Pay a civil fine of \$10,000 in the manner, at the place, and before the date specified in the order; and
- (ii) Pay a civil fine of \$10,000 for each day in which the violation persists beyond the date specified in subparagraph (i), in the manner and at the time and place specified in the order.

~~[(2)]~~(3) The order must advise the person that the order will become final 30 days after the date of its mailing or delivery. The order must also advise that the director's action may be appealed to the zoning board of appeals.

~~[(e)]~~(d) Effect of Order--Right to Appeal. The provisions of the order issued by the director under this section will become final 30 days after the date of the mailing or delivery of the order. The person may appeal the order to the zoning board of appeals as provided in Charter Section 6-1516 ~~[of the city charter]~~. However, an appeal to the zoning board of appeals will not stay any provision of the order.

~~[(d)]~~(e) Judicial Enforcement of Order. The director may institute a civil action in any court of competent jurisdiction for the enforcement of any order issued pursuant to this section. Where the civil action has been instituted to enforce the civil fine imposed by said order, the director need only show that the notice of violation and order were served, that a civil fine was imposed, the amount of the civil fine imposed and that the fine imposed has not been paid.

(f) Notwithstanding any other provision to the contrary, in addition to daily civil fines, the director may impose a fine in an amount equal to the total sum received by the owner, operator, or proprietor of a bed and breakfast home or transient vacation unit from any impermissible rental activity during the period in which the owner, operator, or proprietor was subject to daily fines.

(g) Nothing in this section shall preclude the director from seeking any other remedy available by law."



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SECTION 4. Chapter 21, Article 2, Revised Ordinances of Honolulu 1990, is amended by adding a new Section 21-2.150-3 to read as follows:

"Sec. 21-2.150-3 Depository of fees and civil penalties relating to bed and breakfast homes or transient vacation units.

Notwithstanding any other ordinance to the contrary, payments of fees and civil penalties relating to bed and breakfast homes or transient vacation units shall be deposited into a special account of the general fund, to be appropriately named by the department of budget and fiscal services, and used by the department of planning and permitting for expenses related to the enforcement of the provisions of this chapter relating to bed and breakfast homes and transient vacation units."

SECTION 5. Chapter 21, Revised Ordinances of Honolulu 1990 ("Land Use Ordinance"), is amended by adding a new Article 2A to read as follows:

"Article 2A. Hosting Platforms

Sec. 21-2A.10 Booking Services.

- (a) It is unlawful for a person acting as, or on behalf of, a hosting platform to provide and collect, or receive a fee for, booking services in connection with any bed and breakfast home or transient vacation unit located within the city if such bed and breakfast home or transient vacation unit is not lawfully registered, permitted, or otherwise allowed as a bed and breakfast home or transient vacation unit pursuant to this chapter at the time the bed and breakfast home or transient vacation unit is booked.
- (b) Hosting platforms shall not collect or receive a fee, directly or indirectly through an agent or intermediary, for facilitating or providing services ancillary to a bed and breakfast home or transient vacation unit in the city that is not lawfully registered, permitted, or otherwise allowed pursuant to this chapter, including, but not limited to, insurance, concierge services, catering, restaurant bookings, tours, guide services, entertainment, cleaning, property management, or maintenance of the residential property or unit.



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Sec. 21-2A.20 Registration.

- (a) It is unlawful for any hosting platform to provide booking services to owners or operators of bed and breakfast homes or transient vacation units located within the city without first registering with the department. In order to register, a hosting platform shall provide a hosting platform registration statement to the director, in a form prescribed by the director, pay a registration fee of \$100, and agree in writing:
- (1) To obtain written consent from all owners or operators of bed and breakfast homes or transient vacation units located within the city for the disclosure of the information required under Section 21-2A.30; and
 - (2) To furnish such information to the city in accordance with Section 21-2A.30.
- (b) A hosting platform may cancel its registration under this section by delivering written notice of cancellation to the director. The director may cancel a hosting platform's registration under this section for cause, including any violation of this article, by delivering written notice of cancellation to the hosting platform no later than 90 days prior to the effective date of cancellation. Nothing in this section relieves the owner or operator of a bed and breakfast home or transient vacation unit located within the city from the requirements set forth in Section 21-5.____.

Sec. 21-2A.30 Reporting.

- (a) Subject to applicable laws, all hosting platforms registered pursuant to Section 21-2A.20 shall report to the director on a monthly basis, on the date and in the electronic format specified by the director, for each bed and breakfast home and transient vacation unit located within the city for which the hosting platform provided booking services in the preceding month. The report must include:
- (1) The names of the persons responsible for each listing;
 - (2) The address of each listing;
 - (3) The transient accommodations tax identification number of the owner or operator of the bed and breakfast home or transient vacation unit;
 - (4) The length of stay for each listing; and



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- (5) The price paid for each stay.

- (b) The director may disclose such information to the appropriate state or city officials to ensure compliance with this article, state tax laws, and county tax ordinances, and any applicable land use laws and ordinances.

Sec. 21-2A.40 Penalties.

If the director determines that a hosting platform is violating any provision of this article, notwithstanding the civil fines specified in Section 21-2.150-2(c)(1)(C) and 21-2.150-2(c)(1)(D), a violator is subject to a civil fine of not less than \$1,000 and not more than \$10,000 for each day that the violation continues."



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SECTION 6. Table 21-3, Revised Ordinances of Honolulu 1990 ("Master Use Table"), is amended by:

- A. Amending the "Dwellings and Lodgings" category to add a "bed and breakfast homes" entry and revise the "transient vacation units" entry to read as follows:

**"TABLE 21-3
MASTER USE TABLE**

In the event of any conflict between the text of this Chapter and the following table, the text of the Chapter shall control. The following table is not intended to cover the Waikiki Special District; please refer to Table 21-9.6(A).

- KEY:** Ac = Special accessory use subject to standards in Article 5
 Cm = Conditional Use Permit-minor subject to standards in Article 5; no public hearing required (see Article 2 for exceptions)
 C = Conditional Use Permit-major subject to standards in Article 5; public hearing required
 P = Permitted use
 P/c = Permitted use subject to standards in Article 5
 PRU = Plan Review Use

ZONING DISTRICTS																					
USES (Note: Certain uses are defined in Article 10.)	P-2	AG-1	AG-2	Country	R-20, R-10	R-7.5, R-5, R-3.5	A-1	A-2	A-3	AMX-1	AMX-2	AMX-3	Resort	B-1	B-2	BMX-3	BMX-4	I-1	I-2	I-3	IMX-1
<u>Bed and breakfast homes</u>			P/c ³	P/c ³	P/c ³	P/c ³	P/c ³	P/c ³	P/c ³	P/c ³	P/c ³	P/c ³	P/c ³				P/c ³	P/c ³			
Transient vacation units							P/c	P/c ³					[P] P/c ³								



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B. Amending the footnotes to read as follows:

"Notes:

Where a proposed use is not specifically listed above, the director shall review the proposed use and, based on its characteristics and its similarity to the uses listed above, shall determine the regulatory requirements for that use.

