

PROPOSED SHORT TERM VACATION RENTAL PROGRAM Hawai'i County Council Bill 108

The goal of Bill 108 is to ensure that short-term rentals do not negatively affect the County's housing supply or damage the character of our neighborhoods. Bill 108 attempts to establish a fair and well balanced program that will serve to define where this use will be allowed, how it will be regulated as well as providing an avenue for those currently in existence to apply for a nonconforming use certificate that would allow them to continue to operate in a non-permitted district.

WHAT IS A SHORT-TERM VACATION RENTAL?

Bill 108 defines a Short-Term Vacation Rental as:

- A dwelling unit;
- Where the rented unit may be in the main dwelling, a guest house, and/or ohana dwelling on the same building site, provided there are no more than five bedrooms on the building site.
- Where the owner or operator **does not** reside on the building site;
- Rented to transients for a period of thirty consecutive days or less;
- Is **not** the owner's primary residence.

Based on this definition, Bill 108 would **not** apply to:

- Dwelling units where the owner or designated operator lives on the same building site as the rented units;
- Where the dwelling unit is the owner's primary residence and the owner rents the dwelling while the owner is out of town for a portion of the year;
- Rentals longer than 30 consecutive days (however, any dwelling unit rented less than 180 days per year is subject to the Transient Accommodation Tax (TAT) collected by the State).

WHAT IS REQUIRED FOR A SHORT-TERM VACATION RENTAL TO BE LEGAL?

- Registration. In order to be permitted, all existing and future short-term vacation rentals must register with the County of Hawaii.
- Use Permit. A Use Permit may be required depending on the zoning district.
- Permitted Districts.
 - Registration Only. All short-term vacation rentals, existing or future, must register to legally operate in the following districts:
 - Resort Hotel District (V),
 - General Commercial District (CG),
 - Downtown Hilo District (CDH);
 - General Plan Resort and Resort Nodes except Single Family Residential (RS) Districts.

- Registration Contingent on Use Permit. Use Permit is required as a condition to register for short-term rentals in:
 - Commercial Village District (CV);
 - Single Family Residential (RS) Districts located within the General Plan Resort or Resort Nodes.

- Unpermitted Districts. Unless issued a nonconforming certificate, short-term vacation rentals would not be permitted in the following zoning districts:
 - Residential Districts
 - RS Single Family Residential
 - RD Double Family Residential
 - RM Multiple Family Residential
 - RCX Residential Commercial Mixed Use
 - Agricultural Districts. For lots located within the State of Hawaii Agricultural Land Use District, only lots created prior to June 4, 1976 are eligible for a nonconforming use certificate. The State Land Use Law prohibits short-term vacation rentals for all other lots created after 1976.
 - RA Residential and Agricultural
 - FA Family Agricultural
 - A Agricultural
 - IA Intensive Agricultural
 - Commercial and Industrial Districts
 - CN Neighborhood and Commercial
 - MCX Industrial Commercial Mixed
 - ML Limited Industrial
 - MG General Industrial
 - Open (O)
 - Special Districts.
 - PD Project District (Short-term vacation rentals must be specifically permitted in the ordinance creating the project district)
 - APD Agricultural Project District
 - UNV University District

- Nonconforming Use Certificate. An *existing* short-term vacation rental may continue operations in an unpermitted zoning district upon obtaining a nonconforming certificate within 180 days from the adoption of Bill 108, but no future short-term vacation rentals would be permitted in those zoning districts.

- Private Covenants. It is important to note that the permissibility of short-term vacation rentals by ordinance does **not** preempt any restrictions in private Covenants Conditions and Restrictions appurtenant to the unit. Owners should check their ownership legal documents.

WHAT WILL BE THE PROCESS TO BECOME A LEGAL SHORT-TERM VACATION RENTAL?

To comply with the proposed requirements in Bill 108, an owner of a short-term vacation rental would need to take the following steps:

1. Consult with the Planning Department to determine whether the short-term vacation rental is in a permitted or unpermitted zoning district, and whether a Use Permit would be required.
2. Submit a registration form if located in a permitted zoning district with the following information: evidence of proper tax licenses (e.g., GET, TAT), property tax and State tax good standing certificates, compliance with parking requirements, Use Permit approval as applicable.
3. Submit a nonconforming certificate application if located in an unpermitted district with the following information: evidence of proper tax licenses (e.g., GET, TAT), property tax and State tax good standing certificates, compliance with parking requirements, Use Permit approval as applicable, evidence of continuous operation prior to July 20, 2018.

WHERE CAN I GET MORE INFORMATION?

- Zoning Code (Hawai'i County Code Chapter 25). The zoning code provides information on the requirements for each zoning district (e.g., permitted uses, height limits, setback), Use Permit procedures, guest house requirements, ohana unit requirements.
- General Plan. The General Plan has a land use map referred to as the Land Use Pattern and Guidance (LUPAG) map. The LUPAG map shows the locations of the Resort and Resort Node general plan designations. (<http://www.hiplanningdept.com/wp-content/uploads/2014/07/GP2005AmendthruOrd14-097.pdf>)
- State Land Use Law (Hawai'i Revised Statutes Chapter 205). The State Land Use Law classifies all land in the State into four districts: Urban, Agricultural, Rural, and Conservation. This law requires all residential dwellings in the Agricultural District to be a farm dwelling (must have agricultural activity on the property), except if the lot was created prior to June 4, 1976.
- Map. A web map of Zoning Districts where Short-term Vacation Rentals would be permitted will be made available. The website link will be publicized when ready.