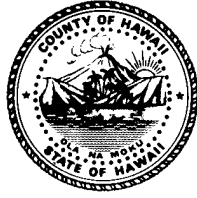


COUNTY OF HAWAI‘I



STATE OF HAWAI‘I

BILL NO. _____

ORDINANCE NO. _____

DRAFT 4 - 6/19/23(HK)

PINK HIGHLIGHT – DATES TO ADD LATER

NOTABLE CHANGES BETWEEN DRAFT 3 AND 4:

1. *Rearrangement of the bill for better clarity*
2. *Change of “On-Site” Parking to “Off-Street” Parking*
3. *Change of information process without notification requirement to adjacent properties*
4. *Grace period with late fee added to renewals*
5. *Clarification on limitations for Ag properties*
6. *Change from final permits required to health, safety and code affidavit*
7. *Tiered renewal fees based on #bedrooms and property value (still under review)*
8. *Tiered fine structure for 1st, 2nd and 3rd violations*
9. *Property Tax Amnesty program (Still under review)*
10. *Change from “operator” to “host” and “reachable person”*
11. *The Vacation Node sections have been removed from this bill to be considered at a later time.*

There are other editorial changes throughout the document. Please be aware this is still in draft form and may still contain errors. Mahalo.

AN ORDINANCE AMENDING CHAPTER 25, ARTICLES 1, 4, 5, AND 6, OF THE HAWAI‘I COUNTY CODE 1983 (2016 EDITION, AS AMENDED), RELATING TO TRANSIENT ACCOMMODATION RENTALS.

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF HAWAI‘I:

SECTION 1. Chapter 25, article 1, section 25-1-5, of the Hawai‘i County Code 1983 (2016 Edition, as amended), is amended by repealing the definition of “short term vacation rental”.

[~~““Short term vacation rental” means a dwelling unit of which the owner or operator does not reside on the building site, that has no more than five bedrooms for rent on the building site, and is rented for a period of thirty consecutive days or less. This definition does not include the short term use of an owner’s primary residence as defined under section 121 of the Internal Revenue Code.”]~~]

SECTION 2. Chapter 25, article 1, section 25-1-5, of the Hawai‘i County Code 1983 (2016 Edition, as amended), is amended by adding the following new definitions to be appropriately inserted and to read as follows:

““Event” means a formal congregation of guests that may or may not include the engagement of professional services that is not typical in residential areas.”

““Gathering” means an informal congregation of guests typical of residential areas.”

““Host” means any person operating a transient as their permanent address for legal purposes, whether as the owner, or as a proprietor, lessee, sub lessee, mortgagee in possession, licensee, or otherwise engaged in any property management service which involves the actual furnishing of transient accommodation.”

““Hosted” means a transient accommodation with a host residing onsite during rental operations.”

““Hosting platform” means a business or person that provides a marketplace through which transient accommodation rentals may be offered for rent.”

““Principal Home” means a principal home as defined in section 19-71(e), Hawai‘i County Code.”

““Transient” or “transients” means any visitor or person who owns, rents, or uses a lodging or dwelling unit, or portion thereof, for less than one hundred eighty days and whose permanent address for legal purposes is not the lodging or dwelling unit occupied by the visitor. This definition shall not apply to:

- (1) Nonpaying guests of the family occupying the unit;
- (2) Clients in health care facilities;
- (3) Full-time students enrolled in an educational institution in the County of Hawai‘i;
- (4) Employees who receive room and/or board as part of their salary or compensation including agricultural workers;
- (5) Occupants of group living facilities, authorized by the department of health;
- (6) Military personnel;
- (7) Health care workers temporarily employed at a medical facility in the County of Hawai‘i;
- (8) Low-income renters receiving rental subsistence from the state or federal governments whose rental periods are for durations shorter than sixty days; or
- (9) Occupants of lodging provided by nonprofit corporations or associations for religious, charitable, or education purposes; provided that no income is produced, even if the income is used for or in furtherance of the exempt activities of such religious, charitable, or educational corporation or association.”

““Transient accommodation” means the furnishing of a room, apartment, suite, single family dwelling, or the like to a transient for less than one hundred eighty consecutive days for each letting in a hotel, apartment hotel, motel, condominium or unit as defined in chapter 514B, cooperative apartment, dwelling unit, or rooming house that provides living quarters, sleeping, or

housekeeping accommodations, or other place in which lodgings are regularly furnished to transients.” (Reference section 237D-1, Hawai‘i Revised Statutes.)