¹ Commercial use subject to special density controls (see Table 21-3.3 and Section 21-3.90-1(c)(4)).

² Commercial use subject to special density controls (see Table 21-3.5 and Section 21-3.140-1(c))

³ Notwithstanding any contrary provisions in this chapter, bed and breakfast homes and transient vacation units are prohibited and may not operate without a valid nonconforming use certificate in areas where the applicable development plan or sustainable communities plan prohibits or does not permit new bed and breakfast homes or transient vacation units."

SECTION 7. Section 21-4.110-1, Revised Ordinances of Honolulu 1990, is amended to read as follows:

"Sec. 21-4.110-1 Nonconforming use certificates for transient vacation units.

(a) The purpose of this section is to ~~[treat]~~ permit certain transient vacation units ~~[which] that~~ have been in operation since prior to October 22, 1986, ~~[as nonconforming uses and to allow them]~~ to continue to operate as nonconforming uses subject to obtaining a nonconforming use certificate as provided by this section. This section applies to any owner, operator, or proprietor of a transient vacation unit who holds a valid nonconforming use certificate issued pursuant to this section on the effective date of this ordinance.

~~[(b) The owner, operator, or proprietor of any transient vacation unit which is operating in an area where such use is not expressly permitted by this chapter shall, within nine months of December 28, 1989, establish to the satisfaction of the director that the use was in existence prior to October 22, 1986 and has continued through December 28, 1989, or shall cease its operation. The owner, operator, or proprietor shall have the burden of proof in establishing that the use is nonconforming. Documentation substantiating existence may include records of occupancy or tax documents, such as State of Hawaii general excise tax records, transient accommodations tax records, and federal and/or State of Hawaii income tax returns, for the years 1986 to 1989. Upon a determination that the use was in existence prior to October 22, 1986 and has continued through December 28, 1989, the director shall issue a nonconforming use certificate for the transient vacation unit.~~



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~~(c) Failure to obtain a nonconforming use certificate within nine months of December 28, 1989 shall mean that the alleged nonconforming use, as of December 28, 1989, is not a bona fide nonconforming use, and shall not continue as a nonconforming use but shall be treated as an illegal use.]~~

~~(e)~~(b) The owner, operator, or proprietor of any transient vacation unit who has obtained a nonconforming use certificate under this section shall apply to renew the nonconforming use certificate in accordance with the following schedule:

- (1) between September 1, 2000 and October 15, 2000; then
- (2) between September 1 and October 15 of every even-numbered year thereafter.

Each application to renew shall include proof that (i) there were in effect a State of Hawaii general excise tax license and transient accommodations tax license for the nonconforming use during each calendar year covered by the nonconforming use certificate being renewed and that there were transient occupancies (occupancies of less than 30 days apiece) for a total of at least 35 days during each such year and that (ii) there has been no period of 12 consecutive months during the period covered by the nonconforming use certificate being renewed without a transient occupancy. Failure to meet these conditions will result in the denial of the application for renewal of the nonconforming use certificate. The requirement for the 35 days of transient occupancies shall be effective on January 1, 1995 and shall apply to renewal applications submitted on or after January 1, 1996.

~~(e)~~(c) The owner, operator, or proprietor of any transient vacation unit who has obtained a nonconforming use certificate under this section shall display the certificate issued for the current year in a conspicuous place on the premises. In the event that a single address is associated with numerous nonconforming use certificates, a listing of all units at that address holding current certificates may be displayed in a conspicuous common area instead.

(d) The provisions of Section 21-5. (c) shall apply to advertisements for transient vacation units operating under a nonconforming use certificate pursuant to this section."



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SECTION 8. Section 21-4.110-2, Revised Ordinances of Honolulu 1990, is amended to read as follows:

"Sec. 21-4.110-2 Bed and breakfast homes--Nonconforming use certificates.

- (a) The purpose of this section is to [~~prohibit bed and breakfast homes, while permitting~~] permit certain bed and breakfast homes [~~which~~] that have been in operation since prior to December 28, 1989, to continue to operate as nonconforming uses subject to obtaining a nonconforming use certificate as provided by this section. This section applies to any owner, operator, or proprietor of a bed and breakfast home who holds a valid nonconforming use certificate issued pursuant to this section on the effective date of this ordinance.
- ~~[(b) The owner, operator, or proprietor of any bed and breakfast home shall, within nine months of December 28, 1989, establish to the satisfaction of the director that the use was in existence as of December 28, 1989, or shall cease its operation. The owner, operator, or proprietor shall have the burden of proof in establishing that the use is nonconforming. Documentation substantiating existence of a bed and breakfast home as of December 28, 1989 may include records of occupancy or tax documents, such as State of Hawaii general excise tax records, transient accommodations tax records, and federal and/or State of Hawaii income tax returns, for the year preceding December 28, 1989. Upon a determination that the use was in existence as of December 28, 1989, the director shall issue a nonconforming use certificate for the bed and breakfast home.~~
- ~~(c) Failure to obtain a nonconforming use certificate within nine months of December 28, 1989 shall mean that the alleged nonconforming use as of December 28, 1989, is not a bona fide nonconforming use, and shall not continue as a nonconforming use, but shall be treated as an illegal use.]~~
- ~~[(d)](b)~~ The owner, operator, or proprietor of any bed and breakfast home who has obtained a nonconforming use certificate under this section shall apply to renew the nonconforming use certificate in accordance with the following schedule:
- (1) between September 1, 2000 and October 15, 2000; then
 - (2) between September 1 and October 15 of every even-numbered year thereafter.



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Each application to renew shall include proof that (i) there were in effect a State of Hawaii general excise tax license and transient accommodations tax license for the nonconforming use for each calendar year covered by the nonconforming use certificate being renewed and that there were bed and breakfast occupancies (occupancies of less than 30 days apiece) for a total of at least 28 days during each such year and that (ii) there has been no period of 12 consecutive months during the period covered by the nonconforming use certificate being renewed without a bed and breakfast occupancy. Failure to meet these conditions will result in the denial of the application for renewal of the nonconforming use certificate. The requirement for the 28 days of bed and breakfast occupancies shall be effective on January 1, 1995 and shall apply to renewal applications submitted on or after January 1, 1996.

