

FROM THE OFFICE OF  
**SENATOR STANLEY CHANG**  
East Honolulu Community Newsletter

August 2019



## New Vacation Rental Ordinance Enforcement Begins

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

The new ordinance:

- Allows a **limited number** of new Bed and Breakfast Homes (B&B) in non-resort areas under a new registration process, with **annual renewal** required.
- Continues to prohibit Transient Vacation Units, or “unhosted” rentals, in non-resort areas, unless the dwelling has a **Nonconforming Use Certificate (NUC)**.
- Regulates hosting platforms, such as **Expedia** or **Airbnb**, requiring **monthly reports** to be filed with the Department of Planning and Permitting, which will share the information with City Council.
- Makes illegal any form of advertising short-term rentals which are not in compliance with **zoning regulations** as provided in Ord. 19-18.

Ord. 19-18: [bit.ly/2IS637x](http://bit.ly/2IS637x)

The following Questions and Answers are based on calls and emails that our office has received since Bill 89 passed:

### Advertising

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

After **August 1, 2019**, only if the dwelling has a NUC or is located in a resort area.

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

Beginning **August 1, 2019**.

*What are the fines for illegal advertising?*

Owners of the property involved in illegal advertising will be notified, and if the advertisement is taken down in **7 days**, no fine will be imposed for a first offense. If not taken down within this deadline, fines of between **\$1000** and **\$10,000** can be imposed for each day the advertisement remains on display.

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#### ▶ CALL US

808-586-8420

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#### ▶ HANDY CONTACTS

State Pothole Hotline  
808-586-7852

City Pothole Hotline  
808-768-7777

State Homelessness  
[gov.homelessness@hawaii.gov](mailto:gov.homelessness@hawaii.gov)  
808-586-0193

City Homelessness  
[complaints@honolulu.gov](mailto:complaints@honolulu.gov)  
808-768-4381

Abandoned Vehicles  
808-733-2530

Building Permits  
808-768-8000

Trash Collection  
808-768-3200

Street Light Repair  
808-768-5300

## IN THE COMMUNITY



### ROTARY CLUB OF KAHALA SUNRISE

June 26, 2019 ◀ Senator Chang presented his ALOHA Homes plan to the Rotary Club of Kāhala Sunrise.



### "WORLD PEACE DREAMER"

June 26, 2019 ◀ Senator Chang met with Chandini Bachman and Rufino Magliba on her proposed donation of a statue titled "World Peace Dreamer" to the State. This torch was used for the Peace Run, a global torch relay that has visited 100 countries and touched the lives of millions.



### SIGNING OF HB1312

July 2, 2019 ▲ Senator Chang and other legislators watch Governor David Ige sign HB 1312 into law, allocating \$100 million over two years for affordable rental housing construction.



### US SENATOR BRIAN SCHATZ

July 3, 2019 ◀ Senator Chang met with US Senator Brian Schatz, who has called affordable housing one of most important issues facing the whole country.

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

Specify in the ad that the rental period is a **minimum of 30 days or more**. Do not include any rental rates of less than a monthly basis.

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

Yes, you may be cited for illegally advertising. If the platform is unwilling to change its policy, you may have to decide whether to continue participating on that platform.

*To comply with the law, people will be advertising only 30-day stays. But, in follow-up conversations, they will offer*

*daily and weekly stays. How will you know who's doing this to skirt the law?*

Advertising is a new violation, but actually staying in a home for less than 30 days is still a violation. The DPP will continue to monitor for occupancy violations. Also, just as a caution to homeowners, Governor David Ige recently signed House Bill No. 807 (Act 114), which makes it a misdemeanor offense to knowingly make a false statement to a county inspector. This is not something that we plan to use, but it is a tool in our enforcement toolkit.

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

They may be, but Ord. 19-18 says, "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

# SHORT-TERM RENTALS

was placed without the property owner's knowledge or consent."

## Registration of New Bed and Breakfast Homes

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

Yes, unless you already have a NUC.

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

No.

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

Yes.

*When can I register?*

Registration will begin on **October 1, 2020**, although we are considering a preregistration process before then.

*Why do we have to wait more than year to register?*

The time is required for the Department to develop more specific procedures for implementing Ord. 19-18, including the adoption of rules, and creating the software to help with enforcement and the registration process. If necessary, it provides time to acquire more staff and to train them. For applicants, it may take time for them to fulfill some of the filing requirements, such as obtaining their AOA approval, if applicable.

