

ORDINANCE NO. 18-114
SHORT-TERM VACATION RENTALS
Questions & Answers
Revised 1-22-2019

WHAT IS A SHORT-TERM VACATION RENTAL?

As defined by Ordinance No. 18-114, a “Short-Term Vacation Rental” is a dwelling unit of which:

- The owner or an operator **does not** reside on the building site,
- Has no more than five bedrooms for rent on the building site, and
- Is rented for a period of thirty consecutive days or less.

The ordinance **does not** apply to:

- Hosted short-term vacation rentals where the owner or operator resides on the building site;
- Bed and Breakfast establishments as regulated by the Zoning Code;
- Short-term rental of a “primary residence” as defined by the Internal Revenue Code.

WHAT IS THE PURPOSE OF THIS REGULATION?

- To limit the conversion of the Island’s much needed residential housing into visitor vacation accommodations;
- Protect the quality of life in local neighborhoods;
- To encourage the preservation of housing opportunities close to work within the mixed-use, urban centers;
- To identify Zoning Districts that best support the operation of Short Term Vacation Rentals;
- To establish policies to permit and regulate single family and multi-family residential dwelling units that operate as a Short Term Vacation Rental;
- To provide an opportunity to continue operation of pre-existing Short Term Vacation Rentals within legally-built dwelling units located outside of permitted Zoning Districts through granting of a Nonconforming Use Certificate;
- To provide a process for the registration of all Short Term Vacation Rentals;
- To adopt standards for the management and operation of all Short Term Vacation Rentals.

WHERE ARE SHORT-TERM VACATION RENTALS PERMITTED?

Short-term vacation rentals are permitted in the following zoning districts:

- Resort (V)
- General Commercial (CG)
- Village Commercial (CV)
- Residential and Commercial zoning districts within the General Plan Resort and Resort Node;
- Condominiums within the Multi-family residential district (RM).

WILL ALL EXISTING SHORT-TERM VACATION RENTALS LOCATED OUTSIDE OF A PERMITTED ZONING DISTRICT BE FORCED TO SHUT DOWN?

NO.

Short Term Vacation Rentals, operating outside of a permitted Zoning District prior to the effective date of this ordinance, will have one hundred eighty (180) days after the adoption of rules of procedures to apply for a **Nonconforming Use Certificate**. **A property that has a nonconforming use certificate retains that use even if the property changes hands. That use however, will end permanently if the short term vacation rental ceases for one year.**

WILL ALL SHORT-TERM VACATION RENTALS BE REQUIRED TO REGISTER WITH THE COUNTY?

YES.

1. Existing short term vacation rentals shall register with the Planning Director within one 180 days from adoption of rules.
2. Future short term vacation rentals operating within permitted Zoning Districts shall register with the Planning Director prior to beginning operation.
3. The registration for ALL short-term vacation rentals, at a minimum, shall require the following:
 - A. Payment of \$500 registration fee.
 - B. Verification that a State of Hawaii GET License and a State TAT License are in effect and that County property taxes are paid in full.
 - State law requires the payment of General Excise Taxes on gross rental income.
 - State law also requires the payment of Transient Accommodation Tax from income generated by any Dwelling Unit rented for less than 180 days per year.
 - C. Certification that the requisite amount of parking pursuant to Hawaii County Code section 25-4-51, is available;
 - D. Submittal of a site plan showing the location of the rooms for rent and requisite parking;
 - E. Verification that notification letters (**only for Nonconforming use applicants**) have been sent to all owners and lessees of record of all lots of which any portion is within three hundred feet of any point along the perimeter boundary of the short-term vacation rental property. (**A weblink will be provided to retrieve a necessary address list.**)
 - F. The designation of a contact person who is available 24 hours a day, seven days a week, to address emergency issues related to the operation of the short-term vacation rental. This up-to-date information will be provided to the Planning Department.
4. To apply for a nonconforming use certificate for an existing Short-Term Vacation Rental located outside of a permitted Zoning District as a nonconforming use, the

applicant shall comply with above items #1-3 A, B, C, D, E and F as well as the following:

- A. **Evidence of Prior Use.** The applicant seeking a short-term vacation rental nonconforming use certificate shall have the burden of proof in establishing that the property was in use prior to the effective date of this ordinance and that the dwelling has been issued final approvals by the building division for building, electrical, and plumbing permits. Evidence of such use prior to the effective date of this ordinance may include tax documents for the relevant time period or other reliable information. Evidence of final approval of building, electrical and plumbing permits can be provided by the Department of Public Works-Building Division.

Requirement for land located in the State Land Use Agricultural district.

For a Non-conforming Use Certificate to be issued for a Short Term Vacation Rental located in the State Land Use Agricultural district, it must be determined by the Planning Department that the lot was created prior to June 4, 1976

- C. **Annual Renewal.** A Short Term Vacation Rental, registered as a Nonconforming Use, must apply for renewal annually and pay a \$250 renewal fee. Failure to secure annual renewal on a timely basis will result in loss of non-conforming status.

- D. Based on the above requirements, the Planning Director shall determine whether to issue and renew a Nonconforming Use Certificate.

WHAT ARE THE OPERATING STANDARDS REQUIRED FOR ALL SHORT TERM VACATION RENTALS?

All short-term vacation rentals shall be subject to the following standards:

- 1) The owner or reachable person must be able to:
 - a) Respond via telephone to a request from a guest, neighbor, or County agency within one hour of receiving that request; and
 - b) Be physically present at the short-term vacation rental within three hours of receiving a call from a guest, neighbor, or County agency, when that guest, neighbor, or County agency requests the presence of the reachable person.”
- 2) Good neighbor policy. The owner or reachable person shall be responsible to ensure that activities taking place within the short-term vacation rental conform to the character of the existing neighborhood in which the rental is located. At a minimum, the following shall be prominently displayed within the dwelling unit and recited in the rental agreement signed by the tenant:
 - a) Quiet hours shall be from 9:00 p.m. to 8:00 a.m., during which time the noise from the short-term vacation rental shall not unreasonably disturb adjacent neighbors.
 - b) Sound that is audible beyond the property boundaries during non-quiet hours shall not be more excessive than would be otherwise associated with a residential area.
 - c) Guest vehicles shall be parked in the designated onsite parking area.

- 3) All print and internet advertising of short-term vacation rentals, including listings with a rental service or real estate firm, shall include the registration and/or nonconforming use certificate number.
- 4) A copy of the registration as well as the reachable person's name and phone number, shall be displayed on the back of the front door of the sleeping quarters.
- 5) Off-street parking shall meet the requirements set forth in section 25-4-51 and applicable parking standards in this chapter.
- 6) Any commercial signage that advertises a short-term vacation rental shall comply with the requirements of section 22-2.6 and chapter 3 of the Hawai'i County Code.

Call the Hawai'i County Planning Department for additional information:

Hilo Office – (808) 961-8288

Kona Office – (808) 323-4770

SHORT-TERM VACATION RENTAL REGULATORY PROCESS