~~[(e)](c)[Except those bed and breakfast homes which are nonconforming uses, and, after nine months from December 28, 1989, for which a nonconforming use certificate has been issued and renewed, as required, pursuant to this section, bed and breakfast homes are prohibited in all zoning districts.]~~ Section 21-5.350 relating to home occupations shall not apply to bed and breakfast homes.

~~[(f)](d)~~ Those bed and breakfast homes for which a nonconforming use certificate has been issued and renewed, as required, pursuant to this section shall operate pursuant to the following restrictions and standards:

- (1) Detached dwellings used as bed and breakfast homes shall be occupied by a family and shall not be used as a group living facility. Rooming shall not be permitted in bed and breakfast homes.
- (2) No more than two guest rooms shall be rented to guests, and the maximum number of guests permitted within the bed and breakfast home at any one time shall be four.
- (3) There shall be no exterior signage that advertises or announces that the dwelling is used as a bed and breakfast home.
- (4) One off-street parking space shall be provided for each guest room, in addition to the required spaces for the dwelling unit.
- (5) The provisions of Section 21-5. (c) shall apply to advertisements for the bed and breakfast home.



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~~[(g)](e)~~ The owner, operator, or proprietor of any bed and breakfast home who has obtained a nonconforming use certificate under this section shall display the certificate issued for the current year in a conspicuous place on the premises."

SECTION 9. Chapter 21, Article 5, Revised Ordinances of Honolulu 1990 ("Specific Use Development Standards"), is amended by adding a new section to be appropriately designated by the Revisor of Ordinances and to read as follows:

"Sec. 21-5. Bed and breakfast homes and transient vacation units.

- (a) Bed and breakfast homes and transient vacation units are permitted in the A-1 low-density apartment zoning district and A-2 medium-density apartment zoning district provided:
- (1) They are within 3,500 feet of a resort zoning district of greater than 50 contiguous acres; and
 - (2) The resort district and the A-1 or A-2 district, as applicable, were rezoned pursuant to the same zone change application as part of a master-planned resort community.
- (b) In all zoning districts where bed and breakfast homes are permitted, except for the resort district, resort mixed use precinct of the Waikiki special district, and the A-1 low-density apartment district and A-2 medium-density apartment district pursuant to subsection (a), and except as otherwise provided in subdivision (6), the following standards and requirements apply:
- (1) The owner or operator of a bed and breakfast home, including for purposes of this subdivision the trustee of a revocable trust that owns the subject property, shall register the bed and breakfast home with the department and shall submit the following in the initial application for registration:
 - (A) Affirmation that the applicant of the bed and breakfast home is a natural person;
 - (B) Affirmation that the applicant does not hold a registration for or operate more than one bed and breakfast home or transient vacation unit in the city at one time;



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- (C) A valid current State of Hawaii general excise tax license and transient accommodations tax license for the subject property;
- (D) Evidence of a real property tax home exemption for the subject property, and evidence that the applicant has a minimum 50 percent ownership interest in the subject property;
- (E) An initial fee of \$1,000 for the bed and breakfast home;
- (F) Evidence that the use as a bed and breakfast home is covered by an insurance carrier for the subject property;
- (G) Confirmation that the bed and breakfast home is permitted by any applicable homeowners association, apartment owners association, or condominium property regime articles, by-laws, and house rules;
- (H) An affidavit, signed by the owner, indicating that the owner does not own an interest in any other bed and breakfast home or transient vacation unit in the city;
- (I) A floor plan showing the location of guest rooms for a bed and breakfast home;
- (J) For bed and breakfast homes located in the AG-2 general agricultural district, evidence that the portion of the subject property that is not being used as a farm dwelling pursuant to Section 21-5.250, is currently dedicated for a specific agricultural use pursuant to Section 8-7.3; and
- (K) Evidence that a dwelling unit proposed for use as a bed and breakfast home:
 - (i) Is not an affordable unit subject to income restrictions;
 - (ii) Did not receive housing or rental assistance subsidies; and
 - (iii) Was not subject to an eviction within the last 12 months.



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- (2) Registration renewal requirements. Annually, by August 30, the owner or operator of a bed and breakfast home, including for purposes of this subdivision the trustee of a revocable trust that owns the subject property, shall submit to the department:
- (A) Affirmation that the applicant for the bed and breakfast home is a natural person;
 - (B) Affirmation that the applicant does not hold a registration for or operate more than one bed and breakfast home or transient vacation unit in the city at one time;
 - (C) Evidence of having paid State of Hawaii general excise taxes and transient accommodations taxes for the subject property;
 - (D) Evidence of a real property tax home exemption for the subject property;
 - (E) A renewal fee of \$2,000 for the bed and breakfast home;
 - (F) Evidence that the use as a bed and breakfast home is covered by an insurance carrier for the property;
 - (G) Confirmation that the bed and breakfast home is permitted by any applicable homeowners association, apartment owners association, or condominium property regime articles, by-laws, and house rules;
 - (H) An affidavit, signed by the owner, indicating that the owner does not own an interest in any other bed and breakfast home or transient vacation unit in the city; and
 - (I) For bed and breakfast homes located in the AG-2 general agricultural district, evidence that the portion of the subject property that is not being used as a farm dwelling pursuant to Section 21-5.250, is currently dedicated for a specific agricultural use pursuant to Section 8-7.3.



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The renewal of a registration for a bed and breakfast home will be granted upon receipt of an application meeting all requirements set forth in this section; provided that if complaints from the public indicate that noise or other nuisances created by guests disturbs residents of the neighborhood in which the bed and breakfast home is located, or where other good cause exists, the director may deny the renewal application.

