

SUMMARY OF PROPOSED COMMITTEE DRAFT:

Bill 4 (2022) RELATING TO REAL PROPERTY TAXATION.

The **PROPOSED CD1** makes the following amendments:

A. Establishes a new Transient Vacation Unit classification for real property taxation purposes.

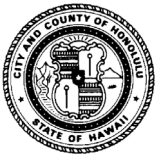
B. Adds a new subdivision (1) to ROH Section 8-7.1(h), which reads as follows:

Notwithstanding the provisions of subsections (c)(2) and (c)(3), transient vacation units being operated in compliance with Chapter 21 (the land use ordinance), this chapter, Chapter 8A (city transient accommodations tax), HRS Chapter 237 (general excise tax), and Chapter 237D (State transient accommodations tax), as of April 13, 2022, including those in operation under a nonconforming use certificate issued in accordance with Section 21-4.110-1, may be taxed at the transient vacation unit rate. On or before September 1, 2022, owners or operators of transient vacation units wishing to be taxed at the transient vacation unit rate, rather than at the hotel and resort tax rate, shall submit to the director proof in a form acceptable to the director that the unit qualifies for taxation at the transient vacation unit rate.

Other subdivisions of ROH Section 8-7.1(h) are renumbered accordingly.

C. Transient vacation units not qualifying under the new subdivision (1) will be taxed at the hotel and resort tax rate.

D. Makes miscellaneous technical and nonsubstantive amendments.



A BILL FOR AN ORDINANCE

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 address the taxation of real property, particularly real property used as a transient accommodation.

SECTION 2. Section 8-7.1, Revised Ordinances of Honolulu 1990, as amended by Ordinance 19-32, is amended to read as follows:

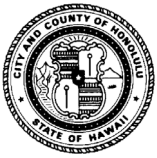
"Sec. 8-7.1 Valuation—Considerations in fixing.

- (a) The director of budget and fiscal services shall cause the fair market value of all taxable real property to be determined and annually assessed by the market data and cost approaches to value using appropriate systematic methods suitable for mass valuation of real property for ad valorem taxation purposes, so selected and applied to obtain, as far as possible, uniform and equalized assessments throughout the city.
- (b) So far as practicable, records [~~shall~~] must be compiled and kept which [~~shall~~] must show the methods established by or under the authority of the director, for the determination of values.
- (c) (1) Real property [~~shall~~] must be classified into the following general classes, upon consideration of its highest and best use, and upon other criteria set forth in this section:
 - (A) Residential;
 - (B) Hotel and resort;
 - (C) Commercial;
 - (D) Industrial;
 - (E) Agricultural;
 - (F) Preservation;
 - (G) Public service;



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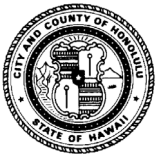
- (H) Vacant agricultural;
 - (I) Residential A; ~~[and]~~
 - (J) Bed and breakfast home~~[-];~~ and
 - (K) Transient vacation unit.
- (2) In assigning real property to one of the general classes, the director shall give major consideration to the districting established by the city in its general plan and zoning ordinance, specific class definitions or criteria set forth in this section, and such other factors which influence highest and best use.
- Notwithstanding the city's zoning district classification, the director shall assign to the agricultural class any real property classified as tree farm property under HRS Chapter 186.
- (3) When real property is subdivided into condominium units, each unit and its appertaining common interest:
- (A) ~~[Shall]~~ Will be deemed a parcel and assessed separately from other units; and
 - (B) ~~[Shall]~~ Will be classified as follows:
 - (i) If the unit has a single, legally permitted, exclusive actual use, it ~~[shall]~~ must be classified upon consideration of the unit's actual use into one of the general classes in the same manner as real property; ~~[or]~~
 - (ii) If the unit has multiple, legally permitted uses~~[-];~~ it ~~[shall]~~ must be classified:
 - (aa) Upon consideration of the unit's highest and best use into one of the general classes in the same manner as real property; or
 - (bb) Residential, only upon approved dedication as provided in Section 8-7.5 when the unit is legally permitted multiple exclusive uses including residential use; or



