



CITY COUNCIL

CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII 96813-3077

COMMITTEE ON ZONING AND PLANNING

Voting Members:

Brandon J.C Elefante, Chair
Esther Kia'aina, Vice Chair
Radiant Cordero
Calvin K.Y. Say

AGENDA

REGULAR MEETING
CITY COUNCIL CHAMBER
WEDNESDAY, MARCH 23, 2022
9:00 A.M.

PUBLIC PARTICIPATION AND TESTIMONY

Pursuant to Act 220, Session Laws of Hawaii 2021, and Governor David Ige's Emergency Proclamation Related to COVID-19 (Omicron Variant), issued on January 26, 2022, in order to allow public participation in a manner consistent with safe practices, this meeting will be conducted as a remote meeting by interactive conference technology, with the following procedures in effect for the meeting:

VIEWING THE MEETING AND RESTRICTIONS ON ENTRY

Members of the public will not be allowed into the meeting room, but may view the meeting on a live broadcast. The meeting will be viewable: (1) by internet live streaming through <https://www.honolulucitycouncil.org/meetings> or olelo.org and (2) by televised live broadcast on 'Ōlelo TV Channel 54.

After the meeting, the meeting will be viewable on demand at <https://www.honolulucitycouncil.org/meetings>. Copies of older meeting videos may be requested by calling the City Clerk's Office at (808) 768-5822; charges may apply.

Some Councilmembers and presenters may be participating in the meeting by interactive conference technology from remote locations.

ORAL TESTIMONY

Oral testimony will be permitted on all items on the agenda, subject to the following restrictions:

1. Persons may submit oral testimony remotely through the Zoom video conferencing platform. To participate, persons should visit www.zoom.us, click "Join," enter meeting ID **91291278469**, and complete the registration process. Registrants will receive an email that contains links and information on joining the meeting by either phone or video conference. Zoom testifiers are strongly encouraged to register at least 24 hours before the start of the meeting. Remote testimony will be taken at the start of the agenda and then closed.

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2. To audio conference on the day of the meeting, call **+1-253-215-8782**, enter ID **91291278469**, and Passcode **532933**.
3. Each speaker may not have anyone else read their statement and is limited to a one-minute presentation.

WRITTEN TESTIMONY

Written testimony may be faxed to (808) 768-3826, transmitted via the internet at <http://www.honolulu.gov/ccl-testimony-form.html>, or mailed to Office of the City Clerk, Attention: Information Section, 530 South King Street, Room 100, Honolulu, HI 96813. If submitted, written testimonies, including the testifier's address, email address, and phone number, will be available to the public at <https://hnlidoc.ehawaii.gov>. Written testimony will not be accepted in person at the meeting.

Should you have any questions, please call (808) 768-3801 or send an email to quehara@honolulu.gov.

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MATERIALS AVAILABLE FOR INSPECTION

Meeting materials ("*board packet*" under HRS Section 92-7.5) are accessible at <https://hnlidoc.ehawaii.gov/hnlidoc/browse/agendas> by clicking on the appropriate Committee meeting.

Accommodations are available upon request to persons with disabilities. Please call (808) 768-3801 or send an email to quehara@honolulu.gov at least three working days prior to the meeting.

FOR ACTION

1. **RESOLUTION 22-32 – LAND USE ORDINANCE AMENDMENT RELATING TO THE CHINATOWN SPECIAL DISTRICT.** Proposing an amendment to Chapter 21, Revised Ordinances of Honolulu 1990 (the Land Use Ordinance), relating to the Chinatown Special District.

PROPOSED CD1 TO RESOLUTION 22-32 (Submitted by Councilmember Fukunaga) – The CD1 (OCS2022-0142/2/22/2022 12:56 PM) makes the following amendments to the Exhibit A Bill:

- A. Corrects the amendatory language in SECTION 2 of the Bill to refer to ROH Section 21-9.60-8 (instead of ROH 21-9.60-1).
- B. Corrects the amendatory language in SECTION 3 of the Bill to delete reference to subsection (d).
- C. Makes miscellaneous technical and nonsubstantive amendments.

Related communication:

CC-60 (2022) City Clerk, notifying the Department of Planning and Permitting of the introduction of the Resolution.

