



CITY COUNCIL

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March 21, 2022

TO: GAIL UEHARA
CLERK, COMMITTEE ON ZONING AND PLANNING

FROM: ESTHER KIA'ĀINA, VICE CHAIR *Esther Kia'aina*
COMMITTEE ON ZONING AND PLANNING

RE: PROPOSED ADDITIONAL AMENDMENTS TO THE POSTED
PROPOSED CD2 TO BILL 41 (2021), RELATING TO TRANSIENT
ACCOMMODATIONS

Attached for consideration by the Zoning and Planning Committee at its meeting on March 23, 2022, are additional amendments to the posted proposed CD2 of Bill 41 (2021) (OCS2022-0224/3/17/2022 11:35 AM).

The additional proposed amendments would further amend the posted proposed Bill 41 (2021), CD2, as shown in the attached markup. The amendments are summarized as follows:

1. Annual nonconforming use certificate renewal fees for B&Bs and TVUs are set at \$500.
2. For TVUs operating under NUCs and located within the country, residential, or apartment zoning districts, transient occupants are prohibited from parking their vehicles on the public streets.

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3. Transient occupants of B&Bs operating under NUCs and located within the country, residential, or apartment zoning districts are prohibited from parking their vehicles on the public streets. In addition, for B&Bs operating under NUCs and located within the country or apartment zoning districts, 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.
4. Initial registration fees for B&Bs and TVUs are set at \$1,000.
5. Annual registration renewal fees for B&Bs and TVUs are set at \$500.
6. Allows owners or operators of B&Bs or TVUs to fulfill insurance requirements through coverage offered by a hosting platform; provided the coverage satisfies the minimum requirements set forth in the ordinance.
7. For registered B&Bs or TVUs, deletes provisions prohibiting the parking of vehicles in areas other than the designated parking spaces identified in the parking plan, but for B&Bs and TVUs operating pursuant to nonconforming use certificates and located within the country, residential, or apartment zoning districts, the house rules must prohibit transient occupants from parking vehicles on the public streets.
8. Add new amendments to ROH Section 21-2A.10 to:
 - a. Require hosting platform to exercise reasonable care to confirm that a B&B or TVU located within the city is lawfully registered, permitted, or otherwise allowed as a B&B or TVU prior to providing booking services; and
 - b. Require that booking services for hotel units or timeshare units must include an identifying tax map key number for the property on which the hotel unit or timeshare unit is located.

Additional Amendments to Proposed Bill 41 (2021), CD2

The following sections of the Revised Ordinances of Honolulu 1990 in the proposed posted CD2 are further amended to include the highlighted amendments:

ITEM NO. 1 – ROH Section 6-41.1(a)(16) (CD2 SECTION 2, pp. 1-5, relating to Land Use Ordinance fees):

"Sec. 6-41.1 Fee schedule.

- (a) The fees set forth in the following schedule for applications under Chapter 21 and for variances therefrom must be paid upon application:

Type of Application	Fee
...	
(16) Nonconforming use certificate renewal	[\$600.00 (2 years)] \$500
..."	

ITEM NO. 2 – ROH Section 21-4.110-1 (CD2 SECTION 7, pp. 13-14, relating to TVUs with nonconforming use certificates). Add new subsection (e):

"Sec. 21-4.110-1 [~~Nonconforming use certificates for transient vacation units.~~] Transient vacation units—Nonconforming use certificates.

...

- (e) In addition to the requirements in subsection (d), for transient vacation units operating under a nonconforming use certificate pursuant to this section that are located within the country, residential, or apartment zoning districts, transient occupants are prohibited from parking their vehicles on the public streets."

ITEM NO. 3 – ROH Section 21-4.110-2 (CD2 SECTION 8, pp. 14-16, relating to B&Bs with nonconforming use certificates). Amend subsection (f), and add new subsection (g):

"Sec. 21-4.110-2 Bed and breakfast homes—Nonconforming use certificates.

...

- (f) In addition to the requirements in subsection (e), bed and breakfast homes operating under a nonconforming use certificate pursuant to this section that are located within residential zoning districts are subject to the following:
- (1) 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
 - (2) 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;
 - (3) Transient occupants are prohibited from parking their vehicles on the public streets.
- (g) In addition to the requirements in subsection (e) and (f), bed and breakfast homes operating under a nonconforming use certificate pursuant to this section that are located within the country or apartment zoning districts are subject to the following:
- (1) 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;
 - (2) Transient occupants are prohibited from parking their vehicles on the public streets."

ITEM NO. 4 – ROH Section 21-5.730 (b)(1)(D) (CD2 SECTION 9, pp. 21-22, relating to registration fees):

"Sec. 21-5.730 Bed and breakfast homes and transient vacation units.

...

- (b) [In all zoning districts where bed and breakfast homes are permitted, except for the resort district, resort mixed use precinct of the Waikiki special district, and the A-1 low density apartment district and A-2 medium density apartment district pursuant to subsection (a), and except as otherwise provided in subdivision (6), the] The following standards and requirements apply to bed and breakfast homes and transient vacation units; provided that bed and breakfast homes operating under valid nonconforming use certificates pursuant to Section 21-4.110-2, or transient vacation units operating under a valid nonconforming use certificate pursuant to Section 21-4.110-1 need only comply with subdivision (3):

- (1) Registration requirements. The owner or operator of a bed and breakfast home~~[-including for purposes of this subdivision the trustee of a revocable trust that owns the subject property,]~~ or transient vacation unit shall register the bed and breakfast home or transient vacation unit with the department on a form prescribed by the department, and [shall] submit the following in the initial application for registration:

...

~~[(E)](D)~~ An initial registration fee of **\$1,000** for the bed and breakfast home~~[-]~~ or transient vacation unit;

..."

