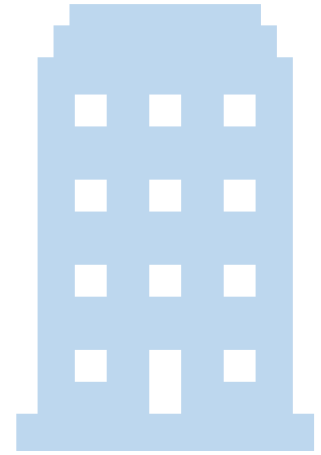


Zoning & LUO²

Terminology and Definitions

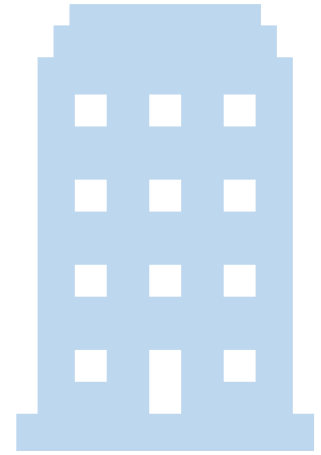
- Zoning under the Land Use Ordinance, Chapter 21
 - Master Use Table
 - Sustainable Communities and Special Districts
- Familiarizing with acronyms
- Types of applicable taxes
- Landlord Tenant Code

- ² This slide presentation has been updated with new clarification since the HBR Agent Forum on July 12, 2019



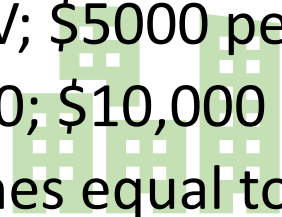
STR, TVU, B&B, NUC, Registration

- What do these mean & what's the difference?
- How are existing NUC permitted properties affected and how are new B&B's determined?
- So what happens on August 1, 2019 and what happens on October 1, 2020?



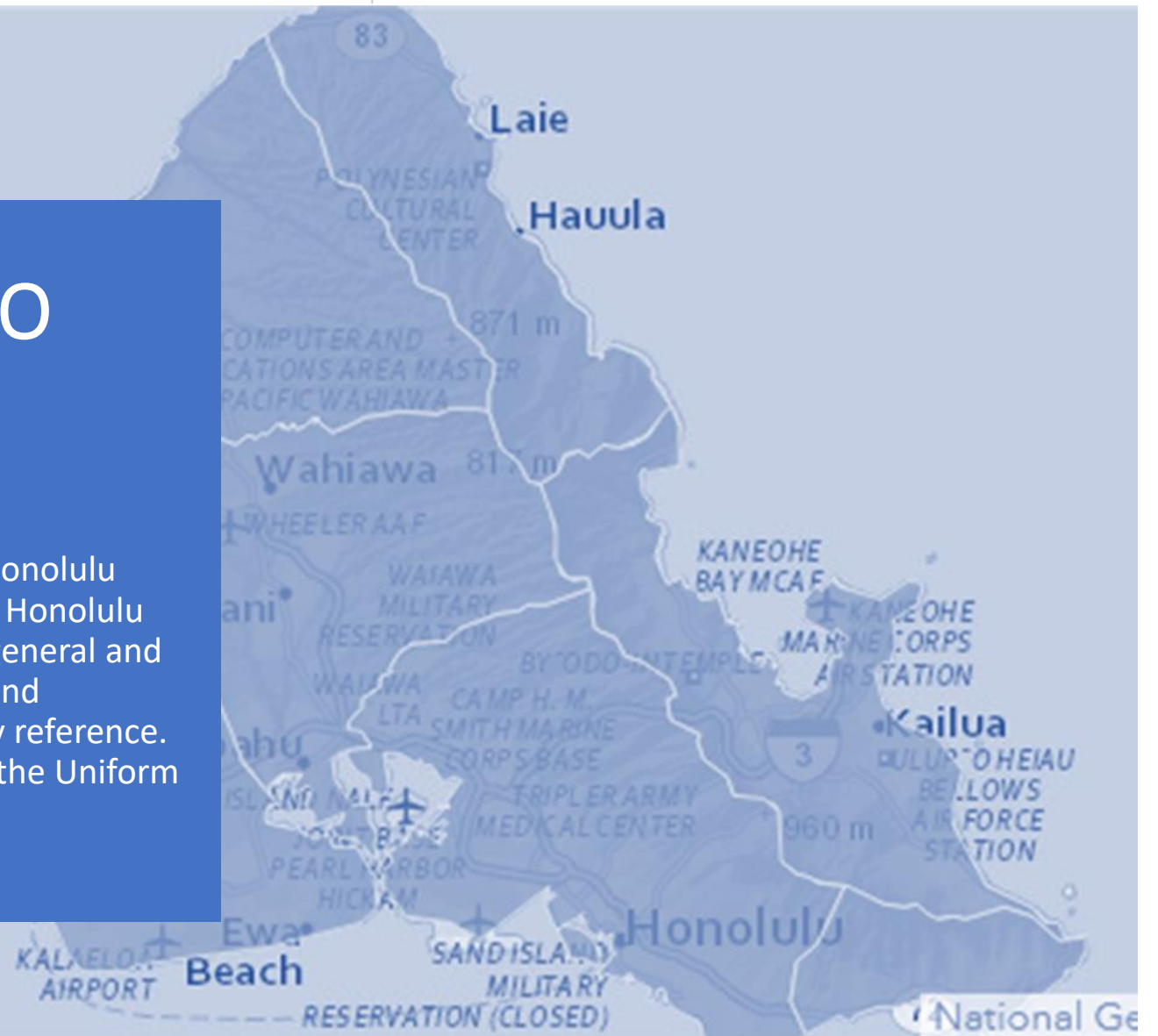
August 1, 2019 and October 1, 2020

- As of August 1, 2019 new enforcement regulations will apply.
 - Advertising compliance
 - NUC and New B&B Registration numbers
 - Regulates hosting platforms
 - Fines
 - 1st Violation: Civil fine of \$1000 for NOV; \$5000 per day
 - Recurring violation: Civil fine of \$10,000; \$10,000 per day
 - DPP Director may impose additional fines equal to the total sum received by unpermitted TVU or B&B activities
- Between August 1, 2019 to October 1, 2020 DPP will be determining the registration process for new B&B's.



