



CITY COUNCIL

CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII 96813-3077

COMMITTEE ON PLANNING

Voting Members:

Ikaika Anderson, Chair
Heidi Tsuneyoshi, Vice Chair
Michael Formby
Carol Fukunaga
Joey Manahan
Kymberly Marcos Pine

AGENDA

SPECIAL MEETING
COMMITTEE MEETING ROOM
MONDAY, MARCH 18, 2019
10:00 A.M.

SPEAKER REGISTRATION

Persons wishing to testify are requested to register by 10:00 a.m. as follows:

- a. On-Line at <http://www.honolulu.gov/ccl-testimony-form.html>;
- b. By faxing to 768-3827 your name, phone number and the agenda item;
- c. By filling out a registration form in person; or
- d. By calling 768-3801.

Persons who have not registered to testify will be given an opportunity to speak on an item following oral testimonies of the registered speakers.

Each speaker is limited to a **one-minute** presentation.

WRITTEN TESTIMONY

Written testimony may be faxed to 768-3827 or transmitted via the internet at <http://www.honolulu.gov/ccl-testimony-form.html> for distribution at the meeting.

If submitted, written testimonies, including the testifier's address, e-mail address and phone number, may be posted by the City Clerk and available to the public on the City's DocuShare Website.

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MATERIALS AVAILABLE FOR INSPECTION

Meeting materials ("*board packet*" §92-7.5, HRS) are available for public inspection at the Council Information and Records Section's service window at Room 202 in Honolulu Hale (530 S. King St.).

Accommodations are available upon request to persons with disabilities, please call 768-3801 or send an email to quehara@honolulu.gov at least three working days prior to the meeting.

The meeting is viewable by: (1) internet live streaming through http://olelo.granicus.com/MediaPlayer.php?publish_id=92; (2) televised live broadcast on Olelo TV Channel 54; or (3) after the meeting, viewable at <http://www.honolulucitycouncil.tv/>. Copies of older meeting videos may be requested by calling the City Clerk's Office at 768-5822, charges may apply.

FOR ACTION

1. **[BILL 85 \(2018\)](#) – LUO AMENDMENT RELATING TO VACATION RENTALS.**
Amending the Land Use Ordinance to further regulate vacation rentals. (Bill passed first reading 12/5/18; Committee postponed action on 1/22/19)

[PROPOSED CD1 TO BILL 85 \(2018\)](#) (Submitted by Councilmember Menor) – The proposed CD1 (OCS2019-0044/1/18/2019 3:34 PM) makes the following amendments:

- A. In SECTION 2 of the bill:
 1. Clarifies the writ of mandamus provisions in proposed new Section 21-2.150-2(e);
 2. Clarifies and moves to a new SECTION 5 the provisions in proposed new Section 21-2.150-2(f) relating to the use of fines recovered for violations of ordinances dealing with TVUs and B&Bs;
 3. Deletes the provision of proposed new Section 21-2.150-2(f) that purports to appropriate monies for the investigation and enforcement of the ordinances relating to TVUs and B&Bs; and
 4. Deletes proposed new Section 21-2.150-2(g) relating to records.
- B. Moves SECTION 3 of the bill relating to private enforcement to a new SECTION 4 of the bill.
- C. Adds new SECTIONS 3 and 6 of the bill, respectively, to:
 1. Add a new Section 21-2.150-3 to impose advertising requirements on B&B and TVU owners, operators, or proprietors by requiring that TVUs and B&Bs for which an NUC is required must list the NUC number and street address of the TVU or B&B in all advertisements, and advertisements for TVUs located in the Resort District, the Resort Mixed Use Precinct of the Waikiki Special District, or the A-2 Medium Density Apartment District pursuant to Section 21-5.640(a) must list the street address; and
 2. Make conforming amendments to Table 21-3 ("Master Use Table").