““Transient accommodation rental” means a transient accommodations excluding:

- (1) Hotels;
- (2) Apartment hotels;
- (3) Motels;
- (4) Lodges;
- (5) Bed and Breakfasts;
- (6) Condominium, or unit as defined in chapter 514B, Hawai‘i Revised Statutes;
- (7) Timeshares; and
- (8) Cooperative apartment.”

““Un-hosted” means a transient accommodation without a host located onsite during rental operations.”

SECTION 3. Chapter 25, article 4, sections: 25-4-16; 25-4-16.1; 25-4-16.2; and 25-4-16.3, of the Hawai‘i County Code 1983 (2016 Edition, as amended), are repealed.

SECTION 4. Chapter 25, article 4, of the Hawai‘i County Code 1983 (2016 Edition, as amended), is amended by adding the following new division to read as follows:

“Division 1.1. Use Regulations – Transient Accommodation Rentals.

Section 25-4-16. Transient accommodation rentals; where permitted.

(a) Transient accommodation rentals shall be permitted as follows:

- (1) In the following districts:**
 - (A) V, CG, CN, CV, PD, and CDH districts;**
 - (B) Residential and commercial zoning districts, situated in general plan resort and resort node areas; and**
 - (C) RM district, for multiple family dwellings within a condominium property regime as defined and governed by chapters 514A or 514B, Hawai‘i Revised Statutes.**
- (2) In districts other than those specified in (1) with a nonconforming use permit pursuant to section 25-4-16.9; or**
- (3) In districts other than those specified in (1), when the rental also serves as the principal home of the owner, subject to the following requirements:**
 - (A) The transient accommodation rental is a part of the owner’s dwelling, guesthouse, or detached bedroom in the home;**
 - (B) The owner lives in the primary portion of the home and does not live in a guesthouse or detached bedroom;**
 - (C) The transient accommodation is provided in the owner’s ohana unit for which the owner has obtained a nonconforming use certificate pursuant to section 25-4-16.9; and**

- (D) The transient accommodation rental is not provided in a dwelling where transient rental activity is prohibited pursuant to section 205-4.5, Hawai‘i Revised Statutes, such as but not limited to, farm dwellings.
- (b) Private covenants prohibiting use of any unit as a transient accommodation rental shall not be invalidated by the registration of a transient accommodation rental under this chapter.

Section 25-4-16.1. Temporary homestay.

- (a) A homeowner may let their principal home as a transient accommodation rental without completing a registration under the following conditions:
- (1) The rental is their principal home for more than three hundred days out of the year;
 - (2) The rental is provided for less than thirty total days over a calendar and no more than fourteen consecutive days per rental period; and
 - (3) The homeowner acquires a temporary transient accommodation rental registration number from the department of planning if advertising on hosting platforms.
- (b) During the period of the temporary homestay the standards in section 25-4-16.13 and fines in section 25-4-16.15 shall apply.

Section 25-4-16.2. Additional requirements.

In addition to the provisions of 25-4-16 and 25-4-16.1, transient accommodation rentals must also satisfy the following requirements:

- (1) The transient accommodation rental must have off-street parking sufficient to satisfy the provisions of section 25-4-51;
- (2) The transient accommodation rental must meet health, safety, and construction code requirements established by law;
- (3) Owners of transient accommodation rentals must have State of Hawai‘i general excise tax and transient accommodation tax licenses that are in effect;
- (4) Owners of transient accommodation rentals must be current on their Hawai‘i County real property taxes, that is, they must be paid in full;
- (5) Wastewater treatment requirements:
 - (A) Transient accommodation rentals located in areas identified as priority 1 by the Cesspool Conversion Working Group: Final Report to the 2023 Regular Session Legislature 2023, prepared by the State Department of Health, must be on a Department of Health approved wastewater system on or before January 1, 2028; and
 - (B) Transient accommodation rentals located in areas identified as priority 2 by the Cesspool Conversion Working Group: Final Report to the 2023 Regular Session Legislature 2023, prepared by the State Department of Health, must be on a Department of Health approved wastewater system on or before January 1, 2030.

Section 25-4-16.3. Transient accommodation rental registration required, exceptions, and change in ownership.

- (a) All transient accommodation rentals shall be registered with the planning department, except as provided in subsection (b).

(b) Exceptions.