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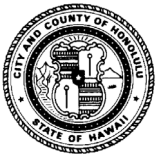
- (iii) If the unit is a condominium parking unit or a condominium storage unit, it ~~[shall]~~ will be classified residential, only upon approved dedication when the unit is used in conjunction with a unit in residential use within the project.
- (4) Notwithstanding any provision contained in this subsection, a condominium unit that is used at any time during the assessment year as a time share unit, ~~[shall]~~ must be classified for the following tax year as hotel and resort ~~[unless:~~
- (A) ~~The unit is on property zoned as apartment, apartment mixed use, apartment precinct, or apartment mixed use precinct;~~
 - (B) ~~The property on which the unit is located does not include a lobby with a clerk's desk or counter with 24-hour clerk service facilities for registration and keeping of records relating to persons using the property; and~~
 - (C) ~~The unit is part of a condominium property regime established pursuant to HRS Chapter 514A, as it read prior to its repeal on January 1, 2019, or HRS Chapter 514B.~~
- ~~If the requirements of paragraphs (A), (B), and (C) are met, the time share unit shall be classified as residential. For purposes of this subdivision, "assessment year" means the one-year period beginning October 2nd of the previous calendar year and ending October 1st, inclusive, of the calendar year preceding the tax year, and "time sharing" has the same meaning as defined in Section 21-10.1].~~
- (5) "Vacant agricultural" means a parcel, or portion thereof, that would otherwise be classified agricultural by the director upon major consideration of the districting established by the city in its general plan and zoning ordinance and of such other factors that influence highest and best use, but which parcel, or portion thereof:
- (A) Has no residential buildings; and
 - (B) Is not dedicated for agricultural purposes.

If a portion of a parcel is dedicated as vacant agricultural, the remainder of the parcel that is zoned agricultural must be dedicated for agricultural use.



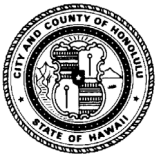
A BILL FOR AN ORDINANCE

- (6) Notwithstanding any provision contained in this subsection, all real property actually used by a public service company in its public service business ~~[shall]~~ will be classified as public service. For purposes of this subsection, "public service company" means a public utility, except airlines, motor carriers, common carriers by water, and contract carriers, where:
- (A) "Public utility" includes every person who may own, control, operate, or manage as owner, lessee, trustee, receiver, or otherwise, whether under a franchise, charter, license, articles of association, or otherwise, any plant or equipment, or any part thereof, directly or indirectly for public use, for the transportation of passengers or freight, or the conveyance or transmission of telecommunications messages, or the furnishing of facilities for the transmission of intelligence by electricity by land, water, or air within the ~~[state]~~ State, or between points within the ~~[state]~~ State, or for the production, conveyance, transmission, delivery, or furnishing of light, power, heat, cold, water, gas, or oil, or for the storage or warehousing of goods, or the disposal of sewage; provided that the term:
- (i) Includes any person insofar as that person owns or operates a private sewer company or sewer facility;
 - (ii) Includes any telecommunications carrier or telecommunications common carrier;
 - (iii) Does not include any person insofar as that person owns or operates an aerial transportation enterprise;
 - (iv) Does not include persons owning or operating taxicabs, as defined in this subsection;
 - (v) Does not include common carriers transporting only freight on the public highways, unless operating within localities or along routes or between points that the Public Utilities Commission of the State of Hawaii finds to be inadequately serviced without regulation under this chapter;