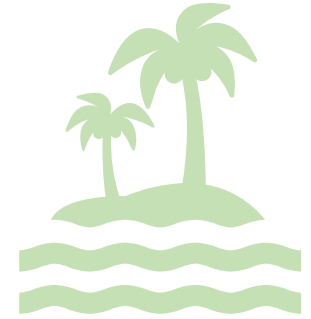
ROH - Zoning and LUO

- Revised Ordinances of Honolulu 1990
- The code, or set of laws, for the City and County of Honolulu ("City") is officially named the Revised Ordinances of Honolulu 1990 ("ROH"). The ROH includes all ordinances of a general and permanent nature for the City. Statewide, national, and international codes are incorporated into the ROH by reference. Some examples are the International Building Code, the Uniform Plumbing Code, and the State Fire Code



Acronyms

- HAR Hawaii Administrative Rules
- HRS Hawaii Revised Statutes
- LUO Land Use Ordinances
- ROH Revised Ordinances of Hawaii
- NUC Non-confirming Use Certificate
- B&B Bed and Breakfast dwelling
- TVU Transient Vacation Unit
- STR Short Term Rental
- HCDA Hawaii Community Development Authority
- DCCA Department of Commerce and Consumer Affairs
- DPP Department of Planning and Permitting
- DBEDT Department of Business, Economic Development and Tourism
- HTA Hawaii Tourism Authority
- DPA Development Plan Area
- FAR Floor Area Ratio
- NOV Notice of Violation



HRS §237D-1

State Defines Transient accommodation as:

HRS §237D-1§18-237D-1-07

- **“Transient accommodations”, defined.** (a) In general. “Transient accommodations” means the furnishing of a room, apartment, suite, or the like which is customarily occupied for less than one-hundred-eighty consecutive days for each letting by a hotel, apartment hotel, motel, condominium property regime or apartment as defined in chapter 514A, HRS, cooperative apartments, or rooming house that provides living quarters, sleeping, or housekeeping accommodations, or other place in which lodgings are regularly furnished to transients for a consideration.
- (b) Applicable presumptions. If the room, apartment, or the like is customarily occupied by transients and the hotel or condominium regularly furnishes such accommodations to transients, the following apply:
 - (1) It shall be presumed that accommodations are transient accommodations if the accommodations are let for a period of less than one-hundred-eighty consecutive days; and
 - (2) No presumption applies if the accommodations are let for a period of one-hundred-eighty consecutive days or longer.
 - (3) See section 18-237D-15-01 for further discussion of the one hundred-eighty day presumption set forth in section 237D-15(b), HRS.
- (c) “Customarily”, defined. “Customarily” means: **TRANSIENT ACCOMMODATIONS TAX §18-237D-1-07 237D- 9 (Unofficial Compilation)**
 - (1) By virtue of common usage, the hotel room, apartment, suite, and the like is occupied for less than one-hundred-eighty consecutive days, such as the following:
 - (A) Hotel rooms which are customarily rented to guests who stay for short periods of time, such as periods of consecutive days and nights which are generally less than a week; or
 - (B) Condominium apartments which are customarily rented to guests who occupy the apartments for longer periods, such as thirty consecutive days or more.
 - (C) There may be situations where a hotel room or a condominium apartment is customarily rented to transients, but also is periodically rented for more than one-hundred-eighty consecutive days. For example, a hotel room or condominium which is customarily rented to tourists for periods averaging thirty days, but at times is rented to a construction company for temporary housing of its employees. This temporary housing may last for one year or more whenever the companies have jobs in the Neighbor Islands and housing is required to be provided. Whether the hotel, condominium, or apartment operator periodically rents the room, apartment, or suite for one-hundred-eighty consecutive days or more shall not change an accommodation from a transient to a non-transient accommodation. For the period in which the hotel or condominium is rented for one-hundred-eighty consecutive days or longer, however, the revenue from the rental is not subject to the transient accommodations

HRS §237D-1

State Defines “Transient” as:

- **§18-237D-1-06**
- **“Transient”, defined.** (a) A “transient” is any person who stays for only a short and temporary period, such as a person who comes and goes with only a brief stop. A transient includes both residents and nonresidents.
- (b) Individuals on a month-to-month lease excluded. A transient does not include an individual renting a room, suite, or the like, on a month-to-month lease, if the individual:
 - (1) Does not have another true, fixed, and permanent home and principal establishment;
 - (2) Moves from place to place through the use of month-to-month rentals; and
 - (3) Establishes a permanent home and principal establishment at each place which is rented on a month-to-month lease.
- This provision applies even if the individual terminates a long term rental agreement before the one hundred-eighty days expire.

STR

Short Term Rental

- State of Hawaii defines as rentals less than 180 consecutive days
- City & County of Honolulu defines as rentals less than 30 consecutive days
- City & County allows for a 30 day rental; maximum 12x/yr.; no overlapping of rental periods
- TAT & GET applies
- Landlord Tenant code applies to rentals with the exception of motels and boarding rooms
- ¹ Pursuant to Landlord Tenant Code HRS 521

B&B

Bed and Breakfast

- State of Hawaii defines as rentals less than 180 consecutive days
- City & County of Honolulu defines as rentals less than 30 consecutive days
- TAT & GET applies
- Owner/agent must occupy the property
- Property must have a real property tax exemption

TVU

Transient Vacation Unit

- State of Hawaii defines as rentals less than 180 consecutive days
- City & County of Honolulu defines as rentals less than 30 consecutive days
- NUC registration number required, where permitted
- Registration is not transferrable, and shall not run with the land
- TAT & GET applies