ITEM NO. 5 – ROH Section 21-5.730 (b)(2)(E) (CD2 SECTION 9, pp. 21-23, relating to registration renewal fees):

"Sec. 21-5.730 Bed and breakfast homes and transient vacation units.

...

- (b) ~~[In all zoning districts where bed and breakfast homes are permitted, except for the resort district, resort mixed use precinct of the Waikiki special district, and the A-1 low density apartment district and A-2 medium density apartment district pursuant to subsection (a), and except as otherwise provided in subdivision (6), the]~~ The following standards and requirements apply to bed and breakfast homes and transient vacation units; provided that bed and breakfast homes operating under valid nonconforming use certificates pursuant to Section 21-4.110-2, or transient vacation units operating under a valid nonconforming use certificate pursuant to Section 21-4.110-1 need only comply with subdivision (3):

...

- (2) Registration renewal requirements. Annually, ~~[by August 30,]~~ no earlier than three months prior to the expiration of the registration certificate, the owner or operator of a bed and breakfast home[-including for purposes of this subdivision the trustee of a revocable trust that owns the subject property,] or transient vacation unit shall renew the registration certificate for a bed and breakfast home or transient vacation unit with the department on a form prescribed by the department, and submit to the department[-] the following in the registration renewal application:

...

- (E) A renewal fee of [\$2,000] **\$500** for the bed and breakfast home[;] or transient vacation unit;

..."

ITEM NO. 6 – ROH Section 21-5.730 (b)(3)(D) (CD2 SECTION 9, pp. 21-27, relating to insurance requirements):

"Sec. 21-5.730 Bed and breakfast homes and transient vacation units.

...

- (b) ~~[In all zoning districts where bed and breakfast homes are permitted, except for the resort district, resort mixed use precinct of the Waikiki special district, and the A-1 low density apartment district and A-2 medium density apartment district pursuant to subsection (a), and except as otherwise provided in subdivision (6), the]~~ The following standards and requirements apply to bed and breakfast homes and transient vacation units; provided that bed and breakfast homes operating under valid nonconforming use certificates pursuant to Section 21-4.110-2, or transient vacation units operating under a valid nonconforming use certificate pursuant to Section 21-4.110-1 need only comply with subdivision (3):

...

- (3) Restrictions and Standards. Bed and breakfast homes and transient vacation units must operate in accordance with the following restrictions and standards:

...

- ~~(N)~~(D) Insurance coverage required. The owner or operator must maintain a minimum of \$1,000,000 per occurrence in commercial general liability insurance at all times. Owners or operators may fulfill insurance requirements through coverage offered by a hosting platform; provided the insurance coverage satisfies the minimum requirements of this paragraph.

..."

ITEM NO. 7 – ROH Section 21-5.730 (b)(3)(F)(iv) (CD2 SECTION 9, pp. 21-29, relating to the informational house rules)

"Sec. 21-5.730 Bed and breakfast homes and transient vacation units.

- ...
- (b) ~~[In all zoning districts where bed and breakfast homes are permitted, except for the resort district, resort mixed use precinct of the Waikiki special district, and the A-1 low density apartment district and A-2 medium density apartment district pursuant to subsection (a), and except as otherwise provided in subdivision (6), the]~~ The following standards and requirements apply to bed and breakfast homes and transient vacation units; provided that bed and breakfast homes operating under valid nonconforming use certificates pursuant to Section 21-4.110-2, or transient vacation units operating under a valid nonconforming use certificate pursuant to Section 21-4.110-1 need only comply with subdivision (3):

- ...
- (3) Restrictions and Standards. Bed and breakfast homes and transient vacation units must operate in accordance with the following restrictions and standards:

- ...
- (F) Informational binder required. The owner or operator shall create a binder that must be placed and maintained in a conspicuous location within the bed and breakfast home or transient vacation unit at all times. The binder must provide guidance to transient occupants on being respectful of neighbors and responding to emergencies. The binder must be made available for inspection by the department upon request. At a minimum, the binder must include the following documents and information:

- ...
- (iv) A copy of the house rules for the bed and breakfast home or transient vacation unit, which must impose quiet hours between 10:00 p.m. and 7:00 a.m., and for bed and breakfast homes and transient vacation units operating pursuant to nonconforming use certificates and located within the country, residential, or apartment zoning districts, the house rules must prohibit transient occupants from parking vehicles on the public streets.

..."

ITEM NO. 8 – ROH Section 21-2A.10 (New proposed CD2 SECTION):

"Sec. 21-2A.10 Booking Services.

- (a) It is unlawful for a person acting as, or on behalf of, a hosting platform to provide and collect, or receive a fee for, booking services in connection with any bed and breakfast home or transient vacation unit located within the city if such bed and breakfast home or transient vacation unit is not lawfully registered, permitted, or otherwise allowed as a bed and breakfast home or transient vacation unit pursuant to this chapter at the time the bed and breakfast home or transient vacation unit is booked. A hosting platform shall exercise reasonable care to confirm that a bed and breakfast home or transient vacation unit located within the city is lawfully registered, permitted, or otherwise allowed as a bed and breakfast home or transient vacation unit prior to providing, and collecting or receiving a fee for, booking services.
- (b) Hosting platforms shall not collect or receive a fee, directly or indirectly through an agent or intermediary, for facilitating or providing services ancillary to a bed and breakfast home or transient vacation unit in the city that is not lawfully registered, permitted, or otherwise allowed pursuant to this chapter, including, but not limited to, insurance, concierge services, catering, restaurant bookings, tours, guide services, entertainment, cleaning, property management, or maintenance of the residential property or unit.
- (c) Booking services for hotel units or timeshare units must include an identifying tax map key number for the property on which the hotel unit or timeshare unit is located."