

**EMPTY HOMES TAX ORDINANCE PROPOSAL**

**Submitted by Faith Action HousingNOW!**  
**housing@faithactionhawaii.org**

**RELATING TO REAL PROPERTY TAXATION**

**BE IT ORDAINED BY THE PEOPLE OF THE CITY AND COUNTY OF HONOLULU:**

**SECTION 1. Purpose.** The purpose of this ordinance is to create a new "Empty Homes Tax." This tax is to help address Honolulu's dual crises of lack of affordable housing and homelessness, which arise from inadequate housing supply and inadequate funding to address these problems. Hawaii has the lowest property taxes of any state in the nation and struggles to fund programs to address affordable housing and homelessness. Honolulu has one the nation's highest housing costs, at over \$1,000,000 median cost for a single-family home as of August 2021. The 2020 US Census reports that Hawaii has a housing vacancy rate of 15.5%, with approximately 85,000 housing units not occupied; a large number of these vacant units are on Oahu.

An Empty Homes Tax would ease these problems by helping:

- (1) encourage existing owners to rent or sell vacant housing stock for use as homes for local residents;
- (2) increase our supply of homes to better meet demand and reduce market pressures that cause high costs; and
- (3) raise funds for addressing affordable housing and homelessness solutions.

An Empty Homes Tax can help convert existing investment properties into housing for local residents without the need for costly construction, long delays for development and permitting, and taking more land for development. This tax will increase affordable housing stock for residents by encouraging long-term rentals and providing funds for construction of new affordable housing. The Empty Homes Tax would only be imposed on properties not used as long-term housing, and would not raise taxes on homes occupied by long-term residents. The Empty Homes Tax can help control and potentially lower Honolulu's rapidly increasing housing prices, as it would discourage outside investment and speculation. An Empty Homes Tax should help renters, as housing supply increases, landlords will need to offer reasonable rent prices to secure renters to avoid the tax. And an Empty Homes Tax can create a dedicated source of revenues for addressing affordable housing and homeless needs,

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**SECTION 2. Empty Homes Tax – Key Features**

**2.1 Tax Rate.** An empty homes tax shall be imposed for each calendar year on every dwelling unit on residential property that is an "Empty Home," as defined in Section 2.8, in accordance with this Ordinance. The rate of the Empty Homes Tax shall be 3% of the taxable assessed value of the residential property for the applicable tax year. The

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Empty Homes Tax shall be payable annually, in addition to any other tax applicable to the property.

**2.2 Dedication of Tax Revenues:** Revenues from this tax shall be dedicated to the City's Affordable Housing Fund and other programs to increase the City's supply of affordable homes and to address homelessness. Notwithstanding any other provision of law, up to 5% of the revenues of the Empty Homes Tax may be used to support administrative costs of implementing and enforcing this ordinance.

**2.3 Exemptions.** A dwelling unit on residential property is an Empty Home for purposes of this Ordinance unless it qualifies for any of the exemptions stated below:

- (a) the residential property is the principal residence of an owner of the property for at least six months in the tax year;
- (b) the residential property is the principal residence of a renter or other permitted occupier of the property, for at least six months in the tax year. Two or more rental or occupancy periods may be cumulated for this six months, provided that any rental or occupancy of the property for a term that is less than three months cannot be counted toward the six months;
- (c) the residential property is subject to a probate court proceeding or the title to the property is the subject of pending litigation, for at least six months of the tax year, or the property is subject to a court order that prohibits occupancy for at least six months in the tax year;
- (d) an owner who occupied the residential property as their principal residence died during the current or prior tax year;
- (e) the occupant who has legal occupancy rights for the property is deployed outside of Hawaii on active Armed Forces duty for at least six months in the tax year;
- (f) the residential property is determined to be a "substandard building" as defined in Section 27-9.1 and has a pending application for a building permit for major construction, repair or renovation to the dwelling unit that would resolve the condition(s) defining the property as a "substandard building"; provided, however, that the owner shall not use this exemption for the property for more than one tax year in any five year period;
- (g) the property has an open building permit for major construction, repair or renovation to the dwelling unit that reasonably requires the occupant to reside in a different property during construction; provided, however, that the owner shall not use this exemption for the property for more than one tax year in any five year period;