2. **BILL 41 (2021), CD1 – LAND USE ORDINANCE AMENDMENT RELATING TO TRANSIENT ACCOMMODATIONS.** Amending Chapter 21, Revised Ordinances of Honolulu 1990, as amended (the Land Use Ordinance) relating to transient accommodations. To better protect the City's residential neighborhoods and housing stock from the negative impacts of short-term rentals by providing a more comprehensive approach to the regulation of transient accommodations within the City. (Bill passed Second Reading and Public hearing held on 1/26/22) (Current deadline for Council action: 5/13/22)

PROPOSED CD2 TO BILL 41 (2021), CD1 (Submitted by Councilmember Elefante) – The CD2 (OCS2022-0224/3/17/2022 11:35 AM) makes the following amendments:

- A. In SECTION 2 of the bill, amends ROH Section 6-41.1(a)(16) to reduce the renewal fee for nonconforming use certificates ("NUCs") for bed and breakfast homes ("B&Bs") and transient vacation units ("TVUs") to \$1,000 every year (instead of \$4,000 every two years).

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- B. In SECTION 4 of the bill:
 - 1. Amends new ROH Section 21-2.150-2(c) to delete references to "joint and several" liability (remaining provisions provide that if the director determines that more than one person is liable for a violation, the director may issue one enforcement notice to all responsible persons or separate enforcement notices to persons or groups of persons that are responsible for the violation – each person will be independently liable for the full extent of the violation and responsible for complying with the enforcement notice).
 - 2. Amends realphabetized and renumbered ROH Section 21-2.150-2(f)(3) to impose a single civil fine of up to \$10,000 (and up to \$10,000 per day the violation persists) for violations relating to B&Bs or TVUs (no increased fine amounts for recurring violations).
- C. Adds a new SECTION 5 to the bill to make conforming amendments to the section references in ROH Section Sec. 21-2A.40. Renumbers subsequent bill SECTIONS accordingly.
- D. In renumbered SECTION 6 of the bill, corrects an error in the Table 21-3 ("Master Use Table") by providing that TVUs in the A-1 District are "P/c³" (instead of "P/c").
- E. In renumbered SECTION 7 of the bill, amends ROH Section 21-4.110-1(b) to require annual renewal of nonconforming use certificates for TVUs (instead of renewal every even-numbered year).
- F. In renumbered SECTION 8 of the bill:
 - 1. Amends ROH Section 21-4.110-2(b) to require annual renewal of nonconforming use certificates for B&Bs (instead of renewal every even-numbered year).

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2. Adds a new ROH Section 21-4.110-2(f) to provide that for B&Bs operating under nonconforming use certificates in the residential zoning districts:
 - a. A maximum of two rooms may be provided to transient occupants for sleeping accommodations, and a maximum of four adult transient occupants may be accommodated at any one time; and
 - b. One off-street parking space must be provided for each room used for transient occupant sleeping accommodations (in addition to the number of off-street parking spaces required for the dwelling unit).
- G. In renumbered SECTION 9 of the bill:
1. Amends ROH Section 21-5.730(a)(1) and new Figure 21-5.1 to:
 - a. Delete the permitting of B&Bs and TVUs in the designated A-2 District situated in the Gold Coast area of the Diamond Head Special District; and
 - b. Add the permitting of B&Bs and TVUs in the designated Apartment Precincts of the Waikiki Special District mauka of Kuhio Avenue.
 2. Amends new Figure 21-5.2 ("B&B and TVU Permitted Areas – Close Proximity to Ko Olina Resort") to include portions of certain parcels zoned A-1 or A-2 District within 3,500 feet of the Ko Olina Resort.
 3. Amends realphabetized ROH Section 21-5.730(b)(1)(B) and realphabetized ROH Section 21-5.730(b)(2)(C) to reference the City transient accommodations tax.
 4. Amends realphabetized ROH Section 21-5.730(b)(1)(D) to increase the initial registration fee for a B&B or TVU to \$2,000 (instead of \$1,000).
 5. Amends ROH Section 21-5.730(b)(2)(E) to decrease the registration renewal fee for a B&B or TVU to \$1,000 (instead of \$2,000).

