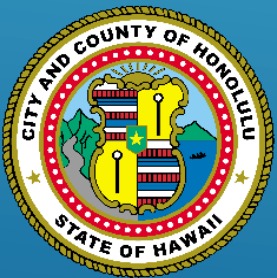


HONOLULU BOARD OF REALTORS AGENT FORUM

**BILL 89 (2019) RELATING TO SHORT-TERM
RENTALS
ORDINANCE 19-18**

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Department of Planning and Permitting**





CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ORDINANCE 19-13

BILL 89 (2018), CD2

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 Current Land Use Ordinance enforcement tools are outdated and not effective in regulating the expanding short-term rental industry, particularly with respect to social media advertising and online booking services.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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Findings and Purpose:

- A need for better regulate short-term rentals
- Impact on the community
- Intent is to balance competing views associated with short-term rentals.

Background:

Formation of a Short Term Rental Advisory Task Force – purpose

- 1) To get all points noted; and
- 2) Offer reasonable, legal, solutions (based upon facts

All this in 6 meetings to be completed by February 2018

Output

- 1) Whitepaper produced by the Department of Planning and Permitting; and
- 2) Draft Bill produced was the originally proposed Bill 89 (2018) from this Task Force.

How A Bill Becomes An Ordinance

- 1.** Bills are drafted by City departments or the Council.
- 2.** Upon receipt by the Council, bills are placed on the Order of the Day for passage on first reading.
- 3.** After first reading, bills are referred to the appropriate committees for review or amendment. The bills, as approved by the committees, are sent back for public hearing and passage on second reading.
- 4.** A public hearing is held when required by law, or when deemed necessary by the Council. Bills usually pass second reading concurrently with public hearing.
- 5.** Bills are required to be published in the daily newspaper after passage on second reading.
- 6.** After second reading and public hearing, bills are referred back to the committees for further review or amendment.
- 7.** Upon approval by the committees, bills are sent back to Council for passage on third reading.
- 8.** After third reading, bills are transmitted to the Mayor for approval or disapproval.

Bill 89 (2018)CD2
Ordinance 19-18

SIGNIFICANT DATES

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AUGUST 1, 2019

- 1. Prohibition on advertising for all bed and breakfast homes and transient vacation units without registration. Currently the only registered STRs are the existing units which have valid Nonconforming Use Certificates (NUCs).**
- 2. Various zoning amendments pertaining to permitted uses for bed and breakfast homes and transient vacation units.**
- 3. Specific enforcement requirements and penalties associated with noncompliance.**

October 1, 2020

Sections 5,6,10,11,12, 17 and portions of Section 9 and 13

1. Bed and breakfast homes and transient vacation units. Permitted in A-1 and A-2 zoning districts provided they are within 3,500 feet of a resort zoning district and greater than 50 contiguous acres, and were rezoned as part of a master-planned resort community.
2. Specifies the requirements for bed and breakfast home.
3. Registration requirements for both the host platforms and the units.
4. Bed and breakfast homes outside of resort, resort mixed use precinct of Waikiki special district, and the A-1 and A-2 apartment zone district are limited to 0.5% of the total number of dwelling units in that development area based upon the latest figures of the U.S. Census data. Applications will be accepted on a lottery basis. In addition no bed and breakfast home can be located within a 1,000-foot radius of another bed and breakfast home or a transient vacation units. (Exemption: existing bed and breakfast homes operating under a valid nonconforming use certificates).

WHAT HAPPENS ON AUGUST 1, 2019?

ENFORCEMENT!

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Act 114, HB No. 807

Relating to offenses against public administration

Unsworn falsification to authorities:

It is a misdemeanor to:

1. Makes any statement, in written, printed, or electronic form, which the person does not believe to be true, in an application for any pecuniary or other benefit or in a record or report required by law to be submitted to any governmental agency;
2. Knowingly makes a false statement in written, printed, electronic, or oral form, to a state investigator or county inspector during an investigation into compliance with any state law, rule, or regulation or any county ordinance, rule, or regulation;
3. Submits or invites reliance on any statement, document, or record in written, printed, or electronic form, which the person knows to be falsely made, completed, or altered; or
4. Submits or invites reliance on any sample, specimen, map, boundary-mark, or other object the person knows to be false.

Criminal misdemeanor could spend up to a year in jail and face fines of up to \$2,000.

How some individuals have interpreted this Bill is to make it harder for the department to enforce by going underground, contesting our findings, or deceiving the department.

How others interpret this Bill is by cooperating with the department in enforcement. They will be the avenue to greater legalization of both bed and breakfast homes and transient vacation units.

The choice is yours to make, continue to operate illegally and take the risk of penalties. Or comply with the requirements and make it a legal, regulated industry recognized by government without the risk of penalties if they are in compliant with the rules.

That essentially the choice everyone needs to make.

One thing to consider many of the opposition to legalizing more bed and breakfast homes and transit vacation rentals was to first “prove that the department could enforce the current laws”. So there is that possibility that more units can be legalized. See the administration’s position on legalization of units in the original Bill 89 (2018).