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- D. Amends and moves the hosting platform reporting provisions from original SECTION 4 of the bill to renumbered SECTION 11 of the bill.
- E. Adds new SECTIONS 7 and 8 to the bill, amending, respectively, Sections 21-4.110-1 and 21-4.110-2, the sections governing the TVUs and B&Bs currently operating under nonconforming use certificates, to update the language of the sections, and to make those TVUs and B&Bs subject to the advertising requirements in proposed new Section 21-2.150-3.
- F. Deletes the original SECTIONS 6 and 7 of the bill relating to the definitions of "transient vacation unit," "hosting platform," and "neighbor," and amends and moves relevant definitions to new Sections 21-2.150-3 and 41-___.1.
- G. Adds new SECTIONS 9 and 10 to the bill, amending, respectively, Section 21-5.640 and Table 21-9.6(A) to make TVUs located in the Resort District, Resort Mixed Use Precinct of the Waikiki Special District, or A-2 Medium Density Apartment Zoning District pursuant to Section 21-5.640 subject to the advertising requirements in proposed new Section 21-2.150-3.
- H. Adds a new SECTION 11 to the bill to add a new article to Chapter 41 to regulate hosting platforms.
- I. Adds a new uncodified SECTION 12 to the bill to require that the DPP, no later than six months after the effective date of the ordinance:
 - 1. Establish and implement specific procedures, including a public telephone hotline, by which the public may submit written or verbal complaints and investigation requests to the department regarding potential violations of applicable laws regarding B&Bs and TVUs;
 - 2. Establish and implement specific procedures by which the DPP 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.

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- J. Adds a new uncodified SECTION 13 to the bill to require the DPP, no later than 10 days after receipt of the hosting platform monthly reports, provide to the Council a breakdown, by Council district, of the total number of B&B and TVU listings in the immediately prior month. Renumbers subsequent SECTIONS.
 - K. In renumbered SECTION 14 of the bill, conforms to the standard form of instructions to the Revisor of Ordinances, and adds a provision to instruct the Revisor of Ordinances to replace the phrase "effective date of this ordinance" or similar phrase used in the codified language of the ordinance with the actual date on which the ordinance takes effect.
 - L. Adds a severability clause as new SECTION 15 of the bill. Renumbers subsequent SECTIONS.
 - M. Makes miscellaneous and nonsubstantive amendments.
2. **BILL 89 (2018) – LUO AMENDMENT RELATING TO SHORT-TERM RENTALS.** Amending the Land Use Ordinance to regulate short-term rentals and protect residential neighborhoods from impacts of illegal transient vacation rentals. (Bill passed first reading 12/5/18) (Transmitted by Communication [MM-152 \[2018\]](#); Committee postponed action on 1/22/19) (Current deadline for Council action 6/6/19)

PROPOSED CD1 TO BILL 89 (2018) (Submitted by Councilmember Anderson) – The CD1 (OCS2019-0253/3/12/2019 3:51 PM) makes the following amendments:

THE PROPOSED CD1 makes the following amendments:

- A. Clarifies the language in the "Findings and Purpose" clause in SECTION 1 of the bill.
- B. Deletes SECTION 2 of the bill, containing the real property tax provisions. Renumbers subsequent bill SECTIONS accordingly.
- C. In renumbered SECTION 3 of the bill, corrects Section 21-2.150-2 to reflect the current language of the section. Reformats the proposed amendments to the section.
- D. In Section 21-2.150-2(c)(1)(D), increases the daily penalty from \$1,000 to \$5,000.

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- E. Revises new Section 21-2.150-2(c)(2) to decrease the penalties as follows:
 - 1. For the first recurring violation, from \$25,000 and \$25,000 per day to \$10,000 and \$10,000 per day;
 - 2. For the second recurring violation, from \$50,000 and \$50,000 per day to \$20,000 and \$20,000 per day; and
 - 3. For the third recurring violation, from \$100,000 and \$100,000 per day to \$50,000 and \$50,000 per day.
 - 4. Provides that the DPP Director may not negotiate any reduction in the fines imposed under subdivision (2).