- (3) Restrictions and Standards. Bed and breakfast homes must operate in accordance with the following restrictions and standards:
- (A) Dwelling units in detached dwellings used as bed and breakfast homes must be occupied by a family, and renters of any room in the detached dwelling other than the bed and breakfast home guests are not permitted;
 - (B) No more than two guest rooms in a bed and breakfast home may be rented to guests, and a maximum of four guests are permitted within the bed and breakfast home at any one time;
 - (C) Functioning smoke and carbon monoxide detectors must be installed in each bedroom;
 - (D) House rules, including quiet hours between 10:00 p.m. and 8:00 a.m., and emergency contact information for the owner or operator must be provided to all guests and posted in conspicuous locations;
 - (E) When any guest room in a bed and breakfast home is being rented to guests, the owner or operator shall remain on the premises during quiet hours;
 - (F) The owner or operator shall maintain a current two-year registry setting forth the names and telephone numbers of all guests and the dates of their respective stays;
 - (G) No exterior signage that shows the dwelling unit is used as a bed and breakfast home is allowed;
 - (H) Registration as a bed and breakfast home is not transferable, and shall not run with the land;



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- (I) Development Plan Area Density Limit. Excluding bed and breakfast homes and transient vacation units in the resort district, resort mixed use precinct of the Waikiki special district, and the A-1 low-density apartment district and A-2 medium-density apartment district pursuant to subsection (a), where there is no limit on the number of bed and breakfast homes and transient vacation units allowed, the number of bed and breakfast homes and transient vacation units permitted in each development plan area is limited to no more than one half of one percent of the total number of dwelling units in that development plan area. The total number of dwelling units in a development plan area will be based on the latest figures from the U.S. Census data. Where the initial number of bed and breakfast home applications for a development plan area exceeds the one half of one percent limitation, acceptance of applications will be selected on a lottery basis. When renewal applications fall below the one half of one percent limitation, new applications will be accepted on a lottery basis. The director shall adopt rules pursuant to HRS Chapter 91 to implement and administer the lottery;
- (J) Multifamily Dwelling Density Limit. Excluding multifamily dwellings in the resort district, resort mixed use precinct of the Waikiki special district, and the A-1 low-density apartment district and A-2 medium-density apartment district pursuant to subsection (a), unless otherwise specified in apartment bylaws, covenants, or correspondence from a homeowners association, apartment owners association, or condominium property regime, the total number of bed and breakfast homes and transient vacation units must not exceed 50 percent of the total dwelling units in a multifamily dwelling;
- (K) If a bed and breakfast home is located in the AG-2 general agricultural district, the portion of the subject property that is not being used as a farm dwelling pursuant to Section 21-5.250, must be currently dedicated for a specific agricultural use pursuant to Section 8-7.3;



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- (L) A bed and breakfast home must not be located within a 1,000-foot radius of another bed and breakfast home or a transient vacation unit; provided that this spacing requirement:
- (i) Does not apply as between (1) bed and breakfast homes and transient vacation units in the resort district, resort mixed use precinct of the Waikiki special district, or the A-1 low-density apartment district or A-2 medium-density apartment district pursuant to subsection (a), and (2) bed and breakfast homes located outside of those zoning districts and precincts; and
 - (ii) Does not preclude the continued operation of bed and breakfast homes operating under valid nonconforming use certificates pursuant to Section 21-4.110-2; and
- (M) The owner or operator shall provide occupants of dwelling units within 250 feet of the dwelling unit used as a bed and breakfast home with a phone number that must be answered 24 hours a day, to call in complaints regarding the bed and breakfast home. The owner or operator shall keep a log of all complaints received during the applicable registration period, and submit the log with each registration renewal application, and at any other time upon the request of the director. The log must include the name, phone number, and address of the complainant, date of the complaint, date the complaint was resolved, and how the complaint was resolved.
- (4) Upon reasonable notice, any bed and breakfast home must be made available for inspection by the department.
- (5) The violation of any provision of this subsection will be grounds for administrative fines and nonrenewal unless corrected before the renewal deadline. Recurring or multiple violations will result in denial of renewal requests.
- (6) This subsection does not apply to bed and breakfast homes operating under valid nonconforming use certificates pursuant to Section 21-4.110-2.



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- (7) The director may revoke a registration at any time under the following circumstances:
- (A) Recurring violations of the standards and requirements for bed and breakfast homes in Section 21-5. (b);
 - (B) Complaints from the public indicate that noise or other nuisances created by guests disturbs residents of the neighborhood in which the bed and breakfast home is located; or
 - (C) The director determines that good cause exists for revocation of the registration.
- (c) Advertisements.
- (1) Definitions. As used in this subsection:
- "Advertisement" means any form of communication, promotion, or solicitation, including but not limited to electronic media, direct mail, newspapers, magazines, flyers, handbills, television commercials, radio commercials, signage, e-mail, internet websites, text messages, verbal communications, or similar displays, intended or used to induce, encourage, or persuade the public to enter into a contract for the use or occupancy of a bed and breakfast home or transient vacation unit.
- "Person" means a judicial person or a natural person, and includes businesses, companies, associations, non-profit organizations, firms, partnerships, corporations, limited liability companies, and individuals.
- (2) Prohibition. Advertisements for all bed and breakfast homes and transient vacation units are subject to this subsection.
- (A) It is unlawful for any person to advertise or cause the advertisement of a bed and breakfast home or transient vacation unit without including in the advertisement:
 - (i) A current registration number obtained pursuant to this section, or nonconforming use certificate number obtained pursuant to Section 21-4.110-1 or Section 21-4.110-2; or



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- (ii) For bed and breakfast homes or transient vacation units located in the resort district, apartment precinct or resort mixed use precinct of the Waikiki special district, or in the A-1 low-density apartment district or A-2 medium-density apartment district pursuant to subsection (a), the street address, including, if applicable, any apartment unit number, for that bed and breakfast home or transient vacation unit.
- (B) Within seven days after receipt of a notice of violation, the owner or operator of a bed and breakfast home or a transient vacation unit shall remove, or cause the removal of, the advertisement identified in the notice, including, without limitation, any advertisement made through a hosting platform. If the advertisement is not removed within seven days after receipt of the notice of violation, a fine of not less than \$1,000 and not more than \$10,000 per day will be levied against the owner or operator associated with the bed and breakfast home or transient vacation unit, for each day the advertisement is on public display beyond seven days from the date the notice of violation is received.
- (C) The existence of an advertisement will be prima facie evidence that a bed and breakfast home or a transient vacation unit is being operated at the listed address. The burden of proof is on the owner of the subject real property to establish that the property is not being used as a bed and breakfast home or transient vacation unit, or that the advertisement was placed without the property owner's knowledge or consent.
- (3) Exemptions. The following are exempt from the provisions of this subsection.
- (A) Legally established hotels, whether owned by one person, or owned individually as unit owners but operating as a hotel as defined in Chapter 21, Article 10.
- (B) Legally established time-sharing units, as provided in Section 21-5.640.
- (C) Legally established dwelling units that are rented for periods of 30 consecutive days or more at any one time.



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(d) Unpermitted bed and breakfast homes or unpermitted transient vacation units.

(1) Definitions. As used in this subsection:

"Unpermitted bed and breakfast home" means a bed and breakfast home that is not:

- (A) Located in the resort district, resort mixed use precinct of the Waikiki special district, or A-1 low-density apartment district or A-2 medium-density apartment district pursuant to subsection (a);
- (B) Operating under a valid nonconforming use certificate pursuant to Section 21-4.110-2; or
- (C) Validly registered under this section.