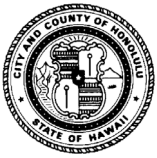
A BILL FOR AN ORDINANCE

- (vi) Does not include persons engaged in the business of warehousing or storage unless the Public Utilities Commission of the State of Hawaii finds that regulation thereof is necessary in the public interest;
- (vii) Does not include:
 - (aa) The business of any carrier by water to the extent that the carrier enters into private contracts for towage, salvage, hauling, or carriage between points within the ~~[state]~~ State and the carriage is not pursuant to either an established schedule or an undertaking to perform carriage services on behalf of the public generally; and
 - (bb) The business of any carrier by water, substantially engaged in interstate or foreign commerce, transporting passengers on luxury cruises between points within the ~~[state]~~ State or on luxury round-trip cruises returning to the point of departure;
- (viii) Does not include any person who:
 - (aa) Controls, operates, or manages plants or facilities for the production, transmission, or furnishing of power primarily or entirely from non-fossil fuel sources; and
 - (bb) Provides, sells, or transmits all of that power, except such power as is used in its own internal operations, directly to a public utility for transmission to the public;
- (ix) Does not include a telecommunications provider only to the extent determined by the Public Utilities Commission of the State of Hawaii, pursuant to applicable ~~[state]~~ State law;
- (x) ~~[Shall]~~ Does not include any person who controls, operates, or manages plants or facilities developed pursuant to applicable ~~[state]~~ State law for conveying, distributing, and transmitting water for irrigation and such other purposes that shall be held for public use and purpose; and



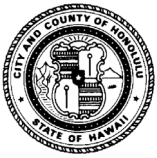
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- (xi) [~~Shall~~] Does not include any person who owns, controls, operates, or manages plants or facilities for the reclamation of wastewater; provided that:
 - (aa) The services of the facility [~~shall~~] must be provided pursuant to a service contract between the person and a [~~state~~] State or [~~county~~] city agency and at least 10 percent of the wastewater processed is used directly by the [~~state~~] State or [~~county which~~] a city agency that has entered into the service contract;
 - (bb) The primary function of the facility [~~shall~~] must be the processing of secondary treated wastewater that has been produced by a municipal wastewater treatment facility that is owned by a [~~state~~] State or [~~county~~] city agency;
 - (cc) The facility [~~shall~~] must not make sales of water to residential customers;
 - (dd) The facility may distribute and sell recycled or reclaimed water to entities not covered by a [~~state~~] State or [~~county~~] city service contract; provided that, in the absence of regulatory oversight and direct competition, the distribution and sale of recycled or reclaimed water [~~shall~~] must be voluntary and its pricing fair and reasonable. For purposes of this subparagraph, "recycled water" and "reclaimed water" mean treated wastewater that by design is intended or used for a beneficial purpose; and
 - (ee) The facility [~~shall~~] must not be engaged, either directly or indirectly, in the processing of food wastes;
- (B) "Motor Carrier" means a common carrier or contract carrier transporting freight or other property on the public highways, other than a public utility or taxicab;
- (C) "Contract carrier" means a person other than a public utility or taxicab which, under contracts or agreements, engages in the transportation of persons or property for compensation, by land, water, or air;



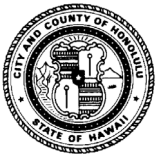
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- (D) "Carrier" means a person who engages in transportation, and does not include a person such as a freight forwarder or tour packager who provides transportation by contracting with others, except to the extent that such person engages in transportation;
- (E) "Taxicab" means ~~[and includes]~~:
- (i) Any motor vehicle used in the movement of passengers on the public highways under the following circumstances, namely, the passenger hires the vehicle on call or at a fixed stand, with or without baggage for transportation, and controls the vehicle to the passenger's destination; and
 - (ii) Any motor vehicle having seating accommodations for eight or fewer passengers used in the movement of passengers on the public highways between a terminal, i.e., a fixed stand, in the city of Honolulu, and a terminal in a geographical district outside the limits of the city of Honolulu, and vice versa, without picking up passengers other than at the terminals or fixed stands; provided that passengers may be unloaded at any point between terminals; and provided further that this definition relating to motor vehicles operating between terminals ~~[shall pertain]~~ pertains only to those motor vehicles whose operators or owners were duly licensed under any applicable provision of law or ordinance and doing business between such terminals on January 1, 1957;
- (F) "Telecommunications carrier" or "telecommunications common carrier" means any person that owns, operates, manages, or controls any facility used to furnish telecommunications services for profit to the public, or to classes of users as to be effectively available to the public, engaged in the provision of services, such as voice, data, image, graphics, and video services, that make use of all or part of their transmission facilities, switches, broadcast equipment, signaling, or control devices; and