- F. In SECTION 4 of the bill, conforms the amendatory language and the amendments to the standard format for revisions to Table 21-3 ("Master Use Table").

- G. In Table 21-3 ("Master Use Table"):
 - 1. Deletes the proposed expansion of the TVU use beyond the Resort District and A-2 Medium Density Apartment District, where they are currently permitted, and makes conforming amendments throughout the bill;
 - 2. Permits B&Bs (subject to the conditions in Article 5) in the AG-2 General Agricultural District and Country District.
 - 3. Revises the designation for bed and breakfast homes and transient vacation units in the resort district from "P" to "P/c", so that the advertising requirements apply to all short term rentals.

- H. Adds new SECTIONS 5 and 6 to the bill, amending, respectively, Sections 21-4.110-1 and 21-4.110-2, the sections governing the TVUs and B&Bs currently operating under nonconforming use certificates, to update the language of the sections, and to make those TVUs and B&Bs subject to the advertising requirements in proposed new Section 21-5.__(c). Renumbers subsequent bill SECTIONS accordingly.

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- I. In renumbered SECTION 7 of the bill, adds a provision in proposed new Section 21-5.__(b)(1) to require any dwelling unit used as a bed and breakfast home to be registered with the DPP, and to clarify that the term "owner or operator" includes the trustee of a revocable trust that owns the property.
- J. In renumbered Section 21-5.__(b)(1)(D), in addition to a real property tax home exemption, requires that an applicant for registration of a B&B must have a minimum 50 percent ownership interest in the subject property.
- K. In renumbered Section 21-5.__(b)(1)(E), decreases the B&B initial registration fee from \$800 to \$100.
- L. Adds proposed new Sections 21-5.__(b)(1)(J), 21-5.__(b)(2)(I), and 21-5.__(b)(3)(K) to require that if a B&B is located in the AG-2 general agricultural district, the portion of the subject property that is not being used as a residential homesite area (as defined in Section 8-7.3(a)) must be currently dedicated for a specific agricultural use pursuant to Section 8-7.3.
- M. In renumbered Section 21-5.__(b)(2), clarifies that the term "owner or operator" includes the trustee of a revocable trust that owns the property.
- N. In renumbered Section 21-5.__(b)(2)(E), increases the B&B registration renewal fee from \$200 to \$2,000.
- O. In proposed new Section 21-5.__(b)(3)(A), replaces the term "roomers" with the phrase "renters of the detached dwelling other than the bed and breakfast home guests."
- P. In proposed new Section 21-5.__(b)(3)(I), provides that the total number of B&Bs permitted in each development plan area (excluding those in the Resort District, Resort Mixed Use Precinct of the Waikiki Special District, and certain A-2 Apartment Districts) is limited to no more than one percent of the total number of dwelling units in that development plan area. Provides that the DPP Director shall adopt rules to implement and administer any lottery.
- Q. Adds a new Section 21-5.__(b)(7), which exempts from the requirements of the subsection B&Bs operating under valid nonconforming use certificates pursuant to Section 21-4.110-2. These B&Bs will be allowed to continue to operate under their nonconforming use certificates.