*What are the registration requirements?*

There are more than a dozen requirements. Most notable:

- Applicants must be "natural persons," and not an organization or company
- Applicants must have a **home exemption** granted under real property tax law
- There must be **insurance** coverage for bed and breakfast use

- The initial registration fee is **\$1,000**. For annual renewals, the fee is **\$2,000**
- **No more than 2 bedrooms** can be used for visitor accommodations
- Quiet hours must be observed **between 10 p.m. and 8 a.m.**
- If part of a **homeowners or apartment owners association**, approval by that association must be obtained
- Neighbors within 250 feet must be given a **phone number** to contact to make complaints, 24 hours a day

For the complete list of requirements, refer to Ord. 19-18: [bit.ly/2IS637x](https://bit.ly/2IS637x)

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

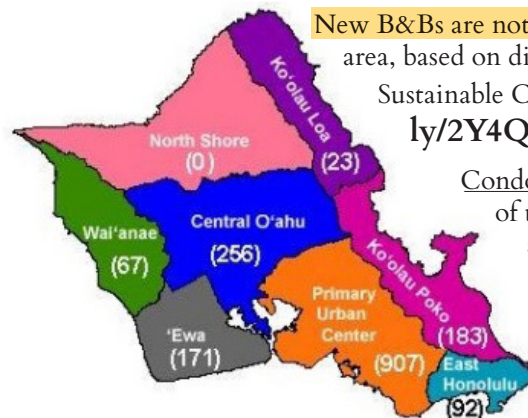
No, the NUC program will continue as usual—they have to be renewed every even-numbered year. Ord. 19-18 only requires those with NUCs to include the NUC number in advertisements beginning **August 1, 2019**.

*Where can I find a list of NUCs?*

For a complete list, please visit: [bit.ly/30wM6Jm](https://bit.ly/30wM6Jm)

*Are there other requirements?*

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



**New B&Bs are not allowed in the North Shore area**, based on directives of the North Shore Sustainable Communities Plan: [bit.ly/2Y4QpLg](https://bit.ly/2Y4QpLg)

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

**Separation Minimum.** B&Bs must be at least 1,000 feet from each other. This does not apply

to units in resort areas and NUCs. Clearly, there is a conflict between the condo limit and this separation limit. While we are still looking into it, this may practically result in only 1 unit per building.

**Nontransferable.** Registration numbers are not transferable to another property, nor transferable to another homeowner.

**Renewal Criteria.** Noise and other nuisance complaints can be grounds to deny renewal requests.

Refer to Bill 89 CD2 for the complete requirements: [bit.ly/2IS637x](https://bit.ly/2IS637x)

*How long will it take to get registered?*

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# SHORT-TERM RENTALS

It is not yet determined. An online registration process is anticipated, but certain requirements will have to be verified; e.g. compliance with parking requirements.

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

There is no provision for guarantees.

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

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

*How will the lottery system work?*

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

*I'm currently operating a B&B, and don't have a NUC so need to register. Will I get priority in the registration process?*

No.

*Can I advertise & operate a short-term rental once I register?*

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

*I pay my taxes for my rental—doesn't that make me legal?*

No, not necessarily. If you are renting the unit for 30 days or more, you are legal. If you have a NUC, or are in the resort area, you are legal. Otherwise, you are likely operating an illegal vacation rental.

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

If you're legally operating, you can go about your business as usual. If you're renting for less than 30 days, don't have a NUC, aren't in a resort area, the decision is yours as to whether to continue illegally. But beginning **August 1**, we'll vigorously enforce Ord. 19-18.

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

No, the city does not override private homeowner association rules.

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

In this case, the homeowners' association cannot override or substitute for county ordinances.

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

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

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

## More Information

Refer to the Department's website: [honolulu.dpp.org](http://honolulu.dpp.org)

Follow the Department's Twitter account: [@hnl\\_dpp](https://twitter.com/hnl_dpp)

Email the Department: [info@honolulu.dpp.org](mailto:info@honolulu.dpp.org)

Call the Department:

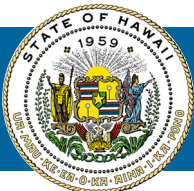
General Zoning Information: 808-768-8252

Advertising Restrictions: 808-768-8127

Registration Process: 808-768-8127

Make a complaint: 808-768-8127

Public Information Officer: 808-768-8284



FROM THE OFFICE OF  
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