

## 19.65.070 - Duration, renewal, and nonrenewal of permits and compliance with permit conditions.

- A. Initial short-term rental home permits are valid for a maximum period of three years, except that shorter periods may be approved to mitigate impacts.
- B. Permit renewal applications shall be submitted to the department within ninety days prior to the permit expiration date. Permit renewals may be granted by the director for terms of up to five years on Lanai and Maui and up to one year on Molokai. In reviewing a renewal application, the director shall require evidence of compliance with conditions of the short-term rental home permit and this chapter.

No permit shall be renewed without written verification of appropriate State and County tax filings.

- C. Compliance inspections may be conducted prior to granting a permit renewal or during the permit period. Permit holders shall allow compliance inspections to be conducted within one hour of notice. Refusal to allow access within one hour may result in permit revocation.
- D. Upon approval of the permit, the permit holder shall send the permit number, a copy of the short-term rental home's house rules, twenty-four hour contact information for the manager, and the department's contact information to the owners and lessees of abutting properties and properties directly across the street from the short-term rental home. Proof of mailing shall be submitted to the department within thirty days of the permit approval.
- E. The permit holder shall send by certified mail notification of any change to contact information for the manager to the department, the owners or lessees of abutting properties and those directly across the street from the short-term rental home. Such notification shall be sent prior to, or immediately after, the change in contact information occurs. Proof of mailing shall be submitted to the department within thirty days of the mailing.
- F. Nonrenewal procedures.
  - 1. The director may decline to renew the permit if the director finds any of the following:
    - a. The permit holder provided false or misleading information during the application process.
    - b. The permit holder is delinquent in payment of State or County taxes, fines, or penalties assessed in relation to the short-term rental home.

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- c. Evidence of non-responsive management.
  - d. Police reports of noise or other disturbances on the property.
  - e. Warnings or violations resulting from requests for service.
  - f. Neighbor complaints of noise and other disturbances relating to the short-term rental home operations; provided that the department has received at least three complaints about the short-term rental home within a twelve-month period. Complaints must be from property owners or lessees of record located on two or more different lots within a five-hundred-foot radius of the short-term rental home.
  - g. Noncompliance with permit conditions.
  - h. Noncompliance with this chapter.
  - i. Noncompliance with other governmental requirements.
2. If the permit is not renewed by the director, the department shall not accept a new application for a short-term rental home permit from the permit holder for two years after the date of the previous permit's expiration.
- G. No later than January 15 of each calendar year, the department shall transmit to the real property tax division of the department of finance, and the state department of taxation, an annual list of all short-term rental homes as of January 1 of that calendar year. The real property tax division shall regularly review its records and determine that no short-term rental home has an exemption pursuant to chapter 3.48 of this code.

( Ord. No. 4315, § 6, 2016; Ord. No. 3941, § 14, 2012)

#### 19.65.080 - Revocation and Enforcement.

##### A. Revocation procedures.

1. The permit may be revoked if the director finds any of the following:
  - a. The permit holder provided false or misleading information during the application process.
  - b. The permit holder is delinquent in payment of State or County taxes, fines, or penalties assessed in relation to the short-term rental home.
  - c. Evidence of non-responsive management.
  - d. Police reports of noise or other disturbances on the property.
  - e. Warnings or violations resulting from requests for service.

- f. Neighbor complaints of noise and other disturbances relating to the short-term rental home operations; provided that the department has received at least three complaints about the short-term rental home within a twelve-month period. Complaints must be from property owners or lessees of record located on two or more different lots within a five-hundred-foot radius of the short-term rental home.
        - g. Noncompliance with permit conditions.
        - h. Noncompliance with this chapter.
        - i. Noncompliance with other governmental requirements.
      2. If the permit is revoked, the department shall not accept a new application for a short-term rental home permit from the permit holder for two years after the date of revocation.
- B. Advertising that offers a property as a short-term rental home shall constitute prima facie evidence of the operation of a short-term rental home on the property and the burden of proof shall be on the owner, operator, or lessee of record to establish that the subject property is being used as a legal short-term rental home or is not in operation as a short-term rental home.
- C. Any communication by a property owner, operator, or lessee to any person where the owner, operator, or lessee offers their home for rent as a short-term rental home on the property shall constitute prima facie evidence of the operation of a short-term rental home on the property and the burden of proof shall be on the owner, operator, or lessee to establish that the subject property is being used as a legal short-term rental home or is not in operation as a short-term rental home.
- D. Advertising for a short-term rental home without a valid permit number is prohibited and constitutes a violation of this title and may result in enforcement action pursuant to section 19.530.030 of this title; provided that:
  1. The alleged violator and the property owner shall be notified that all advertising without a valid permit number shall be terminated within seven days of the notice.
  2. Enforcement action, including fines, may commence pursuant to section 19.530.030 of this title if advertising without a valid permit number continues after such warning.
- E.

Operating a short-term rental home without a valid permit is prohibited. Evidence of operation may include: advertising, guest testimony, online reviews, rental agreements, receipts, or any other information deemed relevant by the department. Operating without a permit shall result in a property owner being ineligible to apply for a permit for five years, except that:

1. An ineligible applicant may apply for a short-term rental home permit and the permit application may be processed provided that at the time of the application, the ineligible applicant has:
    - a. Provided proof that prior to enactment of the ordinance that created this exception and during the entire period that the applicant has been operating without a permit, the applicant has had valid general excise tax and transient accommodations tax licenses, and has paid all applicable general excise taxes and transient accommodations taxes due and owing.
    - b. Agreed to pay and has paid in full real property taxes at the rate applicable to short-term rental home properties and has claimed no homeowner's exemption for the tax years in which the applicant has been operating without a permit.
    - c. Ceased, and does not resume prior to issuance of a permit, any and all advertising and operations of the short-term rental home that is the subject of the application as of the date of the application.
    - d. Paid, in addition to any other applicable permit fees, an after-the-fact short-term rental home application fee as set forth in the annual budget ordinance.
    - e. Paid any outstanding fees or fines for violations on the property including, but not limited to, initial and unwaived daily fines for unpermitted short-term rental home operation; after-the-fact zoning, special management area, or building permit fees; department of public works or department of planning application fees; or other fees, dues, or fines imposed by the State or County.
  2. This exception to the five-year ineligible status for owners operating without a permit shall apply from July 1, 2016 to December 31, 2016.
- F. The department shall notify the department of finance, real property tax division, of violations of this chapter.

- G. The department shall file a report with the State department of taxation for properties with violations of this chapter.
- H. Sixty days from the effective date of this ordinance, and each year thereafter, the department shall provide to the state department of taxation and the department of finance, real property tax division, a current list of:
  - 1. Unpermitted operations with internet advertisements for short-term rental homes; and
  - 2. Unpermitted short-term rental home operations identified by a department request for service form.

( Ord. No. 4315, § 6, 2016; Ord. No. 3941, § 14, 2012)