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- (G) "Telecommunications service" or "telecommunications" means the offering of transmission between or among points specified by a user, of information of the user's choosing, including voice, data, image, graphics, and video without change in the form or content of the information, as sent and received, by means of electromagnetic transmission, or other similarly capable means of transmission, with or without benefit of any closed transmission medium, and does not include cable service as defined under applicable ~~[state]~~ State law.
- (d) Whenever land has been divided into lots or parcels as provided by law, each such lot or parcel ~~[shall]~~ must be separately assessed.
- (e) When a parcel of land that has been classified as agricultural is improved with a single-family dwelling and has been granted a home exemption for the tax year, that portion of the parcel that is used for residential purposes ~~[shall]~~ will be classified as residential. This classification ~~[shall:]~~ will:
- (1) Apply only to that portion used for residential purposes;
 - (2) Not exceed 5,000 square feet of land and the buildings and improvements on that land; and
 - (3) Remain in effect only so long as the property qualifies for a home exemption.
- (f) When a parcel of land that has been classified as preservation is improved with a single-family dwelling and has been granted a home exemption for the tax year, that portion of the parcel which is used for residential purposes ~~[shall]~~ will be classified as residential. This classification ~~[shall:]~~ will:
- (1) Apply only to that portion used for residential purposes;
 - (2) Not exceed 5,000 square feet of land and the buildings and improvements on that land; and
 - (3) Remain in effect only so long as the property qualifies for a home exemption.



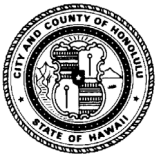
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- (g) (1) In determining the value of buildings, consideration [~~shall~~] must be given to any additions, alterations, remodeling, modifications, or other new construction, improvement, or repair work undertaken upon or made to existing buildings as the same may result in a higher assessable valuation of said buildings; provided, however, that any increase in value resulting from any additions, alterations, modifications, or other new construction, improvement, or repair work to buildings undertaken or made by the owner occupant thereof pursuant to the requirements of any urban redevelopment, rehabilitation, or conservation project under the provisions of Part II of HRS Chapter 53, [~~shall~~] must not increase the assessable valuation of any building for a period of seven years from the date of certification as hereinafter provided.
- (2) It is further provided that the owner occupant shall file with the director, in the manner and at the place [~~which~~] the director may designate, a statement of the details of the improvements certified in the following manner:
- (A) In the case of additions, alterations, modifications, or other new construction, improvement, or repair work to a building that is undertaken pursuant to any urban redevelopment, rehabilitation, or conservation project as hereinabove mentioned, the statement [~~shall~~] must be certified by the mayor or any governmental official designated by the mayor and approved by the council, that the additions, alterations, modifications, or other new construction, improvement, or repair work to the buildings were made and satisfactorily comply with the particular urban development, [~~rehabilitations~~] rehabilitation, or conservation act provision; or
- (B) In the case of maintenance or repairs to a residential building undertaken pursuant to any health, safety, sanitation, or other governmental code provision, the statement [~~shall~~] must be certified by the mayor or any governmental official designated by the mayor and approved by the council, that:
- (i) The building was inspected by them and found to be substandard when the owner or occupant made the claim; and
- (ii) The maintenance or repairs to the buildings were made and satisfactorily comply with the particular code provision.