Updated – See next slide

STR Short Term Rental	B&B Registration New Bed and Breakfast	Existing NUC Transient Vacation Unit & Bed and Breakfast
<ul style="list-style-type: none"> • State of Hawaii defines as rentals less than 180 consecutive days • City & County of Honolulu defines as rentals less than 30 consecutive days • City & County allows for a 30-day rental; maximum 12x/yr.; no overlapping of rental periods • TAT & GET applies • Landlord Tenant code applies to all rentals with the exclusion of hotel, motels and boarding rooms¹ <p>¹ Pursuant to Landlord Tenant Code HRS 521</p>	<ul style="list-style-type: none"> • State of Hawaii defines as rentals less than 180 consecutive days • City & County of Honolulu defines as rentals less than 30 consecutive days • Registration number required, where permitted and renewed annually; new B&B's are not issued an NUC. • Registration is not transferrable, and shall not run with the land • TAT & GET applies • Owner must occupy the property • Property must have a real property tax exemption 	<ul style="list-style-type: none"> • State of Hawaii defines as rentals less than 180 consecutive days • City & County of Honolulu defines as rentals less than 30 consecutive days • NUC number required, where permitted • NUC runs with Land – can be transferred to new property owner² • Renewal per existing criteria every 2 years • No new NUC's will be issued • TAT & GET applies

LUO

Land Use Ordinances

- **Master Use Table 21-3**
 - outlines permitted use per zoning
 - New land classification added for B&B
 - New section sets parameters on allowance on number of units and distance
- **Restrictions on B&B and TVU in certain areas –**
 - Waikiki Special District Precinct
 - NS Area, refer to North Shore Sustainable Communities
 - Certain development plan or sustainable communities
- **State vs County – Kakaako & HCDA**

B&B

- **Zoning areas allowed with “P/C”, Permitted use subject to standards in Article 5**
- **Residential**
 - R-20, R-10, R-7.5, R-5, R-3.5
- **Apartment**
 - A-1 Low-density
 - A-2 Medium-density
 - A-3 High-density
- **AG-2, Country**
- **Resort**
- **BMX-3, BMX-4**
 - Business Mix Use

TVU

- **Zoning areas allowed with “P/C”, Permitted use subject to standards in Article 5**
- **Apartment**
 - A-1 Low-density
 - A-2 Medium-density
- **Resort**

Chapter 21, Article 5, LUO of ROH

B&B are allowed provided

Restrictions and Standards Section 21-5

- **Apartment**

- A-1 Low-density
- A-2 Medium-density

- Within 3,500 feet of a resort district great than 50 contiguous acres;
- The resort district and the A-1 or A-2 district, as applicable, were rezoned pursuant to the same zone change application as part of a master-planned resort community.

Defines number of New B&B units allowed in an area; does not include NUC's and DPP is looking into how Condo limits will be applied

Must be allowed by apartment bylaws, CC&R's, house rules, CPR

Must have (1) Off-street parking per guest bedroom (Table 21-6.1)

- The Following excludes the resort district, resort mixed use precinct of the Waikiki special district, A-1 and A-2, pursuant to subsection (a):
 - Development Plan Area Density Limit. Limits number of New B&B's to no more than one half of one percent of total number of dwelling units in that development plan area.
 - Multifamily Dwelling Density Limit. New B&B's must not exceed 50% of the dwelling units in a multifamily dwelling
 - New B&B must not be located within 1,000 foot radius of another B&B or TVU, (ii) does not preclude continued operation of a B&B operating under a valid NUC pursuant to 21-4.100-2

LUO

Land Use Ordinances

- **Master Use Table 21-3**
 - outlines permitted use per zoning
 - New land classification added for B&B
 - New section sets parameters on allowance on number of units and distance
- **Restrictions on B&B and TVU in certain areas –**
 - Waikiki Special District Precinct
 - NS Area, refer to North Shore Sustainable Communities
 - Certain development plan or sustainable communities
- **Defines an unpermitted B&B or TVU as operating without a valid NUC (outside the resort, resort mixed use precinct of Waikiki special district, or A-1 or A-2 district pursuant to Sec. 21-5 (a))**
- **New B&B are issued Registration number; existing TVU's & B&B were issued an NUC and are grandfathered in.²**

Special District & Management Areas

- **Waikiki Special Districts**
 - Chinatown
 - Punchbowl
- **North Shore Sustainable Community**
- **Other areas: East Oahu, Central Oahu, Koolau Poko, Ko'olau Loa, Waianae**
- **State vs County – Kakaako & HCDA**

B&B Restrictions and Standards:

- Refer to the Ordinance 19-18 (Bill 89 (2018), CD2) for the full rules, restrictions and standards
- Dwelling units in detached dwelling used as bed and breakfast homes must be accompanied by a family, and renters of any room in the detached dwelling other than the bed and breakfast home guests are not permitted;
- No more than two (2) guest rooms with a maximum of four (4) guests;
- Quiet Hours between 10:00 p.m. to 8:00 a.m.;
- While the B&B is rented to guests, the owner or operator shall remain on the premises during the quiet hours;
- Refer to the LUO Chapter 21, Article 5 (newly added) for more information on the requirements.

Density Limit

No more than .5% of the total number of dwelling units in each regional development plan area (DPA) can be used as B&B's.