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6. Amends realphabetized ROH Section 21-5.730(b)(3)(B) to allow for transient accommodations in a studio unit where there are no bedrooms. In other units, sleeping accommodations must be provided in bedrooms, or other rooms that are suitable for sleeping accommodations (such as a living room with a sofa bed). The total number of adult overnight transient occupants may not exceed two times the number of rooms (instead of bedrooms) provided to transient occupants for sleeping accommodations.
7. Deletes realphabetized ROH Section 21-5.730(b)(3)(D) (former ROH Section 21-5.730(b)(3)(J)), which would have limited the number of B&Bs and TVUs operating in a multifamily dwelling to 50 percent of the total dwelling units .
8. Deletes realphabetized ROH Section 21-5.730(b)(3)(E) (former ROH Section 21-5.730(b)(3)(M)), which would have required B&B or TVU owners or operators to notify property owners within 250 feet that the dwelling unit is being used as a B&B or TVU. Realphabetizes subsequent paragraphs.
9. Amends new realphabetized ROH Section 21-5.730(b)(3)(D) to only require a minimum \$1 million per occurrence commercial general liability insurance policy. Deletes the supplemental insurance coverage requirements for bodily injury and property damage, personal and advertising injury, and medical and funeral expenses.
10. Amends new realphabetized ROH Section 21-5.730(b)(3)(F)(viii) to require the informational binder to include a copy of the registration certificate or nonconforming use certificate for the B&B or TVU.
11. Amends ROH Section 21-5.730(c)(2) to clarify that the advertising regulations under subsection (c) apply to advertisements for specifically identified B&Bs or TVUs (not generic advertisements for multifamily dwellings).
12. Amends new ROH Section 21-5.730(c)(2)(B) to prohibit rental units that are not registered as a B&B or TVU, or are not operating as a B&B or TVU pursuant to a nonconforming use certificate, from advertising daily or less than three-month rental rates.

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13. At the end of ROH Section 21-5.730(c)(3), deletes the provision stating that "Publishing companies and internet service providers will not be held responsible for the content of advertisements that are created by third parties." (Section 230 of the federal Communication Decency Act of 1996 already provides that online platforms may not be held accountable for user content.)
 14. Amends ROH Section 21-5.730(d)(2)(D) to prohibit unpermitted B&Bs or unpermitted TVUs from advertising daily or less than three-month rental rates.
- H. In renumbered SECTION 11 of the bill:
1. Amends the definition of "rooming" to reference a period of 90 days or more (instead of 30 days or more).
 2. Amends the definition of "transient vacation unit" to clarify that a TVU does not include a B&B, timeshare unit, or hotel unit.
- I. In renumbered SECTION 12 of the bill, provides that the DPP Director is required to adopt administrative rules within 180 days after the effective date of that SECTION (instead of the effective date of the ordinance).
- J. Adds a new SECTION 13 of the bill to provide that owners or operators of dwelling units (or portions thereof) that, prior to the effective date of the ordinance, were being rented for periods of 30 consecutive days up to 89 consecutive days may continue to rent the dwelling units for such periods (without first having to register as a bed and breakfast home or transient vacation unit) for 180 days after the effective date of the ordinance. After the 180-day period has expired, all owners or operators of dwelling units (or portions thereof) that were being rented for periods of 30 up to 89 consecutive days shall either register the dwelling unit as a B&B or TVU, or rent the dwelling unit (or portion thereof) only for a periods of 90 consecutive days or more. Renumbers subsequent bill SECTIONS accordingly.

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- K. In renumbered SECTION 16 of the bill, provides that the annual nonconforming use certificate renewal requirement for TVUs and B&Bs (pursuant to SECTIONS 6 and 7 of the bill, respectively) applies to all renewals after the effective date of the ordinance; provided that nonconforming use certificates that have been renewed prior to the effective date of the ordinance will continue to be effective for the applicable two-year period.
- L. Makes miscellaneous technical and nonsubstantive amendments.

Related communications:

CC-394 (2021)	Disclosure of Interest Statement, submitted by Councilmember Elefante.
CC-395 (2021)	Disclosure of Interest Statement, submitted by Councilmember Elefante.
CC-397 (2021)	Disclosure of Interest Statement, submitted by Councilmember Elefante.
CC-10 (2022)	Disclosure of Interest Statement, submitted by Councilmember Elefante.
CC-11 (2022)	Disclosure of Interest Statement, submitted by Councilmember Elefante.
CC-17 (2022)	Disclosure of Interest Statement, submitted by Councilmember Elefante.
CC-18 (2022)	Disclosure of Interest Statement, submitted by Councilmember Elefante.
CC-19 (2022)	Disclosure of Interest Statement, submitted by Councilmember Elefante.

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EXECUTIVE SESSION

If necessary, the committee may convene into an executive meeting closed to the public, pursuant to Hawaii Revised Statutes, Sections 92-4 and 92-5(a)(4), to consult with its attorneys on questions and issues pertaining to the powers, duties, privileges, immunities and/or liabilities of the city, the council and its committees relating to Bill 41 (2021), CD1 and any amendments thereto.

BRANDON J.C. ELEFANTE, Chair
Committee on Zoning and Planning