"Unpermitted transient vacation unit" means a transient vacation unit that is not:

- (A) Located in the resort district, resort mixed use precinct of the Waikiki special district, or A-1 low-density apartment district or A-2 medium-density apartment district pursuant to subsection (a); or
- (B) Operating under a valid nonconforming use certificate pursuant to Section 21-4.110-1.

(2) It is unlawful for any owner or operator of an unpermitted bed and breakfast home or unpermitted transient vacation unit, or the owner or operator's agent or representative to:

- (A) Rent, offer to rent, or enter into a rental agreement to rent an unpermitted bed and breakfast home or unpermitted transient vacation unit for fewer than 30 consecutive days;
- (B) Rent, offer to rent, or enter into a rental agreement to rent an unpermitted bed and breakfast home or unpermitted transient vacation unit, where such rental, offer, or rental agreement limits actual occupancy of the premises to a period of less than the full stated rental period, or conditions the right to occupy the rented premises for the full stated rental period on the payment of additional consideration;



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- (C) Set aside or exclusively reserve an unpermitted bed and breakfast home or unpermitted transient vacation unit for rental or occupancy for a period of 30 consecutive days or more, but limit actual occupancy of the premises to a period of less than the full stated rental period, or condition the right to occupy the rented premises for the full stated rental period on the payment of additional consideration; or
- (D) Advertise, solicit, offer, or knowingly provide rental of an unpermitted bed and breakfast home or unpermitted transient vacation unit to transient occupants for less than 30 consecutive days.
- (e) Any person may submit a written complaint to the director reporting a violation of the provisions of this section regarding bed and breakfast homes and transient vacation units.
- (1) A complaint reporting a suspected violation of the provisions of this section must:
- (A) Identify the address of the bed and breakfast home or transient vacation unit that is the subject of the suspected violation;
- (B) State all of the facts that cause the complainant to believe that a violation has occurred;
- (C) Identify the provisions of this section that the complainant believes are being violated; and
- (D) Provide the complainant's address where the director may mail a response to the complaint.
- (2) Within 30 days after receiving a written complaint reporting a violation of the provisions of this section, the director must provide a written response to the complainant either:
- (A) Declining jurisdiction over the complaint, in which case the complainant may pursue judicial relief pursuant to HRS Section 46-4(b);



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- (B) Entering a finding of no violation, which will be appealable to the zoning board of appeals pursuant to Charter Section 6-1516; or
- (C) Advising the complainant that the director has initiated an investigation of the complaint."

SECTION 10. Section 21-5.640, Revised Ordinances of Honolulu 1990, is amended to read as follows:

"Sec. 21-5.640 Time sharing [~~and transient vacation~~] units.

Time sharing [~~and transient vacation~~] units [~~shall be~~] are permitted in the A-2 medium density apartment zoning district provided:

- (a) They are within 3,500 feet of a resort zoning district of greater than 50 contiguous acres; and
- (b) The resort district and the A-2 district shall have been rezoned pursuant to the same zone change application as part of a master-planned resort community."

SECTION 11. Table 21-6.1, Revised Ordinances of Honolulu 1990 ("Off-street Parking Requirements"), is amended by amending the "Commerce and Business" category to add an entry for "bed and breakfast homes" to read as follows:

"

Table 21-6.1 Off-street Parking Requirements	
Use¹	Requirement²
COMMERCE AND BUSINESS	
<u>Bed and breakfast homes⁷</u>	<u>1 per guest bedroom⁸</u>

"



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SECTION 12. The footnotes for Tables 21-6.1 ("Off-street Parking Requirements"), 21-6.2 ("Off-street Parking Requirements BMX 4 Central Business Mixed Use"), and 21-6.3 ("Off-street Parking Requirements Waikiki Special District"), Revised Ordinances of Honolulu 1990, are amended to read as follows:

"Notes:

1. Where a proposed use is not specifically listed above, or it falls under more than one use listed above, the director will review the proposed use and, based on the characteristics of the use, determine its equivalent and applicable off-street parking and loading requirements.
2. All references to square feet refer to floor area.
3. Parking standards for individual uses shall prevail if they are not part of a commercial use that meets the definition of "shopping center."
4. Where a proposed use is not specifically listed above, or it falls under more than one use listed above, the director will review the proposed use and, based on the characteristics of the use, determine its equivalent and applicable off-street parking and loading requirements for the BMX-4 district.
5. All references to square feet refer to floor area.
6. Where a proposed use is not specifically listed above, or it falls under more than one use listed above, the director will review the proposed use and, based on the characteristics of the use, determine its equivalent and applicable off-street parking and loading requirements for the Waikiki special district.
7. Excluding bed and breakfast homes in the resort district, resort mixed use precinct of the Waikiki special district, the A-1 low-density apartment district and A-2 medium-density apartment district pursuant to Section 21-5. (a), and bed and breakfast homes operating under valid nonconforming use certificates pursuant to Section 21-4.110-2.
8. This requirement is in addition to the off-street parking requirement applicable to the dwelling unit being used as a bed and breakfast home."



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SECTION 13. Table 21-9.6(A), Revised Ordinances of Honolulu 1990 ("Waikiki Special District Precinct Permitted Uses and Structures"), is amended:

- a. By adding a "bed and breakfast homes" entry and revising the "transient vacation units" entry to read as follows:

" Table 21-9.6(A)
Waikiki Special District Precinct
Permitted Uses and Structures "

Use or Structure	Precinct		
	Apartment	Resort Mixed Use	Public
<u>Bed and breakfast homes</u>	<u>P/c</u>	<u>P/c</u>	
Transient vacation units		[P] <u>P/c</u>	

"

- b. By amending the "Ministerial uses" note to the table to read as follows:

"Ministerial uses:

- Ac = Special accessory use. Also see: Article 10, Accessory use; and Section 21-5.330, Home occupations
- P = Permitted principal use
- P/c = Permitted use subject to standards in Article 5
- P9 = Permitted principal use subject to standards enumerated in Article 9; see Section 21-9.80-5(d), 21-9.80-6(d), or 21-9.80-8(d)
- P-AMX = Within the apartment precinct, a permitted principal use only within the apartment mixed use subprecinct"

SECTION 14. Chapter 21, Article 10, Revised Ordinances of Honolulu 1990 ("Definitions"), is amended by amending the definitions of "bed and breakfast home" and "transient vacation unit," and adding new definitions of "booking service" and "hosting platform" to read as follows:

"Bed and breakfast home" means a use in which overnight accommodations are advertised, solicited, offered, or provided, or a combination of any of the foregoing, to guests for compensation, for periods of less than 30 days, in the same detached dwelling as that occupied by an owner, lessee, operator, or proprietor of the detached dwelling. For purposes of this definition, compensation includes, but is not limited to, monetary payment, services, or labor of guests.