- (1) Un-hosted transient accommodation rentals that were previously registered as short term vacation rentals shall not be required to reregister, however, they will be required to renew their registration annually in accordance with section 25-4-16.7.
 - (2) Registration as a transient accommodation rental shall not be required if:
 - (A) The rental is not being provided to transient or transients as defined by this chapter.
 - (B) There is an emergency declaration enabling temporary shelter for displaced persons;
 - (C) The dwelling is the principal home of the host and is provided as a home exchange and no financial exchange occurs;
 - (D) The dwelling is the principal home of the host and meets the temporary home stay conditions pursuant to section 25-4-16.1; or
 - (E) The dwelling is being provided to a tenant subject to chapter 521, Hawai'i Revised Statutes, the Hawai'i residential landlord-tenant code.
- (c) Upon change in ownership, a change of ownership form and a change of registration fee of \$250 shall be submitted to the planning department by the new owner within ninety days of the change in ownership.
- (d) Any property owner that claims an exception set forth in this section where there is prima facie evidence to the contrary, shall be considered to be in violation of this chapter and subject to the fines set forth in section 25-4.16.15.

Section 25-4-16.4. When to register, fees.

- (a) Owners of hosted transient accommodation rentals in operation on or before {Date to Be Determined} who have submitted a registration application and a one-time application fee of \$500 on or before {Date to Be Determined}, shall be allowed to continue to operate until such time as their application is approved or denied by the department subject to the standards in section 25-4-16.13 and fines in section 25-4-16.15.
- (b) Owners of new un-hosted transient accommodation rentals, where such use is permissible pursuant to this section shall be registered with the director prior to use of such rental, upon payment of a one-time registration fee of \$1000.
- (c) Owners of new hosted transient accommodation rentals, when the rental also serves as the principal home of the owner, shall be registered with the director prior to use of such rental, upon payment of a one-time registration fee of \$500.

Section 25-4-16.5. Rental registration process.

- (a) Owners of a transient accommodation rental shall register by submitting a registration form to the planning department in a format prescribed by the director. The registration form, at a minimum, shall include:
 - (1) Property address and tax map key number;
 - (2) Name of property owner. Contact information for the property owner, the host, if different from the property owner, or the reachable person if the transient accommodation rental is un-hosted;

- (3) If the transient accommodation is provided by a property management company, a copy of a current, valid real estate broker's license or real estate salesperson's license, if required pursuant to chapter 467, Hawai'i Revised Statutes;
 - (4) Submittal of a site drawing, drawn to scale, showing the location of all structures on the site and requisite off-street parking pursuant to section 25-4-51, and a floor plan showing the location of the rooms for rent;
 - (5) A sworn affidavit in a format determined by the director, and submitted under penalty of perjury, that the transient accommodation rental meets health, safety, and code requirements;
 - (6) Copies of a current State of Hawai'i general excise tax license;
 - (7) County of Hawai'i real property tax clearance certificate.
- (b) Upon receipt of a registration form and determination that it is accurate and complete, the planning director shall issue a transient accommodation rental registration number to the property owner.

Section 25-4-16.6. Failure to register.

Any transient accommodation rental that has not lawfully registered shall be considered an unpermitted use and subject to the fines set forth in section 25-4-16.15 until the rental is properly registered or ceases to operate as a transient accommodation rental.

Section 25-4-16.7. Annual renewal of registration required.

- (a) All transient accommodation rental registrations shall be renewed annually.
- (b) Transient accommodation rental owners shall submit their registration renewal by the following deadlines:
- (1) For transient accommodation rentals registered prior to {Date to Be Determined}, on or prior to a date specified by the director; or
 - (2) For transient accommodation rentals registered after {Date to Be Determined}, on or before the date that the transient accommodation rental registration number was issued by the department.
- (c) In addition to any requirements established by the department's rules, all renewal applications shall include:
- (1) Evidence that real property taxes and County of Hawai'i transient accommodation taxes for the rental were paid in full during the previous year; and
 - (2) An annual renewal fee per bedroom of:

<u>TRANSIENT ACCOMMODATION RENTAL ANNUAL RENEWAL SCHEDULE</u>			
	<u>Property Assessed Value</u>		
<u>Rental Type</u>	<u>\$500,000 or less</u>	<u>\$500,001-\$1,000,000</u>	<u>\$1,000,001 or greater</u>
<u>Hosted principal home</u>	<u>\$50.00</u>	<u>\$100.00</u>	<u>\$150.00</u>
<u>Hosted non-principal home</u>	<u>\$100.00</u>	<u>\$200.00</u>	<u>\$300.00</u>
<u>Un-hosted</u>	<u>\$200.00</u>	<u>\$400.00</u>	<u>\$600.00</u>