Here are the limits by area:

North Shore (0) – this is a special management area

Central Oahu (256)

Wai'anae (67)

'Ewa (171)

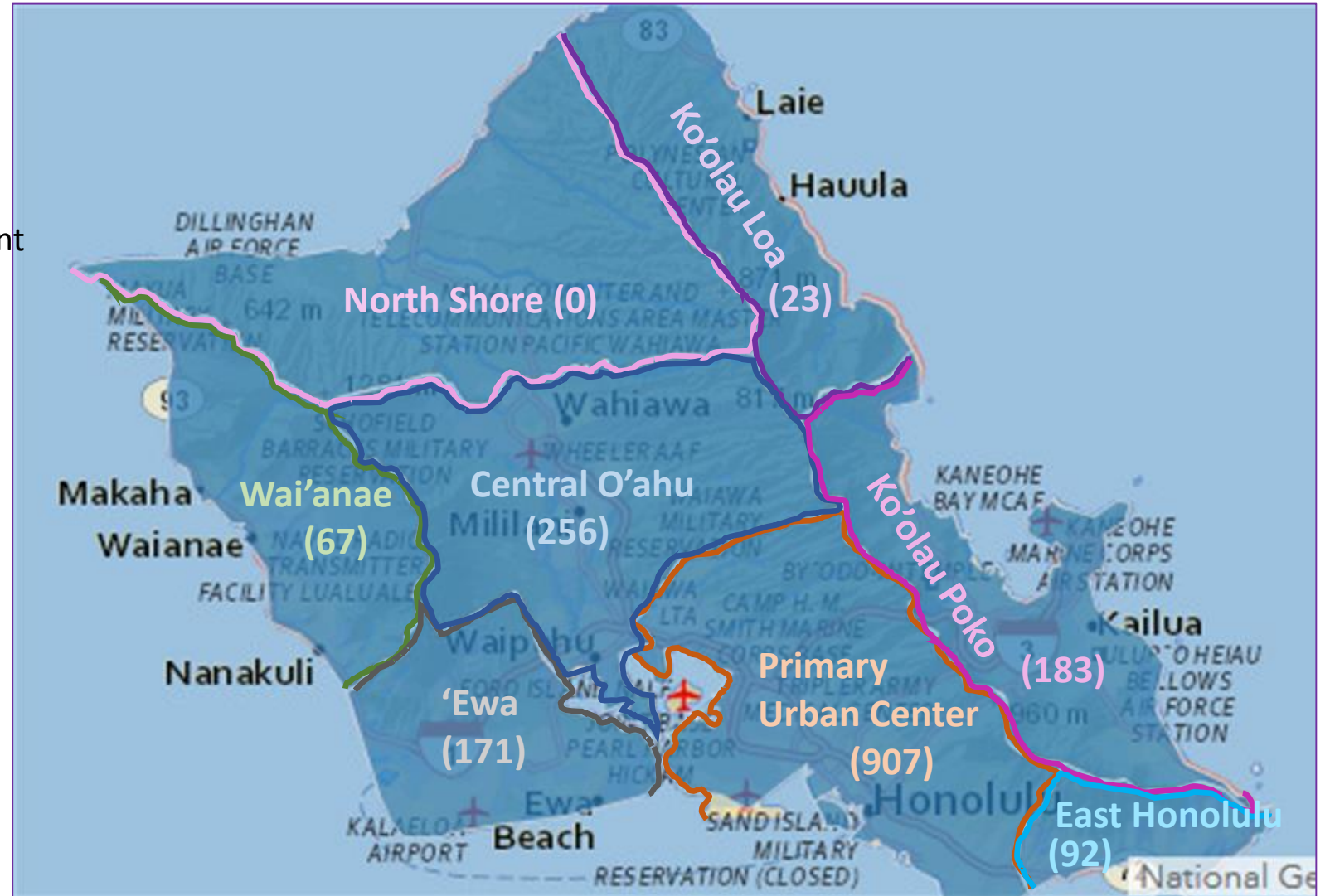
Primary Urban Center (907)

East Honolulu (92)

Ko'olau Loa (23)

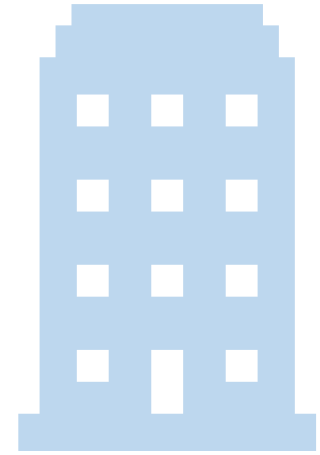
Ko'olau Poko (183)

Total new B&B registrations (1699)



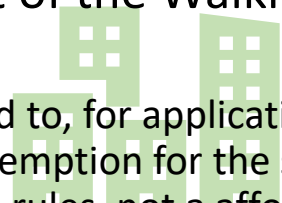
Zoning - Chap 21 ROH Section 21-5

Bed and breakfast homes and transient vacation units



Excerpts of Bed and Breakfast homes and Transient vacation units allowed as follows:

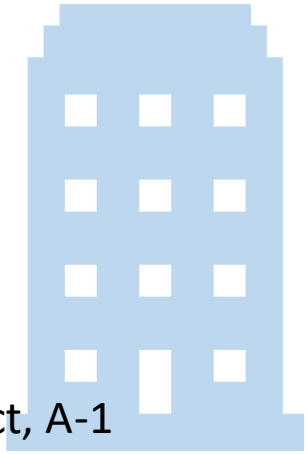
- (a) A-1 and A-2:
 1. Within 3,500 feet of a resort district great than 50 contiguous acres;
 2. The resort district and the A-1 or A-2 district, as applicable, were rezoned pursuant to the same zone change application as part of a master-planned resort community.
- In all areas except resort district, resort mixed use precinct of the Waikiki special district, A-1 and A-2:
 1. Rules enacted that requirements that includes, but not restricted to, for application of registration mandates that the owner is a resident, has a real property tax exemption for the subject property, allowance of use by HOA, AOA, CPR articles, by-laws and house rules, not a affordable income restricted property, and for homes located in AG-2 the portion of the home is not being used as a farm dwelling pursuant to Sec. 21-5.250 and Sec. 8-7-3.