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"Booking service" means any reservation or payment service provided by a person that facilitates a transaction between an owner, operator, or proprietor of a bed and breakfast home or transient vacation unit, and a prospective user of that bed and breakfast home or transient vacation unit, and for which the person collects or receives, directly or indirectly through an agent or intermediary, a fee from any person in connection with the reservation or payment services provided for by the transaction.

"Hosting platform" means a person that collects or receives a fee from any person for booking services through which an owner, operator, or proprietor of a bed and breakfast home or transient vacation unit may offer use of the bed and breakfast home or transient vacation unit. Hosting platforms typically, but not necessarily, provide booking services through an online platform that allows the owner, operator, or proprietor to advertise the bed and breakfast home or transient vacation unit through a website provided by the hosting platform, and the hosting platform conducts a transaction by which potential users arrange the use of and payment for the bed and breakfast home or transient vacation unit, whether the payment is made directly to the owner, operator, or proprietor, or to the hosting platform.

"Transient vacation unit" means a dwelling unit or lodging unit ~~[which]~~ 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 ~~[employees]~~ transient occupants."

SECTION 15. An owner, operator, or proprietor of a transient vacation unit or a bed and breakfast home who holds a valid nonconforming use certificate issued pursuant to Sections 21-4.110-1 or 21-4.110-2 on the effective date of this ordinance shall be allowed to continue to operate the transient vacation unit or bed and breakfast home and renew the nonconforming use certificate pursuant to those respective sections. The owner, operator, or proprietor of the transient vacation unit or the bed and breakfast home shall cease its operation upon the expiration and nonrenewal of the nonconforming use certificate, provided that the owner, operator, or proprietor of a bed and breakfast home may thereafter apply to register the bed and breakfast home pursuant to the provisions of this ordinance.



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SECTION 16. No later than six months after the effective date of this ordinance, the Department of Planning and Permitting shall:

- (1) Establish and implement specific procedures by which the public may submit written or verbal complaints and investigation requests to the Department regarding potential violations of applicable laws regarding bed and breakfast homes and transient vacation units. The procedures must include the establishment and staffing of a telephone hotline for verbal complaints and investigation requests from the public;
- (2) Establish and implement specific procedures by which the Department investigates public complaints in a timely manner, efficiently obtains evidence pursuant to the investigations, and notifies the complaining parties of the status and results of the investigation; and
- (3) Conduct community outreach to educate the public regarding the complaint and investigative process, and publicize the availability of the hotline.

SECTION 17. No later than 10 days after the Department of Planning and Permitting receives the monthly reports from hosting platforms pursuant to Section 21-2A.30, the Department of Planning and Permitting shall prepare and submit a report to the Council showing, by Council district, for the month covered by the corresponding hosting platform reports:

- (1) The total number of bed and breakfast home listings in each district; and
- (2) The total number of transient vacation unit listings in each district.

SECTION 18. In SECTIONS 2 through 4 and 6 through 14 of this ordinance, material to be repealed is bracketed and stricken. New ordinance material is underscored. When revising, compiling, or printing this ordinance for inclusion in the Revised Ordinances of Honolulu, the Revisor of Ordinances need not include the brackets, the material that has been bracketed and stricken, or the underscoring. The Revisor of Ordinances shall, pursuant to the Revisor's authority under ROH Section 1-16.3(b)(1), replace the phrase "effective date of this ordinance" or similar phrase used in the codified language of this ordinance with the actual date on which the ordinance takes effect.



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SECTION 19. Severability. If any provision of this ordinance, or the application thereof to any person or circumstances, is held invalid, the invalidity does not affect other provisions or applications of the ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.



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SECTION 20. This ordinance takes effect on August 1, 2019; provided that SECTIONS 5, 6, 10, 11, 12, and 17, and the following amendments to the Revised Ordinances of Honolulu in SECTIONS 9 and 13 of this ordinance, take effect on October 1, 2020:

SECTION 9 – Section 21-5.__(a) and Section 21-5.__(b); and

SECTION 13 – Table 21-9.6(A) – addition of a "bed and breakfast homes" entry.

INTRODUCED BY:

Ernest Martin (br)

DATE OF INTRODUCTION:

November 15, 2018
Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Deputy Corporation Counsel

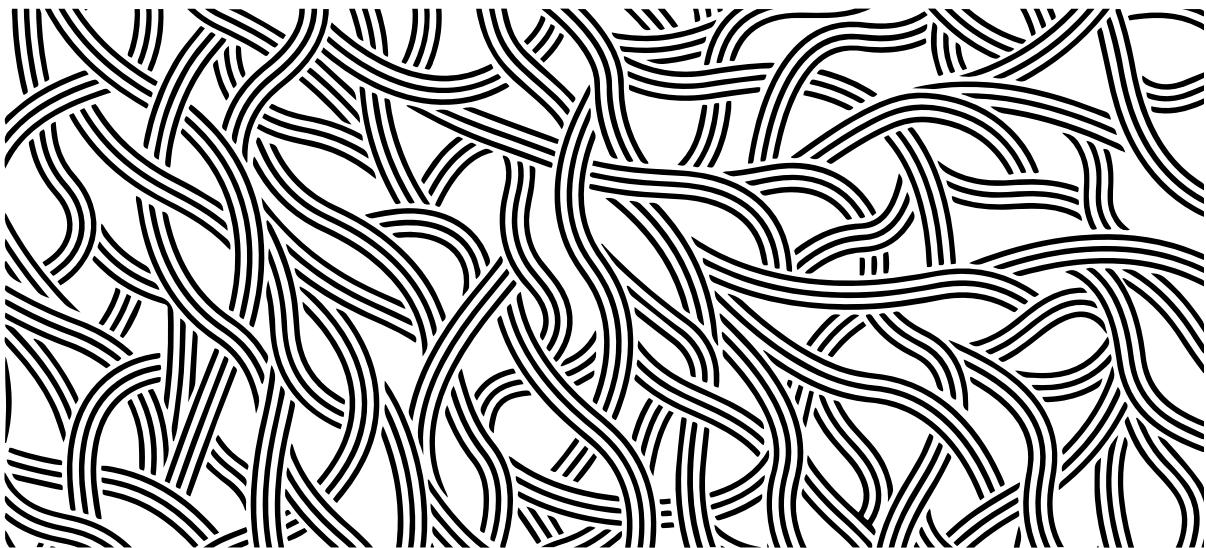
APPROVED this _____ day of _____, 20 _____ .