**This mechanism is still under review – it may not be possible to implement*

- (d) If the renewal is submitted within ninety days after the due date, a late renewal fee of \$100 shall be assessed.
- (e) Renewal of a registration may be denied if the director verifies any of the following:
 - (1) The applicant has violated pertinent laws;
 - (2) The affidavit affirming that the transient accommodation rental meets all health, safety and code requirements is found to be inaccurate;
 - (3) The owner is delinquent in payment of County property taxes, transient accommodation taxes, fees, fines, or penalties assessed in relation to the transient accommodation rental;
 - (4) Evidence of non-responsive management, such as issuance of a notice of violation, police reports, or verified neighbor complaints of noise or other disturbances relating to the transient accommodation rental operations;
 - (5) The renewal request and renewal fee were not received within ninety days of the expiration date indicated on the certificate; or
 - (6) Any violation of standards set forth in section 25-4-16.13.

Section 25-4-16.8. Transient accommodation changes of information.

Owners shall notify the director by submitting a change of information form when:

- (1) A transient accommodation rental establishment permanently ceases to operate for any reason;
- (2) The host or the contact information for the host has changed;
- (3) The reachable person or the reachable person's contact information has changed; or
- (4) The number of bedrooms included in the transient accommodation rental has changed.

Section 25-4-16.9. Transient accommodation rental nonconforming use certificate.

- (a) Hosted transient accommodation rentals.

Hosted nonconforming use certificates shall only be issued for transient accommodation rentals with an onsite host who resides on the property during transient accommodation rental operations.

- (1) An applicant seeking a hosted nonconforming use certificate where the transient accommodation rental is an ohana unit located on the same property as the owner's principal home, shall have the burden of proof in establishing that the property was in use as a transient accommodation rental on or before {Date To Be Determined Upon Introduction}.
- (2) An applicant seeking a hosted nonconforming use certificate where the transient accommodation rental has been managed by an onsite host other than the property owner, shall have the burden of proof in establishing that the property was in use as a transient accommodation rental on or before {Date To Be Determined Upon Introduction} and that the host was residing on the property. Evidence of such use may include tax documents for the relevant period, a lease or contract with the onsite host, or other reliable information.
- (3) Owners of transient accommodation rentals nonconforming use certificate must notify by letter 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 transient accommodation rental property. The notification letter shall provide detailed information about the transient accommodation rental operation including number of units being rented; maximum number of guests permitted; number and location of required off-street parking spaces; contact information for the host or reachable person, and instructions on how to submit complaints to the planning department about the subject rental operation.

- (4) Hosted transient accommodation rentals who have submitted a hosted nonconforming use certificate application and an application fee of \$250 on or before {Date To Be Determined Upon Introduction}, shall be allowed to continue to operate until such time as their application is determined to be accurate and complete by the department subject to the standards in section 25-4-16.13 and fines in section 25-4-16.15.
- (5) If at any time a transient accommodation rental with a hosted nonconforming use certificate is found to be un-hosted, the transient accommodation rental registration and the hosted nonconforming use certificate shall be revoked and a fine shall be imposed in accordance with the schedule in established in section 25-4-16.15.

(b) Un-hosted transient accommodation rentals.

No additional nonconforming use certificates shall be issued for un-hosted transient accommodation rentals. Previously issued nonconforming use certificates for un-hosted transient accommodation rentals may continue to be renewed under section 25-4-16.10.

Section 25-4-16.10. Annual renewal and transfer of nonconforming use certificates.