A BILL FOR AN ORDINANCE

- (h) (1) Notwithstanding the provisions of subsections (c)(2) and (c)(3), transient vacation units being operated in compliance with Chapter 21 (the land use ordinance), this chapter, Chapter 8A (city transient accommodations tax), HRS Chapter 237 (general excise tax), and Chapter 237D (State transient accommodations tax), as of April 13, 2022, including those in operation under a nonconforming use certificate issued in accordance with Section 21-4.110-1, may be taxed at the transient vacation unit rate. On or before September 1, 2022, owners or operators of transient vacation units wishing to be taxed at the transient vacation unit rate, rather than at the hotel and resort tax rate, shall submit to the director proof in a form acceptable to the director that the unit qualifies for taxation at the transient vacation unit rate.
- (2) Notwithstanding the provisions of [subsection (c)(2);] subsections (c)(2) and (c)(3), properties operating as transient vacation units [in accordance with Section 21-4.110-1, and which have a valid nonconforming use certificate, shall be classified based on their underlying zoning.] , but not approved by the director as qualifying under subdivision (1), must be classified as hotel and resort.
- ~~[(2) Real property operating as transient vacation units as otherwise permitted under Chapter 21 must be classified as hotel and resort.~~
- ~~(3) For purposes of this subsection, "transient vacation unit" means the same as defined in Section 21-10.1.]~~
- (3) Notwithstanding the provisions of subsections (c)(2) and (c)(3), properties operating as bed and breakfast homes must be classified as bed and breakfast home.
- (i) "Residential A" ~~[shall mean]~~ means a parcel, or portion thereof, which:
- (1) Is improved with no more than two ~~[single family]~~ single-family dwelling units; and
- (A) Has an assessed value of \$1,000,000 or more;
- (B) Does not have a home exemption; and
- (C) Is zoned R-3.5, R-5, R-7.5, R-10, or R-20 or is dedicated for residential use;



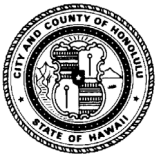
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- (2) Is vacant land zoned R-3.5, R-5, R-7.5, R-10, or R-20 and has an assessed value of \$1,000,000 or more; or
- (3) Is a condominium unit with an assessed valuation of \$1,000,000 or more and does not have a home exemption.

Residential A excludes any parcel, or portion thereof, improved with military housing located on or outside of a military base.

- (j) For purposes of this ~~[subsection,]~~ section, "bed and breakfast home" has the same meaning as defined in Section 21-10.1[-]
- ~~(1) Notwithstanding the provisions of subsection (c)(2), properties operating as bed and breakfast homes in accordance with Section 21-4.110-2, and which have a valid nonconforming use certificate, shall be classified based on their underlying zoning.~~
- ~~(2) Real property operating as a bed and breakfast home as otherwise permitted under Chapter 21 must be classified as bed and breakfast home.], and includes bed and breakfast homes with current nonconforming use certificates.~~
- (k) For the purposes of this section, "transient vacation unit" means the same as defined in Section 21-10.1, and includes transient vacation units with current nonconforming use certificates."

SECTION 3. Ordinance material to be repealed is bracketed and stricken. New material is underscored. When revising, compiling, or printing this ordinance for inclusion in the Revised Ordinances of Honolulu, the Revisor of Ordinances need not include the brackets, the material that has been bracketed and stricken, or the underscoring.



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ORDINANCE _____

BILL **4 (2022), CD1**
PROPOSED

A BILL FOR AN ORDINANCE

SECTION 4. This ordinance takes effect upon its approval and applies to the tax years beginning July 1, 2023.

INTRODUCED BY:

Brandon Elefante (br)

DATE OF INTRODUCTION:

January 14, 2022
Honolulu, Hawai'i

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Deputy Corporation Counsel

APPROVED this _____ day of _____, 20 _____.

RICK BLANGIARDI, Mayor
City and County of Honolulu