KIRK CALDWELL, Mayor
City and County of Honolulu

[oaklandca.gov](https://www.oaklandca.gov)

Short-Term Residential Rental Regulations

8-10 minutes



The mayors of Oakland & San Francisco have challenged each other to a Battle for the Bay on Creek to Bay Day, Sept. 21.

Short-Term Residential Rentals (STRRs) raise important questions about local priorities and the larger role STRRs play in cities and neighborhoods. In cities with high housing demand, such as Oakland, a primary concern is the potential impact of STRRs on housing availability, affordability, and the impact on our neighborhoods.

About

Below are the current requirements regarding Short-Term

Residential Rentals.

Frequently Asked Questions (FAQs) for Short Term Residential Rentals (STRR)

Existing Regulations as of 12/5/2018 (updated after code changes adopted by City Council on 12/4/18)

1.Q: What are the current City of Oakland regulations for Short-Term Residential Rentals, such as Airbnb, VRBO, HomeAway, Flipkey, etc. for single-family home, duplex, apartment/condo, live/work unit, or room? (see FAQ #2 below for Secondary Unit, i.e. Accessory Dwelling Unit/in-law unit requirements)

A: Current planning regulations prohibit any rental of a single-family home, duplex, apartment/condo, live/work unit, or room for less than thirty (30) days, based on the City's definition of "Permanent Residential Activities", which are defined as the occupancy of living accommodations on a thirty (30) days or longer basis, with none of the living units under the same ownership or management on the same lot being occupied on a shorter basis. If you are renting your single-family home, duplex, apartment/condo, live/work unit, or room for less than thirty (30) days, the Oakland Planning Code defines the activity as "Transient Habitation" (or essentially a hotel). Most residential and commercial zones in the City of Oakland do not allow Transient Habitation, with the exception of designated zones in downtown, along the waterfront, near the airport, along the I-880 freeway, and in Specific Plan areas. All of the zones that do allow Transient Habitation still require a major Conditional Use Permit (CUP) for that activity. The only current exceptions to the Transient Habitation activity restrictions is if the facility is classified

as either a “Bed and Breakfast” or a “Semi-Transient Residential Activity.” (Please see the answer to #5 below for more detailed requirements).

2.Q: What are the current City of Oakland regulations for Short-Term Residential Rentals, such as Airbnb, VRBO, HomeAway, Flipkey, etc. in a Secondary Unit (accessory dwelling unit, or in-law unit)?

A: Oakland’s Secondary Unit regulations were updated in May 2017 to require: “occupancy of a Secondary Unit shall be on a thirty (30) days or longer basis only.” Therefore, rental of a Secondary Unit for less than thirty (30) consecutive days is not allowed, per [Planning Code Section 17.103.080\(A\)\(2\)](#).

3.Q: Am I required to pay business taxes to the City of Oakland for my rental unit or room rental?

A: Yes. All persons who conduct business in the City of Oakland and owners of rental property (residential, commercial and industrial) are required to file and pay an annual business tax. Every person engaged in the business of conducting or operating an apartment house, lodging house, and every person engaged in the business of conducting or letting rooms, and/or any building structure, for dwelling, sleeping or lodging, including, and limited to, a single-family house, duplex, townhouse, condominium or co-operative, is required to pay a business tax. For more information about business taxes, [please click here to see the City of Oakland’s, Finance Departments webpage](#).

4.Q: Am I required to collect and remit Transient Occupancy Taxes (TOT)?

A: Yes. Every person occupying any hotel/motel, lodge or B&B (bed

& breakfast) within the City of Oakland for any period up to thirty (30) consecutive days is required to pay the Transient Occupancy Tax (TOT) to the operator at the time the rent for occupancy is paid. The current rate is 14% of the rent charged, as stipulated in Chapter 4.24 of the Oakland Municipal Code. Every hotel, motel, lodge and B&B operator is responsible for collecting and remitting TOT to the Tax Administrator. The amount of tax shall be reported separately from the amount of rent charged. It is unlawful for any hotel operator to advertise or state in any manner (directly or indirectly) that the tax or any part thereof will be assumed or absorbed by the operator, or that it will not be added to the rent, or that, if added, any part will be refunded. For more information about Transient Occupancy Taxes (TOT), [please click here to see the City of Oakland's, Finance Department webpage on TOT.](#)

5.Q: What are the different Activities that Short-Term Residential Rentals could fall under in the Oakland Planning Code (OPC) under today's regulations?

A: The City of Oakland's Planning Code (Title 17), regulates activities that occur in different zones throughout the City of Oakland. Since there is currently no one activity category for Short-Term Residential Rentals, rentals of all kinds fall under one of the following activity types in OPC Chapter 17.10 Part 1 - Residential Activity Types:

OPC Section 17.10.110 – Permanent Residential Activities:

Includes the occupancy of living accommodations on a thirty (30) days or longer basis only. Therefore; rental of a single-family home, duplex, apartment/condo, live/work unit, or room; for instance, for less than thirty (30) consecutive nights is not considered a Permanent Residential Activity and falls under OPC Section

17.10.125 – Bed and Breakfast Residential Activities or OPC
Section 17.10.440 – Transient Habitation Commercial Activities
listed below.

OPC Section 17.10.120 – Semi-Transient Residential Activities:

Includes the occupancy of living accommodations partly on a thirty (30) days or longer basis and partly for a shorter time period, but with less than thirty percent (30%) of the living units under the same ownership or management on the same lot being occupied on a less-than-thirty (30) day basis; but exclude institutional living arrangements involving the provision of a special kind of care or forced residence, such as in nursing homes, orphanages, asylums, and prisons.

Semi-Transient Residential Activities generally require a Conditional Use Permit and are not allowed at all in most residential zoning districts.

OPC Section 17.10.125 – Bed and Breakfast Residential

Activities: The provision of lodging services to transient guest on a less-than-thirty (30) day basis and have each of the following characteristics: A. The activity occupies a One-Family Dwelling Residential Facility, One-Family Dwelling with Secondary Unit Residential Facility, or a Two-Family Dwelling Residential Facility; B. The activity allows no more than twelve (12) adult paying guests at any time and contains no more than six (6) guest units; C. The activity is located in a facility that is owner occupied; D. The activity is located in a facility on a property with an existing or contingency historic rating of "A", "B", "C", or "D", or is a Landmark according to the City of Oakland Office of Historic Preservation; E. The facility includes incidental eating and drinking services for lodgers only that are provided from a single kitchen per bed and breakfast

establishment.

Bed and Breakfast Residential Activities generally require a Conditional Use Permit and are not allowed at all in some zoning districts.