- (a) Nonconforming use certificates must be renewed every year on or before the expiration date indicated on the certificate. For nonconforming use certificate renewals submitted within ninety days after the due date, a late renewal fee of \$100 shall be assessed. Nonconforming use certificates overdue by more than ninety days will not be accepted and the failure to renew shall be considered voluntary forfeiture of the certificate, rendering the certificate ineligible for further renewal.
- (b) At the time of renewal, the applicant shall pay a renewal fee of \$500 for un-hosted rentals and \$250 for hosted rentals to the director of finance.
- (c) Renewal of a nonconforming use certificate shall be denied if the director finds that the transient accommodation rental has been abandoned pursuant to section 25-4-62.
- (d) Renewal of a nonconforming use certificate may be denied if the director verifies any of the following:
 - (1) The applicant has violated pertinent laws;
 - (2) The affidavit affirming that the transient accommodation rental meets all health, safety and code requirements is found to be inaccurate.
 - (3) The owner is delinquent in payment of County property taxes, transient accommodation taxes, fees, fines, or penalties assessed in relation to the transient accommodation rental;

- (4) Evidence of non-responsive management, such as issuance of a notice of violation, police reports, or verified neighbor complaints of noise or other disturbances relating to the transient accommodation rental operations;
- (5) The renewal request and renewal fee were not received within ninety days of the expiration date indicated on the certificate; or
- (6) Any violation of standards set forth in section 25-4-16.13.

Section 25-4-16.11. Transfer of nonconforming use certificates.

- (a) Hosted nonconforming use certificates granted pursuant to section 25-4-16.9(a)(1) may only be transferred upon change in ownership if the new owner intends to use the property as their principal home.
- (b) Hosted nonconforming use certificates granted pursuant to section 25-4-16.9(a)(2) may only be transferred upon change in ownership if the new owner provides evidence of an onsite host in the form of a lease or contract with an onsite host or the new owner intends to use the property as their principal home.
- (c) Upon change in ownership, a change of ownership form shall be submitted to the planning department by the new owner within ninety days of the change in ownership.

Section 25-4-16.12. Notice of denial of a nonconforming use certificate application or renewal, and appeal.

- (a) Notice of a decision by the director to deny a nonconforming use certificate or renewal of a nonconforming use certificate shall be transmitted in writing to the property owner.
- (b) Within thirty days after the transmittal of a notice of denial, the owner may appeal to the board of appeals as provided by section 6-9.2, County Charter, and sections 25-2-20 through 25-2-25.

Section 25-4-16.13. Transient accommodation rental operation standards.

- (a) The transient accommodation rental operation shall comply with the following standards, which shall be prominently displayed within the rental:
 - (1) A host shall physically reside at the transient accommodation rental property during transient accommodation rental operations and shall be reachable at the request of guests, neighbors, and County agencies within one hour of a request. A copy of the registration as well as the host's name and phone number, shall be displayed in a conspicuous place on the premises that is readily visible to any occupants. In emergency or unforeseen circumstances, the host may request a temporary exception from this standard from the director.
 - (2) For un-hosted rentals, a reachable person shall respond via telephone to a request from a guest, neighbor, or County agency within one hour of receiving that request and shall be physically present at the transient accommodation 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. A copy of the registration as well as the host's name and phone number, shall be displayed in a conspicuous place on the premises that is readily visible to any occupants.
 - (3) The registration and the nonconforming use or hosted nonconforming use certificates if applicable shall be displayed in a conspicuous place on the premises that is readily

- visible to an inspector. In the event that a single address is associated with numerous nonconforming use certificates, a listing of all units at that address holding current certificates may be displayed in a conspicuous, readily visible common area instead.
- (4) The guest limit for adult occupants in transient accommodation rentals shall be established at initial registration of the property and shall be limited to the lesser of two adults per bedroom and an additional two adults for the unit as a whole or one guest per every two hundred square feet of living space.
 - (5) All overnight guests shall be registered with the host and shall, in the rental agreement with the host, agree to comply with the terms of use of the property.
 - (6) Gatherings are limited to two times the guest limit.
 - (7) Weddings, wedding receptions, or events are prohibited unless allowed by special permit or use permit.
 - (8) Applicants shall comply with the terms of special use or use permit conditions to mitigate the impacts of the event on surrounding properties, including but not limited to: event size; type of event; temporary structures; use of sound amplifying devices; parking requirements; and additional insurance coverage.
 - (9) Quiet hours shall be from 10:00 p.m. to 7:00 a.m., during which time the noise from the transient accommodation rental shall not disturb adjacent neighbors. Sound that is audible beyond the property boundaries during non-quiet hours shall not exceed the standards set forth in title 11, chapter 46, Hawai'i Administrative Rules. For the purposes of this section, audible means sound perceptible by a person without the use of a sound detection device or audio aides.
 - (10) Off-street parking shall meet the requirements set forth in section 25-4-51 and applicable parking standards in this chapter, and all guest vehicles shall be parked in the designated onsite parking area.
 - (11) All print and internet advertising of transient accommodation rentals, including listings with a rental service or real estate firm, shall include the registration number, and the nonconforming use certificate number or hosted nonconforming use certificate number.
 - (12) Any commercial signage that advertises a transient accommodation rental shall comply with the requirements of section 22-2.6 and chapter 3 of the Hawai'i County Code.
- (b) It is the responsibility of the transient accommodation rental host to comply with any private covenants defining rules and standards applicable to a transient accommodation rental.