Chap 21 ROH Section 21-5

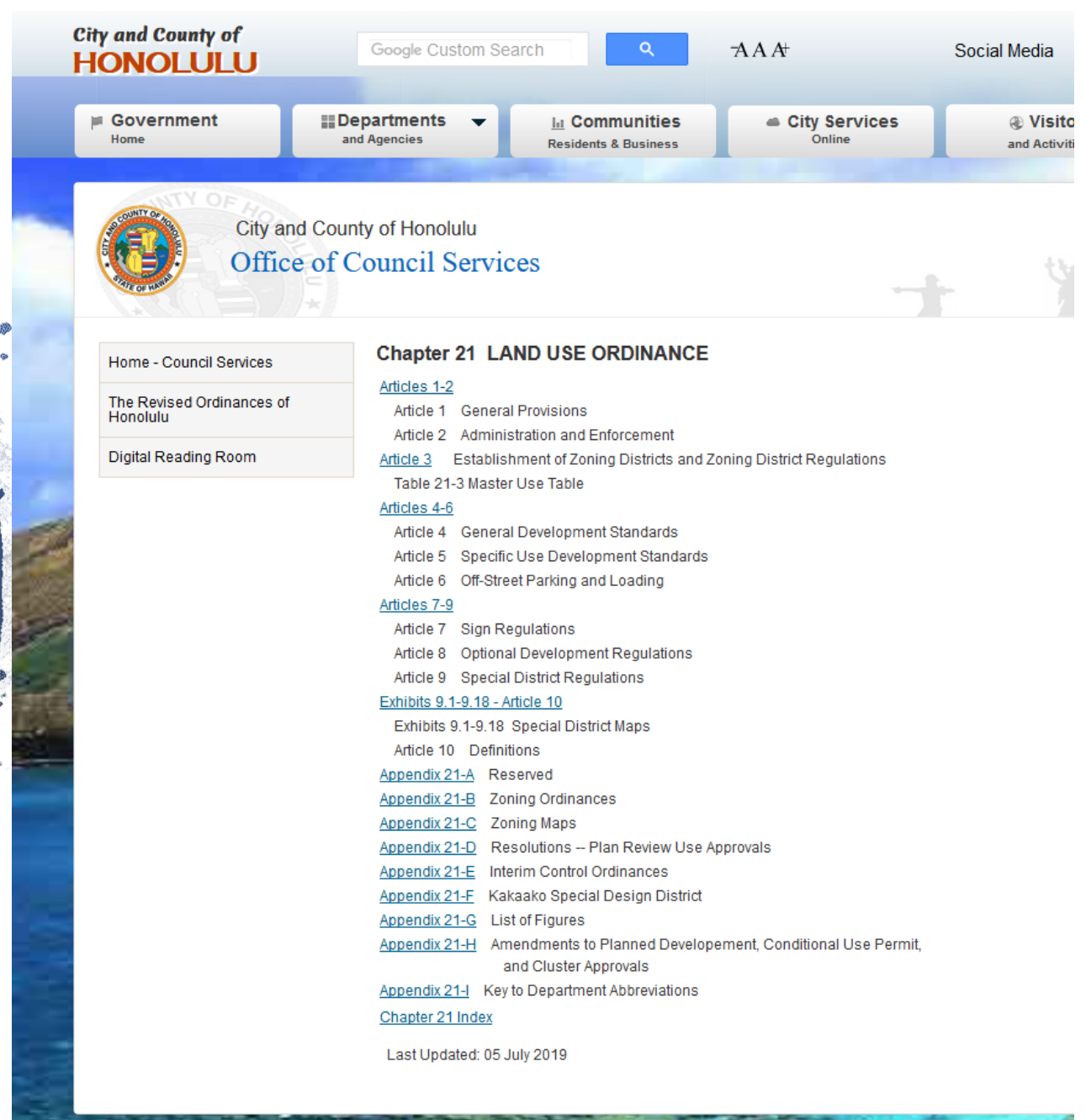
Bed and breakfast homes and transient vacation units

- Restrictions and Standards Section 21-5
- The Following excludes the resort district, resort mixed use precinct of the Waikiki special district, A-1 and A-2, pursuant to subsection (a):
 - (I) Development Plan Area Density Limit. Limits number of B&B's & TVU's to no more than one half of one percent of total number of dwelling units in that development plan area.
 - Registration will be lottery based (rules to be adopted pursuant to HRS Chapter 91)
 - (J) Multifamily Dwelling Density Limit. B&B's & TVU's must not exceed 50% of the dwelling units in a multifamily dwelling
 - (L) (i) B&B must not be located within 1,000 foot radius of another B&B or TVU, (ii) does not preclude continued operation of a B&B operating under a valid NUC pursuant to 21-4.100-2



Online access

ROH and LUO



The screenshot shows the official website of the City and County of Honolulu. At the top, there is a navigation bar with the city logo, a search box, and social media links. Below this is a secondary navigation bar with buttons for Government, Departments, Communities, City Services, and Visitation. The main content area features the city seal and the title 'Office of Council Services'. A sidebar on the left contains links to 'Home - Council Services', 'The Revised Ordinances of Honolulu', and 'Digital Reading Room'. The main content area is titled 'Chapter 21 LAND USE ORDINANCE' and lists various articles and appendices, including 'Articles 1-2', 'Article 3', 'Articles 4-6', 'Articles 7-9', 'Exhibits 9.1-9.18 - Article 10', and 'Appendix 21-A' through 'Appendix 21-I'. The page is last updated on 05 July 2019.

City and County of Honolulu
Office of Council Services

Home - Council Services

The Revised Ordinances of Honolulu

Digital Reading Room

Chapter 21 LAND USE ORDINANCE

[Articles 1-2](#)
Article 1 General Provisions
Article 2 Administration and Enforcement

[Article 3](#) Establishment of Zoning Districts and Zoning District Regulations
Table 21-3 Master Use Table

[Articles 4-6](#)
Article 4 General Development Standards
Article 5 Specific Use Development Standards
Article 6 Off-Street Parking and Loading

[Articles 7-9](#)
Article 7 Sign Regulations
Article 8 Optional Development Regulations
Article 9 Special District Regulations

[Exhibits 9.1-9.18 - Article 10](#)
Exhibits 9.1-9.18 Special District Maps
Article 10 Definitions

[Appendix 21-A](#) Reserved
[Appendix 21-B](#) Zoning Ordinances
[Appendix 21-C](#) Zoning Maps
[Appendix 21-D](#) Resolutions -- Plan Review Use Approvals
[Appendix 21-E](#) Interim Control Ordinances
[Appendix 21-F](#) Kakaako Special Design District
[Appendix 21-G](#) List of Figures
[Appendix 21-H](#) Amendments to Planned Development, Conditional Use Permit, and Cluster Approvals
[Appendix 21-I](#) Key to Department Abbreviations