(h) the property is the subject of active efforts during the tax year to sell the property (as evidenced by active advertising of the property, an MLS listing, and related evidence of active sale efforts); provided, however, that the owner shall not use this exemption for the property for more than one tax year in any five year period;

(i) for property owned or operated by a non-profit organization registered in the state of Hawaii, which qualifies for tax exemption from state and federal property tax, and who provides temporary housing for individuals as part of the non-profit mission (i.e, half-way house for domestic abuse, homeless persons, mentally ill or disabled persons); and

(j) for state licensed residential homes for seniors, persons with medical/mental disabilities, and half-way houses.

## **2.4 Calculation of Assessable Value for Multiple dwelling units on a single property.**

(a) Where a residential property has multiple dwelling units that are not on separate parcels with separately established tax assessed values, then the assessed value for each dwelling unit that is an Empty Home on such residential property shall be the taxable assessed value for the entire residential property, multiplied by the proportionate square footage for each dwelling unit that is an Empty Home, in accordance with the subsection (b) in this section.

(b) Proportionate square footage of a dwelling unit on a residential property that has multiple dwelling units, shall be determined by the square footage of the dwelling unit that is an Empty Home, divided by the cumulated total square footage of all dwelling units on the entire residential property.

(c) For example purposes, if a residential property has a tax assessed value of \$4,000,000, a total 5,000 square feet for all dwelling units on the residential property, and a dwelling unit of 1,000 square feet that is an Empty Home, then the proportionate square footage of that Empty Home is 20% (1,000 divided by 5,000); the tax assessed value attributable to that Empty Home would be \$800,000 (\$4,000,000 times 20%), and the 3% Empty Homes Tax would be \$24,000 (\$800,000 times 3%).

## **2.5 Administration.**

(a) On or before \_\_\_\_\_ of each year, the City shall cause to be mailed to each registered owner of residential property whose name appears on the real property tax roll, at the owner's address appearing on the real property tax roll, either a property status declaration form or instructions on how and when to

make a property status declaration online. Such mailing shall be deemed to have been received by the registered owner five days after mailing.

(b) The City may perform audits and investigations to determine the validity of property status declarations made for any residential property, and may require owners or occupants of the property to provide information at any time up to three years after the calendar year in which the Empty Homes Tax is due.

(c) To assist with its audits and investigations, the City may require a registered owner of residential property, and any purported tenant or occupier of the property, to submit additional evidence to verify a property status declaration and the status of the property. Such evidence may include copies or certified copies of documentation and sworn declarations relevant to any claim of exemption made by the owner regarding the Empty Homes Tax, including without limitation:

- 1) proof of principal residency of the owner or occupant, including vehicle registration, government-issued personal identification, driver's license; utilities records and mailing address used for personal bank and credit accounts;
- 2) tenancy agreements, occupancy agreements, and proof of taxes paid for rental income;
- 3) proof of sale activity efforts and MLS listing of the property;
- 4) death certificate, and court orders; or proceedings; and
- 5) proof of military orders of deployment, building permits and applications.

(d) The City is authorized to conduct inspections of residential property for the purpose of determining the accuracy of information stated about the property and whether the property is subject to the Empty Homes Tax, upon advance written notice to the registered owner of the residential property.

(e) Based on the owner's property status declaration and other information, the City shall cause an Empty Homes Tax Notice of Assessment to be mailed to each registered owner of property on or before \_\_\_\_\_ of each year. Such Notice shall state the City's initial determination of whether an Empty Homes Tax is payable and if so, the amount of Empty Homes Tax owing and the manner and deadline for payment of such tax. Such Notice shall also state that the City's initial determination is subject to future potential investigation and audit, and shall state the amount of Empty Homes Tax payable for the tax year if the residential property is found not to qualify for any exemption.