Section 25-4-16.14. Prima facie evidence; transient accommodation rentals.

- (a) The following shall constitute prima facie evidence that a transient accommodation rental is operating on a property and the conditions under which it is operating:
 - (1) Advertising of any sort that offers a property as a transient accommodation rental;
 - (2) The ability of the planning department to book the rental under any of the conditions defined by this section as requiring transient accommodation rental registration;
 - (3) Hawai'i County transient accommodation tax receipts; or
 - (4) In the event that the County enters into a contract with third party hosting platforms to provide transient accommodation rental listing information, a report provided by the engaged third party.

- (b) The burden of proof shall be on the owner to establish either that the property is not being used as a transient accommodation rental or that it is being used for such purpose legally.

DRAFT

Section 25-4-16.15. Transient accommodation rental fee and fine schedule.

<u>TRANSIENT ACCOMMODATION RENTAL FEE SCHEDULE</u>	
<u>Registration</u>	
<u>Initial registration</u>	<u>\$1000</u>
<u>Initial registration (hosted)</u>	<u>\$500</u>
<u>Annual registration renewal fees</u>	
<u>Registration renewal</u>	<u>\$</u>
<u>Registration renewal (hosted)</u>	<u>\$</u>
<u>Registration renewal (hosted primary home)</u>	<u>\$</u>
<u>Nonconforming use certificate</u>	
<u>Nonconforming use certificate fee</u>	<u>\$500</u>
<u>Nonconforming use certificate fee (hosted)</u>	<u>\$250</u>
<u>Other fees</u>	
<u>Change in ownership</u>	<u>\$250</u>
<u>Late fee registration or nonconforming use certificate renewal</u>	<u>\$100</u>
<u>TRANSIENT ACCOMMODATION RENTAL FINE SCHEDULE</u>	
<u>First Violation</u>	<u>\$2,500</u>
<u>Second Violation</u>	<u>\$5,000</u>
<u>Third Violation</u>	<u>\$10,000</u>

Section 25-4-16.16. Complaints, violations, and public information.

The director shall:

- (1) Receive and track complaints regarding transient accommodation rentals;
- (2) Establish and maintain administrative rules for determining if complaint is valid and there has been a violation;
- (3) Provide information about rules, policies, and procedures pertaining to transient accommodation rentals to property owners, hosts, managers, neighbors, and the general public; and
- (4) Maintain a public list of all transient accommodation rentals that have registered or received a nonconforming use certificate and any violations associated with the property.

Section 25-4-16.17. Transient accommodation rental enforcement account.

- (a) The “short-term vacation rental enforcement fund” created pursuant to section 10-12, Hawai‘i County Charter, shall be renamed the “transient accommodation rental enforcement fund.” This fund shall be administered by the director.
- (b) This account shall be funded by all fees and fines collected in connection with the administration and enforcement of the County’s transient accommodation rental law.

- (c) The funds in this account shall be utilized to pay for expenses that facilitate administration and enforcement of the County's transient accommodation rental law.

Section 25-4-16.18. Transient accommodation rental administrative enforcement.

- (a) If the director finds that any persons have violated the provisions of section 25-4-16.13, in addition to the fines established in section 16-4-16.15 and any criminal fines, the director shall impose additional fines in the amount of two times the highest daily rate at which the transient accommodation rental has been advertised.
- (b) The owner and host shall be jointly and severally liable for all fees and fines imposed in connection with the transient accommodation rental.

Section 25-4-16.19. Notice of violation and appeal.