OPC Section 17.10.440 – Transient Habitation Commercial Activities: Includes the provision of lodging services to transient guests on a less-than-thirty (30) day basis. Therefore, all rentals in the City of Oakland of less than thirty (30) consecutive nights that are not approved as either a Bed and Breakfast or Semi-Transit Residential Activity fall under this classification.

[cbc.ca](https://www.cbc.ca)

How have Vancouver's Airbnb rules affected the housing market? | CBC News

Christine Coulter · CBC News · Posted: Feb 21, 2019 3:01 PM PT | Last Updated: February 21

4-5 minutes

It's been almost one year since Vancouver introduced bylaws around short term rentals through sites like Airbnb. But Vancouver housing advocate Rohana Rezel says the rules have had little impact.



Rohana Rezel says that home-sharing is a great idea in theory, but he continues to see hundreds of violations. (Tina Lovgreen/CBC)

Hundreds of landlords are still flouting the law almost a year after Vancouver introduced rules around short-term rentals, says a housing advocate who is unconvinced of the bylaw's clout.

City bylaws introduced April 19 require hosts to obtain a business licence and state that a landlord can only rent out their principal residence, or, if the residence is already rented long term, the tenant may operate a short-term rental with the owner's permission.

The initiative was the city's response to short-term vacation rentals wreaking havoc with housing for long-term renters.

But Vancouver housing advocate Rohana Rezel, a candidate for council in the last municipal election, says a quick scan of 4,000 Vancouver units listed on the site showed at least 800 in clear violation of the bylaws.

He said hosts are getting around the bylaws by describing multiple units under one listing or simply typing "exempt" as their licence, because the city has no software to track and validate each licence number.

"There were hosts listing more than one unit, more than one entire home or apartment," said Rezel.

Problem with enforcement

Rezel says these problems persist because the memorandum of understanding between Airbnb and the city was flawed to begin with. It absolves Airbnb of wrongdoing or responsibility when it comes to cracking down on the hosts.

Although Airbnb has agreed to help the city enforce the rules, Rezel

says enforcement is ultimately up to the city.

But Rezel thinks the city should do more to pressure the company.

"If you put the onus on Airbnb to police the hosts, I think we can make some progress on tackling this problem," he said.

"The cities that have successfully cracked down on Airbnb have made the platform accountable."

Vancouver a 'great model'

Chris Lehane, the head of global policy and public affairs for Airbnb, says that Vancouver is a "great model" for cities dealing with housing accessibility.

And when it comes to concerns over policing, Lehane says the company and the city share information that leads to effective enforcement overall.

"The regulatory framework here works," he said.

"Ultimately, we did take down 2,500 listings and we are working closely with the City of Vancouver to make sure this is working as well as possible."

When presented with Rezel's criticisms, Kathryn Holm — the chief licence inspector with the City of Vancouver — maintained its relationship with Airbnb is working.

"Airbnb provides the city with data on a quarterly basis to support enforcement efforts, and we are very pleased to be working with them to help ensure all Vancouver listings on Airbnb are licensed," Holm said.

Lehane says that short-term rentals are benefiting nearly 5,000

Vancouverites who are supplementing their incomes.

Rezel agrees in theory that home-sharing is a great way for people to make some extra money on a spare room — but says too many people are not using it this way.

He also says he's still hearing stories of people getting kicked out of their homes so the landlord can operate Airbnb, even though it's against the law.

"People are leaving the city because they can't find housing," said Rezel.

Click below to hear the full interview with Rohana Rezel:

With files from [The Early Edition](#)

[opb.org](https://www.opb.org)

Portland Reaches Rental Data Sharing Agreement With Airbnb

Amelia Templeton

4-5 minutes

UPDATE (Thursday, Sept. 5, 8:35 a.m.) – Portland officials have [reached a landmark agreement](#) with one of the largest online vacation rental platforms, Airbnb, that will make it easier to remove listings that violate Portland regulations.

Airbnb has agreed to share data with regulators about the listings posted on its site and pay the city a small annual fee to facilitate data sharing and enforcement.

The deal follows years of negotiations – and legal action – between the city and the company.

After becoming the first city to formally legalize short-term rentals, Portland has struggled to enforce the permitting rules it laid out that were intended to limit the impact of vacation rentals on the housing market as the cost of housing steadily increased.

The agreement with Airbnb follows a federal appeals court ruling in March that dealt a blow to the internet-freedom argument that Airbnb and other vacation rental sites have used to argue that they are not responsible for policing the listings on their sites.

The city subpoenaed Airbnb in 2017, seeking data it could use to

crack down on [unpermitted vacation rental listings](#). In June, the council adopted a new ordinance that banned Airbnb from collecting fees for unpermitted rentals.

The city and Airbnb signed the new data-sharing deal on August 30.

Thomas Lannom, the director of Portland's Revenue Bureau called the data-sharing agreement "the toughest in the nation" in an email to the mayor and city council.

Starting this December, the company has agreed to provide regulators with data on its vacation rental listings on a monthly basis.

Data the city will receive on listings includes the name, mailing address and contact information for the person listing the property, address of the rental location, a description and URL for the listing, and booking and transaction information including the number of guests.

Most of that data will be considered public record, and information about permitted short-term rentals will be publicly available on the city's Portland Maps website.

Beginning January 1, Airbnb will remove listings posted by hosts who do not give permission to have their data shared with city regulators. Lannom said he expects that could trigger Airbnb to remove up to 1,500 listings in Portland.

In exchange, the city has agreed to streamline its permitting process. It will no longer require in-person inspections for every vacation rental, and it will reduce the number of forms vacation rental owners have to fill out. The city has also agreed to allow

Airbnb to continue to list properties that have pending permits, or that appeal a decision to deny them a permit.

The data sharing could lead to a significant crackdown on unpermitted vacation rentals.

Last year, the city auditor estimated that just 22% of listings in the city had permits. Approximately 60% of the listings were for entire homes or apartments.

Portland regulations require hosts to live on the property they are renting for at least nine months each year and to limit guest stays to 30 days. They also have to obtain a permit and a business license.

A second major short-term rental company, Home Away, has reached its own agreement with the city that doesn't require the company to share its users' data.

The company has agreed to rely on a registry Portland posts of permitted rentals, and to remove any listings that don't appear in the registry. The city had reached an initial agreement with Home Away earlier this year.

All other short-term rental platforms have been notified they must also remove their non-compliant listings by September 30.

Editor's note: This story has been updated to reflect that city officials estimate Airbnb could remove up to 1,500 listings if hosts will not agree to share data with regulators.