(f) If as a result of investigation, audit or other information, the City determines that its initial determination of the Empty Homes Tax was not accurate, the City shall issue a Supplemental Notice Assessment for Empty



Homes Tax, stating the subsequent determination of any Empty Homes Tax owing, and stating a due date by which such tax is payable.

(g) The City shall promulgate rules for owners of residential property to appeal any Notice of Assessment or Supplemental Notice of Assessment.

## **2.6 Responsibilities of owners of residential property**

(a) A registered owner of residential property shall submit a completed annual property status declaration to the City on or before \_\_\_\_\_ each year, and shall accurately attest to the use and status of the property during the tax year, and shall truthfully state whether the property qualifies for any exemption from the Empty Homes Tax.

(b) The registered owner shall not make a false property status declaration nor fail to correct within 15 days a previously filed property status declaration that the owner later learns is false.

(c) To assist the City in determining the assessed value for each dwelling unit on residential property parcels containing multiple dwelling units, including but not limited to apartment buildings, duplex units and properties with auxiliary dwelling units, the registered owner of such property shall annually report on the property status declaration form the total number of dwelling units on the residential property, the apartment number or other designated name of each dwelling unit; the total square footage associated with each dwelling unit, and the occupancy status of each dwelling unit on the residential property.

(d) A registered owner or other owner or purported tenant or occupier must provide any information and submit any evidence, including any sworn declaration, that is required by the City relevant to the determination of whether the Empty Homes Tax is payable, within the time requested by the City.

(e) The Empty Homes Tax is due and shall be paid by the registered owner of the property on or before the due date set forth in the Empty Homes Tax Notice of Assessment or Supplemental Notice of Assessment.

## **2.7 Enforcement**

(a) Notwithstanding any other provision of law, a residential property is considered to be an Empty Home and is subject to the Empty Homes Tax if the registered owner fails to submit a timely property status declaration as required by this ordinance, or makes a false claim of exemption from the Empty Homes Tax.

(b) Penalties: A person is guilty of a violation this ordinance and liable for the penalties imposed under this section, if such person:

- 1) violates any provision of this ordinance, or does any act or thing which violates any provision of this ordinance, or acts in concert with any other person to do any act or thing which violates any provision of this ordinance;
- 2) neglects to do or refrains from doing anything required to be done by any provision of this ordinance; or
- 3) fails to comply with an order, direction, or notice given under any provision of this ordinance, or acts in concert with any other person to fail to comply with an order, direction, or notice given under any provision of this ordinance.

(c) Any person who violates this ordinance is punishable by a fine of not less than \$2,500.00, and not more than \$10,000.00 for each offense. Any person who engages in a continuing violation of this ordinance, including making a false declaration and failing to correct it; or failing to provide evidence when requested to support a claimed exemption from the empty homes tax, is punishable by a fine of not less than \$2,500.00, and not more than \$10,000.00 for each day that such offense continues.

(d) The City shall have the right to foreclose on any residential property for which the Empty Homes Tax or any related fines are not paid following Notice of Assessment or notice of fines owing related to the residential property.

## **2.8 Definitions**

"Dwelling unit" means a room or rooms connected together, constituting an independent housekeeping unit for a family and containing a single kitchen. Two or more essentially separate structures, except for a token connection, such as a covered walkway or a trellis, do not constitute a single dwelling unit.

"Empty Home" means any dwelling unit on residential property, that does not qualify for any of the exemptions in Section 2.3 of this Ordinance.

"Principal residence" means the usual place where a person lives, makes his or her home and conducts his or her daily affairs, and is generally the residential address used on documentation related to billing, paying bills and receiving mail, identification, taxation and insurance purposes, including, without limitation, income tax returns, driver's licenses, personal identification, vehicle registration and utility bills. A person may only have one principal residence.

"Residential property" means property zoned residential or dedicated for residential use, including without limitation any property improved with a dwelling unit, condominium unit, apartment building, duplex, ohana unit, or auxiliary dwelling unit.

"Tax year" means the calendar year for which the Empty Homes Tax is imposed