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- R. Moves the advertisement provisions in SECTION 10 of the bill to new Section 21-5.___(c) in renumbered SECTION 7.
- S. In proposed new Section 21-5.___(c)(1), clarifies the definitions of "advertisement" and "person."
- T. In proposed new Section 21-5.___(c)(2)(A), provides that advertisements for B&Bs and TVUs must include the registration number or nonconforming use certificate number for that B&B or TVU; and that advertisements for B&Bs or TVUs located in the Resort District, Resort Mixed Use Precinct of the Waikiki Special District, and the A-2 Medium Density Apartment Zoning District pursuant to Section 21-5.___(a) must include the street address, including, if applicable, any apartment unit number, for that B&B or TVU.
- U. Deletes former proposed Section 40-___.3(c) relating to an exemption from advertising requirements for legally established short-term rentals in the Resort District, Resort Mixed Use Precinct of the Waikiki Special District, and those allowed in the A-2 Medium Density Apartment Zoning District.
- V. Clarifies the exemptions in new Section 21-5.___(c)(3).
- W. In renumbered SECTION 9 of the bill, conforms the amendatory language and the amendments to the standard format for revisions to Table 21-6.1 ("Off-street Parking Requirements"). Also clarifies that for B&Bs, one off-street parking space is required for each guest bedroom. Deletes the transient vacation unit entry because TVUs in the Resort District, Resort Mixed Use Precinct of the Waikiki Special District, and those allowed in the A-2 Medium Density Apartment District; and TVUs operating under valid nonconforming use certificates are exempt from the parking requirements.
- X. Moves the revisions to the footnotes for Tables 21-6.1, 21-6.2, and 21-6.3 to a new SECTION 10 of the bill. Renumbers subsequent bill SECTIONS accordingly. Amends proposed new footnote 7 to also exclude B&Bs operating under valid nonconforming use certificates pursuant to Section 21-4.110-2. Adds new footnote 8 to clarify that the requirement of one off-street parking per guest bedroom for bed and breakfast homes 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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- Y. In renumbered SECTION 11 of the bill, amends Table 21-9.6(A) ("Waikiki Special District Precinct Permitted Uses and Structures"):
1. To add B&Bs as a proposed new permitted use, subject to conditions, in the Apartment Precinct of the Waikiki Special District; add B&Bs as a permitted use, subject to conditions, in the Resort Mixed Use Precinct; and revise the designation for TVUs in the Resort Mixed Use Precinct from "P" to "P/c," so that the advertising requirements apply to all short-term rentals.
 2. To add the following to the "Ministerial uses" note to the table:

"P/c = Permitted use subject to standards in Article 5"
- Z. Adds a new SECTION 12 to the bill to regulate hosting platforms pursuant a new article under ROH Chapter 41 ("Regulated Activities Within the City").
- AA. Adds a new uncodified SECTION 13 to the bill, providing that TVUs and B&Bs operating under valid nonconforming use certificates on the effective date of the ordinance may continue to operate pursuant to the TVU/B&B nonconforming use certificate ordinances. Renumbers subsequent SECTIONS accordingly.
- BB. In renumbered SECTION 14 of the bill, adds a provision to instruct the Revisor of Ordinances to replace the phrase "effective date of this ordinance" or similar phrase used in the codified language of the ordinance with the actual date on which the ordinance takes effect.
- CC. Adds a severability clause as new SECTION 15 of the bill. Renumbers subsequent SECTIONS.
- DD. Makes miscellaneous technical and nonsubstantive amendments.

[PROPOSED CD1 TO BILL 89 \(2018\)](#) (Submitted by Councilmember Menor) – The CD1 (OCS2019-0085/1/31/2019 9:15 AM) makes the following amendments:

- A. Clarifies the language in the "Findings and Purpose" clause in SECTION 1 of the bill.
- B. In SECTION 2 of the bill, sets forth the entire Section 8-7.1(c) in the bill.

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- C. In SECTION 4 of the bill, corrects Section 21-2.150-2 to reflect the current language of the section. Reformats the proposed amendments to the section.
- D. In SECTION 5 of the bill, conforms the amendatory language and the amendments to the standard format for revisions to Table 21-3 ("Master Use Table").
- E. In Table 21-3 ("Master Use Table") permits B&Bs (subject to the conditions in Article 5) in the AG-2 General Agricultural District; and revises the designation for bed and breakfast homes and transient vacation units in the resort district from "P" to "P/c", so that the advertising requirements apply to all short term rentals.
- F. Adds new SECTIONS 6 and 7 to the bill, amending, respectively, Sections 21-4.110-1 and 21-4.110-2, the sections governing the TVUs and B&Bs currently operating under nonconforming use certificates, to update the language of the sections, and to make those TVUs and B&Bs subject to the advertising requirements in proposed new Section 21-5.__(c). Renumbers subsequent bill SECTIONS accordingly.
- G. In renumbered SECTION 8 of the bill, adds a provision in Section 21-5.__(b)(1) to require any dwelling unit used as a bed and breakfast home or transient vacation unit to be registered with the DPP.
- H. In proposed new Section 21-5.__(b)(3)(A), replaces the term "roomers" with the phrase "renters of the detached dwelling other than the bed and breakfast home guests."
- I. In proposed new Section 21-5.__(b)(3)(I), provides that the DPP Director shall adopt rules to implement and administer any lottery.
- J. Adds a new Section 21-5.__(b)(7), which exempts from the requirements of the subsection TVUs and B&Bs operating under valid nonconforming use certificates pursuant to Sections 21-4.110-1 or 21-4.110-2. These TVUs and B&Bs will be allowed to continue to operate under their nonconforming use certificates.
- K. Moves the advertisement provisions in SECTION 10 of the bill to new Section 21-5.__(c) in renumbered SECTION 8.

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- L. In proposed new Section 21-5.__(c)(1), clarifies the definitions of "advertisement" and "person."
- M. In proposed new Section 21-5.__(c)(2)(A), provides that advertisements for B&Bs and TVUs must include the registration number or nonconforming use certificate number for that B&B or TVU; and that advertisements for B&Bs or TVUs located in the Resort District, Resort Mixed Use Precinct of the Waikiki Special District, and the A-2 Medium Density Apartment Zoning District pursuant to Section 21-5.__(a) must include the street address, including, if applicable, any apartment unit number, for that B&B or TVU.
- N. Deletes former proposed Section 40-__3(c) relating to an exemption from advertising requirements for legally established short-term rentals in the Resort District, Resort Mixed Use Precinct of the Waikiki Special District, and those allowed in the A-2 Medium Density Apartment Zoning District.
- O. Clarifies the exemptions in new Section 21-5.__(c)(3).
- P. In renumbered SECTION 10 of the bill, conforms the amendatory language and the amendments to the standard format for revisions to Table 21-6.1 ("Off-street Parking Requirements"). Also clarifies that for B&Bs, one off-street parking space is required for each guest bedroom.
- Q. Moves the revisions to the footnotes for Tables 21-6.1, 21-6.2, and 21-6.3 to a new SECTION 11 of the bill. Renumbers subsequent SECTIONS accordingly. Amends proposed new footnote 7 to also exclude TVUs and B&Bs operating under valid nonconforming use certificates pursuant to Sections 21-4.110-1 or 21-4.110-2. Adds new footnote 8 to clarify that the requirement of one off-street parking per guest bedroom for bed and breakfast homes is in addition to the off-street parking requirement applicable to the dwelling unit being used as a bed and breakfast home.
- R. In renumbered SECTION 12 of the bill, amends Table 21-9.6(A) ("Waikiki Special District Precinct Permitted Uses and Structures"):
 - 1. To add B&Bs and TVUs as a proposed new permitted use, subject to conditions, in the Apartment Precinct of the Waikiki Special District; add B&Bs as a permitted use, subject to conditions, in the Resort Mixed Use

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Precinct; and revise the designation for TVUs in the Resort Mixed Use Precinct from "P" to "P/c," so that the advertising requirements apply to all short-term rentals.

2. To add the following to the "Ministerial uses" note to the table:

"P/c = Permitted use subject to standards in Article 5"

- S. Adds a new uncodified SECTION 13 to the bill, providing that TVUs and B&Bs operating under valid nonconforming use certificates on the effective date of the ordinance may continue to operate pursuant to the TVU/B&B nonconforming use certificate ordinances. Renumbers subsequent SECTIONS accordingly.
- T. In renumbered SECTION 14 of the bill, adds a provision to instruct the Revisor of Ordinances to replace the phrase "effective date of this ordinance" or similar phrase used in the codified language of the ordinance with the actual date on which the ordinance takes effect.
- U. Makes miscellaneous technical and nonsubstantive amendments.

PROPOSED CD1 TO BILL 89 (2018) (Submitted by Councilmember Fukunaga [b/r]) – The CD1 (OCS2019-0251/3/12/2019 4:06 PM) makes the following amendments:

- A. In the last paragraph of the "Findings and Purpose" clause in SECTION 1 of the bill, adds that the ordinance requires transient accommodations brokers to register with the City and provide aggregated data on listings and booked room nights to the City.
- B. In Section 21-2.150-2(b)(1)(E), decreases the penalties for recurring violations of the LUO relating to TVUs or B&Bs to:
 1. For the first recurring violation, from \$25,000 and \$25,000 per day to \$10,000 and \$10,000 per day;
 2. For the second recurring violation, from \$50,000 and \$50,000 per day to \$15,000 and \$15,000 per day; and

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3. For the third recurring violation, from \$100,000 and \$100,000 per day to \$25,000 and \$25,000 per day.
- C. Adds a new Section 21-2.150-2(f), which provides that the DPP director may issue subpoenas to inspect the guest registry required to be maintained by the owner of a B&B or TVU.
- D. In Table 21-3 ("Master Use Table"), permits (subject to conditions in Article 5) TVUs in the residential districts (R-20, R-10, R-7.5, R-5, and R-3.5).
- E. In Sections 21-5.__(b)(1)(iv) and 21-5.__(b)(2)(iv), requires a real property tax home exemption for B&Bs only.
- F. In Sections 21-5.__(b)(1)(vi) and 21-5.__(b)(2)(vi), requires that the property insurance may be provided by the transient accommodations broker with which the B&B or TVU is listed for rental.
- G. In Section 21-5.__(b)(3)(ii), provides for a maximum of four guests over the age of 18 years permitted within the B&B at any one time.
- H. In Section 21-5.__(b)(3)(v), provides that the property manager is responsible for responding to complaints or problems at the property.
- I. In Section 21-5.__(b)(3)(ix), provides that:
 1. The total number of B&Bs and TVUs permitted in each development plan area (excluding those in the Resort District, Resort Mixed Use Precinct of the Waikiki Special District, and certain A-2 Apartment Districts) is limited to no more than one and one-half percent (instead of one-percent) of the total number of dwelling units in that development plan area.
 2. Provides that if the initial number of applications exceeds the one and one-half percent amount, acceptance will be determined by the DPP under criteria contained in rules adopted by the DPP.
 3. Provides that when renewal applications fall below the one and one-half percent amount, new applicants can be accepted by the DPP under criteria contained in rules adopted by the DPP.

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4. Provides that the number of permits allowed in each development plan area may only be increased a minimum of once every ten years upon the DPP's receipt of updated U.S. Census data showing an increase in the number of dwelling units in the development plan area.
- J. Adds a new Section 21-5.__(b)(7), which provides that the guest registry is subject to inspection upon issuance of a subpoena by the DPP director in accordance with law, and prohibits the director from disclosing information that would constitute an invasion of personal privacy.
- K. Decreases the fines for violation of the advertising provisions from not less than \$25,000 and not more than \$50,000 per day for each day that the advertisement is on public display beyond seven days from receiving a notice of violation, to not less than \$10,000 and not more than \$15,000 per day.
- L. Adds a new SECTION 11 to the bill to regulate transient accommodations brokers pursuant a new article under ROH Chapter 41 ("Regulated Activities Within the City"). Renumbers subsequent SECTIONS.
- M. Makes miscellaneous technical and nonsubstantive amendments.

IKAIKA ANDERSON, Chair
Committee on Planning