[Chapter 21 Index](#)

Last Updated: 05 July 2019

LUO Master Use Table 21-3



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ORDINANCE 19-18

BILL 89 (2018), CD2

A BILL FOR AN ORDINANCE

SECTION 6. Table 21-3, Revised Ordinances of Honolulu 1990 ("Master Use Table"), is amended by:

- A. Amending the "Dwellings and Lodgings" category to add a "bed and breakfast homes" entry and revise the "transient vacation units" entry to read as follows:

"TABLE 21-3 MASTER USE TABLE

In the event of any conflict between the text of this Chapter and the following table, the text of the Chapter shall control. The following table is not intended to cover the Waikiki Special District; please refer to Table 21-9.6(A).

KEY: Ac = Special accessory use subject to standards in Article 5
Cm = Conditional Use Permit-minor subject to standards in Article 5; no public hearing required (see Article 2 for exceptions)
C = Conditional Use Permit-major subject to standards in Article 5; public hearing required
P = Permitted use
P/c = Permitted use subject to standards in Article 5
PRU = Plan Review Use

"TABLE 21-3 MASTER USE TABLE

In the event of any conflict between the text of this Chapter and the following table, the text of the Chapter shall control. The following table is not intended to cover the Waikiki Special District; please refer to Table 21-9.6(A).

- KEY:** Ac = Special accessory use subject to standards in Article 5
 Cm = Conditional Use Permit-minor subject to standards in Article 5; no public hearing required (see Article 2 for exceptions)
 C = Conditional Use Permit-major subject to standards in Article 5; public hearing required
 P = Permitted use
 P/c = Permitted use subject to standards in Article 5
 PRU = Plan Review Use

³ Notwithstanding any contrary provisions in this chapter, bed and breakfast homes and transient vacation units are prohibited and may not operate without a valid nonconforming use certificate in areas where the applicable development plan or sustainable communities plan prohibits or does not permit new bed and breakfast homes or transient vacation units."

ZONING DISTRICTS																					
USES (Note: Certain uses are defined in Article 10.)	P-2	AG-1	AG-2	Country	R-20, R-10	R-7.5, R-5, R-3.5	A-1	A-2	A-3	AMX-1	AMX-2	AMX-3	Resort	B-1	B-2	BMX-3	BMX-4	I-1	I-2	I-3	IMX-1

DWELLINGS AND LODGINGS

<u>Bed and breakfast homes</u>			P/c ³	P/c ³	P/c ³	P/c ³	P/c ³	P/c ³	P/c ³	P/c ³	P/c ³	P/c ³	P/c ³			P/c ³	P/c ³				
Transient vacation units							P/c	P/c ³					[R] P/c ³								

Special Districts – State vs County

Waikiki Special District

SECTION 13. Table 21-9.6(A), Revised Ordinances of Honolulu 1990 ("Waikiki Special District Precinct Permitted Uses and Structures"), is amended:

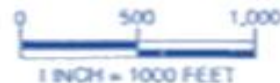
- a. By adding a "bed and breakfast homes" entry and revising the "transient vacation units" entry to read as follows:

"

Table 21-9.6(A) Waikiki Special District Precinct Permitted Uses and Structures			
Use or Structure	Precinct		
	Apartment	Resort Mixed Use	Public
Bed and breakfast homes	P/c	P/c	
Transient vacation units		[P] P/c	

"