- (a) Notice of a violation of the transient accommodation rental standards shall be transmitted in writing to the host within ten days of the director's determination that a violation has been committed. Written notice of violation shall be provided via certified mail.
- (b) Service of the notice of violation upon the host be effective as though served upon the host and the property owner. In the event that the host is not the property owner, a copy of the notice of violation shall also be mailed to the property owner at the address of the property owner on file with the real property tax division of the County of Hawai'i.
- (c) Within thirty days after the transmittal of the notice of violation and order, any person adversely affected by the notice of violation and order may appeal the notice of violation and order to the board of appeals as provided by section 6-9.2, Hawai'i County Charter and sections 25-2-20 through 25-2-25, Hawai'i County Code. An appeal to the board of appeals shall not stay the provisions of the order pending the final decision of the board of appeals.

Section 25-4-16.20. Suspension and nonrenewal of transient accommodation rental registrations and nonconforming use certificates.

- (a) If the host a transient accommodation rental receives three or more enforcement actions in violation of section 25-4-16.13 within a twelve-month period, the director shall suspend their transient accommodation rental registration and their nonconforming use certificate if applicable, for a period of two years.
- (b) The director may also refuse to renew a certificate of registration if the applicant has not addressed an enforcement violation.

Section 25-4-16.21. Property tax assessment for transient accommodation rentals.

- (a) When any portion of a dwelling is rented, leased or used as a homestay for less than one hundred eighty days at a time during the assessment year, the entire property will be ineligible for the real property homeowner tax classification pursuant to section 19-53. The real property tax homeowner exemption will apply proportionally to the area exclusively occupied by the homeowner pursuant to section 19-71.
- (b) When the entire dwelling is rented, leased, or used as a homestay for less than one hundred eighty days at a time during the assessment year, the entire property will be ineligible for

the real property homeowner exemption and the real property homeowner tax classification pursuant to sections 19-71 and 19-72.

- (c) If there is more than one dwelling on a property, and the owner resides in one dwelling and rents, leases, or homestays another dwelling for anything other than affordable rental housing (which requires an application be submitted to the real property tax division), the entire property is ineligible for the real property homeowner tax classification pursuant to section 19-53. The real property tax homeowner exemption will apply proportionally to the area exclusively occupied by the homeowner pursuant to section 19-71.
- (d) One hundred eighty days as referred to in this section is the consecutive total of days rented to a single tenant. Advertising or application for a transient accommodation rental or nonconforming use certificate will be considered as prima facie evidence.

Section 25-4-16.22. Property tax amnesty for transient accommodation rentals.

For the purpose of ensuring compliance with the registration requirements for transient accommodation rentals, a tax amnesty period shall be established.

- (1) *Owners who have been operating a transient accommodation rental on the site of their principal home and who submit an affidavit to the real property tax department that they intend to cease transient accommodation rental operations shall remain in the homeowner tax classification and shall not be liable for back taxes.*
- (2) *Owners who have been operating a hosted transient accommodation rental, when the rental also serves as the principal home of the owner, and register the rental in accordance with this chapter by [Date to be Determined] shall be assessed in accordance with chapter 19 for the subsequent tax year but shall not be liable for back taxes based on the loss of the homeowners tax class for the tax years 2022 and 2023.*

** This section still under review pending a determination if this is permitted by current law*

Section 25-4-16.23. Director duties in event of emergency.

In the event of a declared emergency, natural or manmade, where a significant number of hosted nonconforming use transient accommodation rentals are permanently lost within any given judicial district, the director shall assess the effect of such loss upon the affected district and if deemed necessary, initiate legislative and administrative opportunities to restore hosted transient accommodation rental capacity to primary residents who relocate within the affected district.”

SECTION 5. Sections 25-1-5, 25-5-3(a)(13); 25-5-22(a)(15); 25-5-32(a)(18); 25-5-42(a)(24); 25-5-92(a)(32); 25-5-102(a)(35); 25-5-112(a)(52); and 25-5-122(a)(45), Hawai‘i County Code, are amended by substituting the word “transient accommodation rental”, or similar term, wherever the word, “short-term vacation rental”, or similar term, appears, as the context requires.

SECTION 6. Material to be repealed is bracketed and stricken. New material is underscored. In printing this ordinance, the brackets, bracketed and stricken material, and underscoring need not be included.

SECTION 7. Severability. If any provision of this ordinance, or the application thereof to any taxpayer or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

SECTION 8. This ordinance shall take effect on {Date to Be Determined upon Introduction}.

INTRODUCED BY:

COUNCIL MEMBER, COUNTY OF HAWAI'I

COUNCIL MEMBER, COUNTY OF HAWAI'I

_____, Hawai'i
Date of Introduction:
Date of 1st Reading:
Date of 2nd Reading:
Effective Date: