



A BILL FOR AN ORDINANCE

RELATING TO NONCONFORMING USE CERTIFICATES.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Findings and Purpose.

The Council finds that bed and breakfast homes and transient vacation units are currently prohibited in all zoning districts, except for those in operation prior to December 28, 1989, and that possess a nonconforming use certificate. Subsections 21-4.110-1(d) and 21-4.110-2(d) of the Land Use Ordinance provides that the owner, operator, or proprietor of bed and breakfast homes and transient vacation units must apply to renew the nonconforming use certificate ("NUC") between September 1 and October 15 of every even-numbered year.

Up until the renewal cycle in 2010, the Department of Planning and Permitting ("DPP") conducted its renewals using paper forms through the United States Postal System and issued reminder notices to NUC holders about the renewal deadline. However, beginning in the 2012 renewal cycle, through to the 2014 renewal cycle, the DPP transitioned to a more automated system that requires NUC holders to complete their renewal applications using a computer to access a customized and secure website operated by the DPP. As a result of this change, several long established bed and breakfast homes and transient vacation units, all of which were in continuous operation for over twenty-five years, lost their NUCs because they lapsed at the end of September 30, 2014, without the holders taking timely action for renewal.

The purpose of this ordinance is to provide one-time relief to those owners of bed and breakfast homes and transient vacation units who lost their NUCs after September 30, 2014, solely for failing to apply for renewal through the newly automated system.

SECTION 2. Renewal of bed and breakfast homes and transient vacation units nonconforming use certificates.

Notwithstanding ROH Sections 21-4.110-1, 21-4.110-2, or 6-41.1(a)(16), or any administrative rule or policy of the department of planning and permitting:

- (a) An owner, operator, or proprietor of a bed and breakfast home or transient vacation unit who held a valid and current nonconforming use certificate on September 30, 2014, and who lost the nonconforming use certificate solely for failing to timely apply for renewal, may apply to renew the nonconforming use certificate prior to October 15, 2016.



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- (b) The application to renew must include proof that: (i) there were in effect a State of Hawaii general excise tax license and transient accommodations tax license for the nonconforming use for each calendar year covered by the nonconforming use certificate that expired on September 30, 2014, and that there were occupancies of less than 30 days apiece for a total of at least 28 days during each such year, and (ii) there has been no period of 12 consecutive months during the period covered by the nonconforming use certificate that expired on September 30, 2014, without a bed and breakfast or transient vacation unit occupancy.
- (c) The renewed certificate takes effect as of the date of issuance and will be for a term expiring on September 30, 2018.
- (d) The fee for the renewal application will be as specified in Section 6-41.1(a)(16), plus, if applicable, a prorated portion of such fee based on the time the certificate will be in effect prior to September 30, 2016. The renewal applicant shall pay a processing fee of \$1,000 in addition to any renewal fees.
- (e) When applying for renewal between September 1, 2018, and October 15, 2018, the applicant will be required to demonstrate compliance with subsection 21-4.110-1(d), or 21-4.110-2(d), for the period beginning October 1, 2016.
- (f) The director of planning and permitting shall notify owners, operators, and proprietors of bed and breakfast homes and transient vacation units who held a nonconforming use certificate prior to September 30, 2014, but who subsequently failed to renew the certificate, of the renewal deadline established by this ordinance.



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SECTION 3. This ordinance takes effect upon its approval.

INTRODUCED BY:

Ernest Martin (BR)

DATE OF INTRODUCTION:

January 20, 2016
Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Don S. Kitaoka
Deputy Corporation Counsel DON S. KITAOKA

APPROVED this 29th day of March, 20 16.

Kirk Caldwell

KIRK CALDWELL, Mayor
City and County of Honolulu

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII
CERTIFICATE

ORDINANCE 16-7

BILL 6 (2016), CD1

Introduced: 01/20/16

By: ERNEST MARTIN – BY REQUEST

Committee: ZONING AND PLANNING

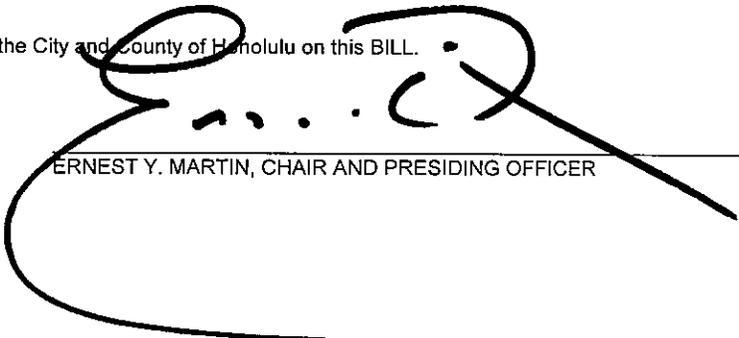
Title: A BILL FOR AN ORDINANCE RELATING TO NONCONFORMING USE CERTIFICATES.

Voting Legend: * = Aye w/Reservations

01/27/16	COUNCIL	BILL PASSED FIRST READING AND REFERRED TO COMMITTEE ON ZONING AND PLANNING. 9 AYES: ANDERSON, ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN, MENOR, OZAWA, PINE.
02/06/16	PUBLISH	PUBLIC HEARING NOTICE PUBLISHED IN THE HONOLULU STAR ADVERTISER.
02/11/16	ZONING & PLANNING	CR-51 – BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON SECOND READING AND SCHEDULING OF A PUBLIC HEARING.
02/17/16	COUNCIL/PUBLIC HEARING	CR-51 ADOPTED. BILL PASSED SECOND READING, PUBLIC HEARING CLOSED AND REFERRED TO COMMITTEE ON ZONING AND PLANNING. 9 AYES: ANDERSON, ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN, MENOR, OZAWA, PINE.
02/24/16	PUBLISH	SECOND READING NOTICE PUBLISHED IN THE HONOLULU STAR-ADVERTISER.
03/03/16	ZONING AND PLANNING	CR-78 – BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON THIRD READING AS AMENDED IN CD1 FORM.
03/16/16	COUNCIL	CR-78 ADOPTED AND BILL 6 (2016), CD1 PASSED THIRD READING AS AMENDED. 8 AYES: ANDERSON, ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN, OZAWA, PINE. 1 ABSENT: MENOR.

I hereby certify that the above is a true record of action by the Council of the City and County of Honolulu on this BILL.


GLENN I. TAKAHASHI, CITY CLERK


ERNEST Y. MARTIN, CHAIR AND PRESIDING OFFICER