WAIKIKI SPECIAL DISTRICT
ZONING PRECINCTS

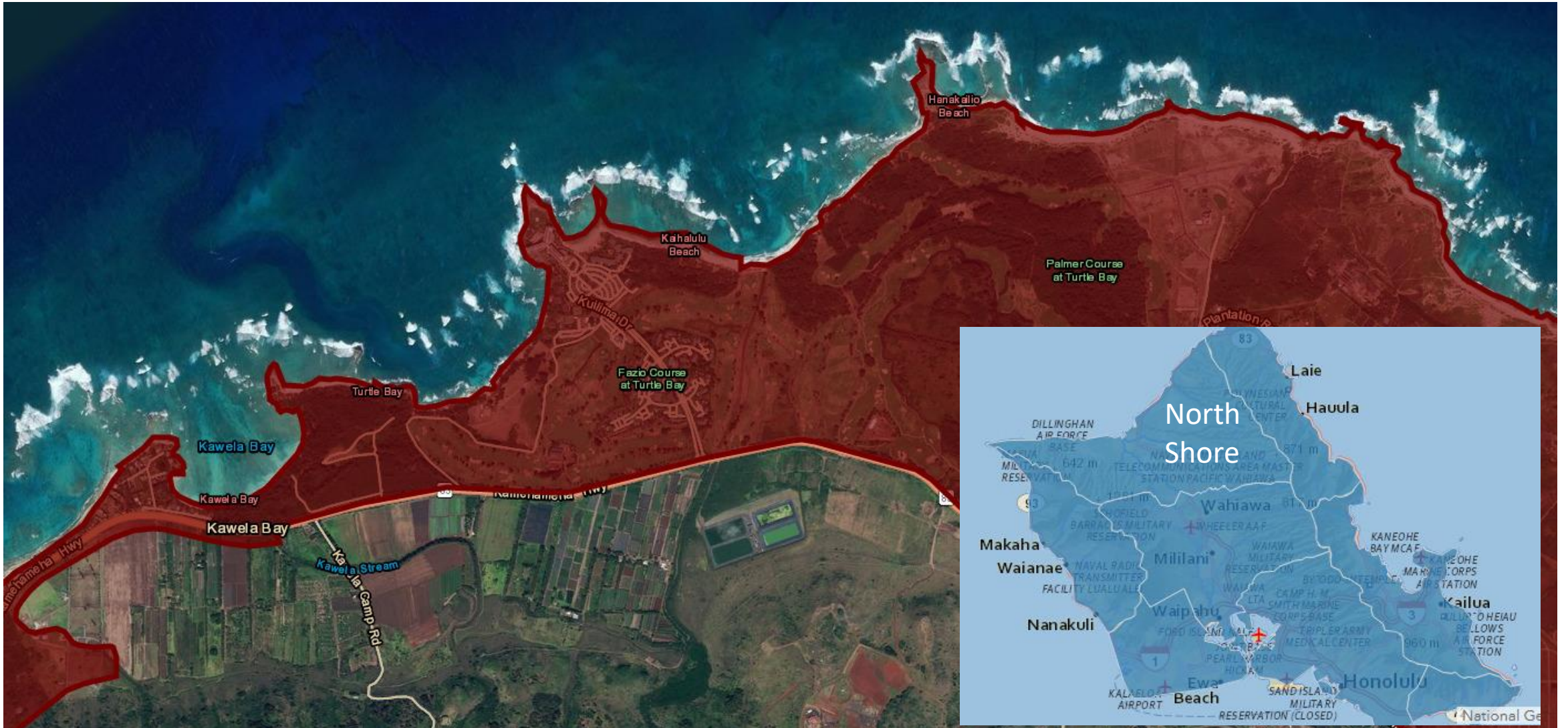


Legend



WAIKIKI SPECIAL DISTRICT BOUNDARY
ZONING PRECINCTS

Special Management Area & Sustainable Communities



The areas shaded in **RED** are within the Special Management Area (SMA).



Sustainable Communities – North Shore

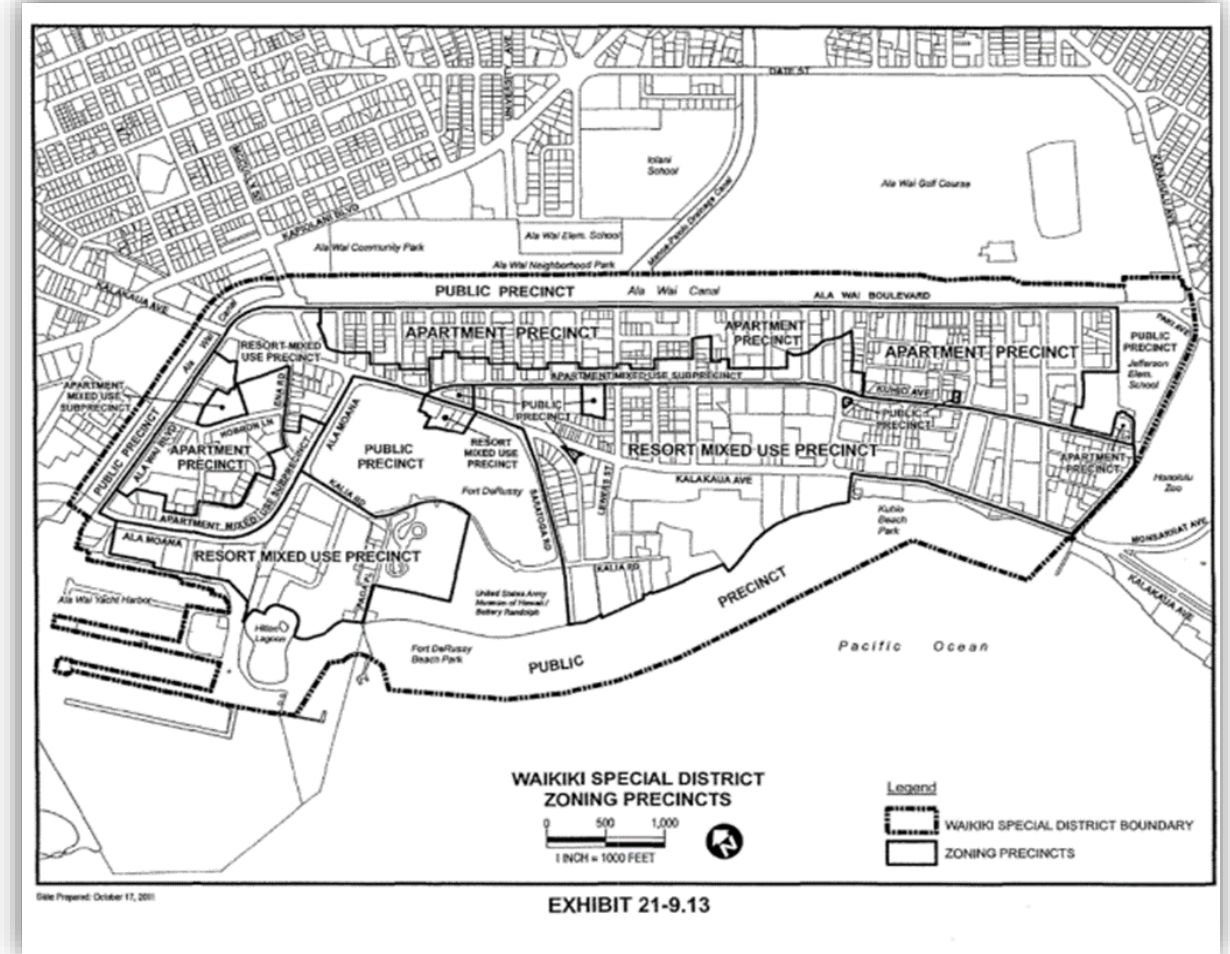
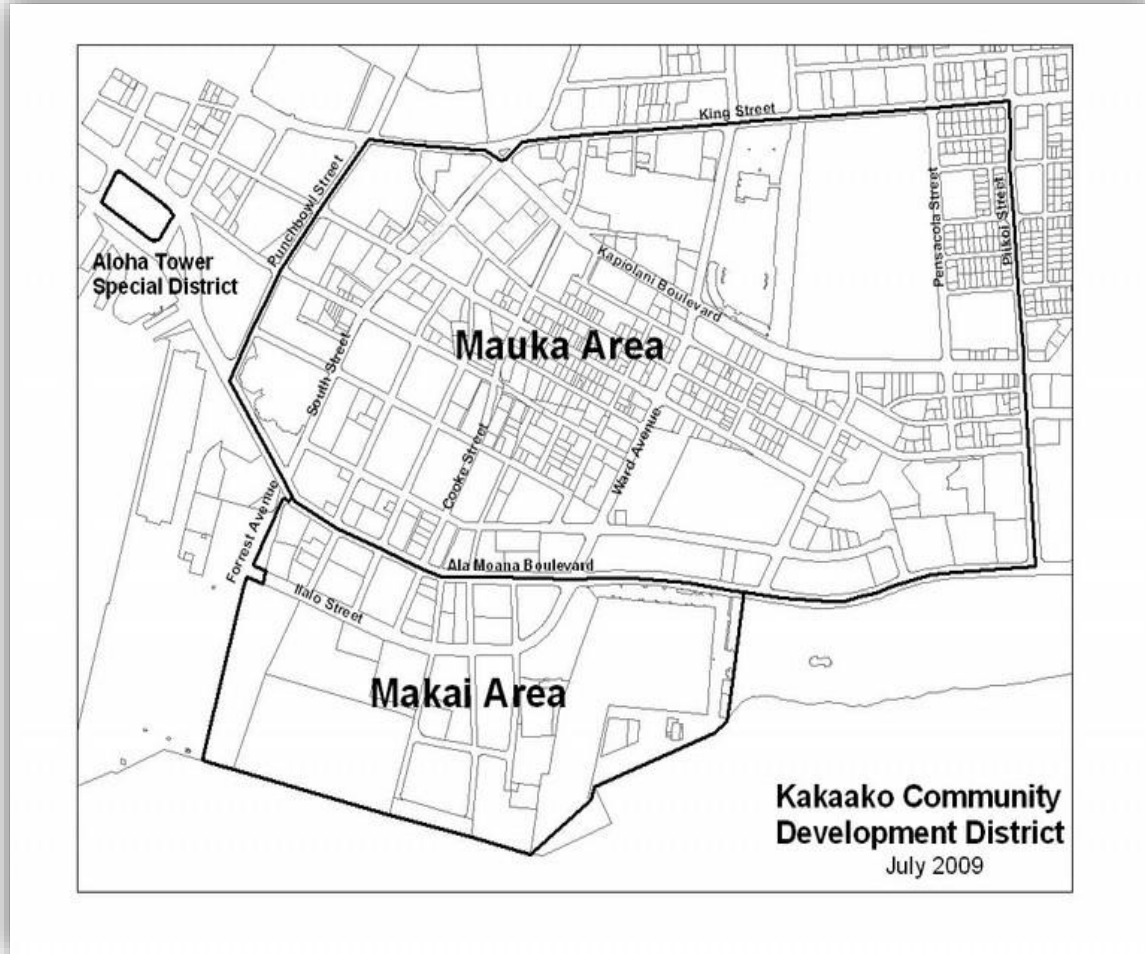


Special Districts – State vs County

Kakaako – HCDA

Kakaako Community Development District

Waikiki Special District



Transient Accommodations Tax (“TAT”)

General Information

(from State of Hawaii Department of Taxation, revised April 2018)

What is the transient accommodations tax (TAT)?

The TAT is a tax imposed on the gross rental proceeds from a transient accommodation and on the fair market rental value of a time share vacation unit in the State of Hawaii.

What is a transient accommodation?

A transient accommodation is a room, apartment, house, condominium, beach house, hotel room, suite, or similar living accommodation rented to a transient person for less than 180 consecutive days in exchange for payment in cash, goods, or services.

Who is a transient person?

If a person, including a Hawaii resident, has a permanent home elsewhere or does not intend to make the accommodation a permanent place of residence, then the person is a “transient” with respect to the accommodation.

Real Property Tax	TAT Transient Accommodation Tax	GET General Excise Tax
<ul style="list-style-type: none"> • Zoning will dictate tax • Taxes do not dictate actual allowed use • Residential <ul style="list-style-type: none"> • \$3.50 • Res A <ul style="list-style-type: none"> • \$4.50 Tier 1 (up to \$1 Million Tax Assessed Value) • \$10.50 Tier 2 (balance of Tax Assessed Value above 1st \$1 million) • Resort/Hotel <ul style="list-style-type: none"> • \$13.40 • Per \$1000 Tax Assessed Value 	<ul style="list-style-type: none"> • State Tax Imposed on short-term rentals • Less than 180 consecutive days rental • Does not constitute allowance in lieu of NUC • Rate 10.25% of Gross Income • Hawaii TAT Number; cannot be transferred - issued to a specific person or entity 	<ul style="list-style-type: none"> • 4.00% State GET • Honolulu Country surcharge allowance of .5% • 4.721% Total GET - maximum allowance on Business for GET charged/collected • Hawaii GET Tax ID Number issued to a specific person or entity; cannot be transferred

Landlord Tenant Code

- Does the LTC apply?
- **HRS Section Chapter 521-7**
 - 521-7 (5) which states, “Unless created solely to avoid the application of this chapter, this chapter shall not apply to (5) Transient occupancy on a day-to-day basis in a hotel or motel.”
- **HRS Section 521-22** Term of rental agreement states, “The landlord and tenant may agree in writing to any period as the term of the rental agreement. In the absence of such agreement, the tenancy shall be month to month or, in the case of boarders, week to week.”
- **HRS Section 521- 71(d)** Termination of tenancy; landlord's remedies for holdover tenants states, “(d) When the tenancy is less than month-to-month, the landlord or the tenant may terminate the rental agreement by notifying the other at least ten days before the anticipated termination.”

Restrictions & Exemptions

- **AOAO, HOA, CPR, By Laws, House Rules**
- **Advertising must include NUC registration number**
- **Advertising signs cannot be posted on property**
- **Exemptions for legally established hotels; time-sharing units; rentals of 30 consecutive days or more at any one time;**