

REPORT OF THE COMMITTEE ON ZONING

Voting Members:

Calvin K.Y. Say, Chair; Tyler Dos Santos-Tam, Vice-Chair;
Radiant Cordero, Esther Kia'aina, Matt Weyer

Committee Meeting Held
July 26, 2023

Honorable Tommy Waters
Chair, City Council
City and County of Honolulu

Mr. Chair:

Your Committee on Zoning, to which was referred Bill 6 (2023) entitled:

"A BILL FOR AN ORDINANCE RELATING TO PROFESSIONAL
SELF-CERTIFICATION,"

introduced on February 16, 2023, and which passed First Reading at the Council meeting
on February 22, 2023, reports as follows:

The purpose of the bill is to help alleviate the backlog of building permit applications
and reviews by giving the building official the authority to allow other outside means of
building permit application review for compliance with pertinent codes.

Your Committee, at its meeting on April 5, 2023, amended the bill to a CD1 version
(OCS 2023-0211/3/17/2023 11:31 AM), then postponed action to further consider the bill.
Your Committee, at its meeting on June 21, 2023, again postponed action to further
address concerns regarding the bill.

At your Committee's meeting on July 26, 2023, the Director of Planning and
Permitting provided comments and responded to questions from the Councilmembers.

CARES testified in support of the bill. Grassroot Institute of Hawaii and Hawaii
Government Employees Association offered comments on the bill.

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ADOPTED ON **AUG 9 2023**

COMMITTEE REPORT NO. **208**

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Your Committee received written testimony in support of the bill from Hawaii Solar Energy Association, NAIOP Hawaii, American Institute of Architects Honolulu Chapter, Building Industry Association of Hawaii, and one individual. Grassroot Institute of Hawaii, Hawaii Government Employees Association, Sunrun, and one individual submitted comments on the bill.

Your Committee prepared a CD1 version of the bill that makes the following amendments:

- A. Amends SECTION 1 of the bill to provide for Council findings and clarify that the purpose of the bill is to temporarily alleviate the backlog of building permit applications by providing the building official the authority to allow for alternative means to review building permit applications for compliance with pertinent codes.
- B. Deletes SECTIONS 2, 3, and 4 of the bill.
- C. Adds a new uncodified SECTION 2 of the bill to set forth the guiding policies and parameters of a temporary self-certification program that will remain in effect for a period of four years.
- D. Adds a new SECTION 3 of the bill to provide that the ordinance takes effect upon its approval; provided that:
 - 1. The ordinance will be repealed four years after its effective date; and
 - 2. All building permit applications submitted to the Department of Planning and Permitting and accepted for review and processing

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under the self-certification program of the ordinance prior to its repeal date must be processed in accordance with the ordinance and the rules adopted thereunder.

E. Makes miscellaneous technical and nonsubstantive amendments.

Your Committee on Zoning is in accord with the intent and purpose of Bill 6 (2023), as amended herein, and recommends that it pass Second Reading, be scheduled for public hearing, and be referred back to Committee in the form attached hereto as Bill 6 (2023), CD1. (Ayes: Cordero, Say, Weyer – 3; Noes: Kia'āina – 1; Absent: Dos Santos-Tam – 1.)

Respectfully submitted,



Committee Chair

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CITY COUNCIL

Ke Kanihela o ke Kalana o Honolulu

CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ORDINANCE _____

BILL 6 (2023), CD1

A BILL FOR AN ORDINANCE

RELATING TO PROFESSIONAL SELF-CERTIFICATION.

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

SECTION 1. Purpose and Findings.

The City Council finds that for years, the Department of Planning and Permitting ("DPP") has been faced with challenges, including severe understaffing, high staff turnover rates, a bribery scandal, and outdated technology, resulting in unprecedented delays in the issuance of building permits. As of July 2023, the median time to process a building permit application was 196 days.

Lengthy delays in obtaining a building permit have caused significant development interruptions and postponements, which may lead to a sluggish economy. Due to inflation, rising costs, and climbing interest rates, prolonged building permit application processing times may result in difficulty obtaining financing and soaring construction costs. In addition, not being able to make needed improvements to buildings and structures may cause hardship, including the lack of safe and decent housing, and disruption to business operations.

The DPP is increasing its staff recruitment, hiring, training, and retention efforts; has procured new software to replace its antiquated POSSE system; is evaluating the various codes to determine whether any provisions are duplicative or overly burdensome; and is looking at ways (internally and externally) to streamline the building permit process. In the short-term, the DPP is considering other solutions to facilitate the processing of building permit applications, while not sacrificing public safety.

The purpose of this ordinance is to temporarily alleviate the backlog of building permit applications by providing the Building Official the authority to allow for alternative means to review building permit applications for compliance with pertinent codes.

SECTION 2. Establishment of a temporary professional self-certification program to expedite the review and processing of certain building permit applications.

- (a) **Definitions.** For the purposes of this SECTION, the following definitions apply unless the context clearly indicates or requires a different meaning.

Building Official. The Director of Planning and Permitting or the Director's designee.



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City. The City and County of Honolulu.

Department. The Department of Planning and Permitting.

Eligible Project. A project that:

- (1) Involves the new construction or renovation of a building that:
 - (A) Is used for residential purposes, except as allowed for ground floor commercial uses in affordable rental housing projects developed under ROH Chapter 32;
 - (B) Is a maximum of 75 feet in height;
 - (C) Contains a maximum of 60 dwelling units;
 - (D) Is not located on land that has been subdivided; and
 - (E) Does not involve submittal of the subject property to a condominium property regime pursuant to HRS Chapter 514B or any successor statute, except as allowed for ground floor commercial uses in affordable rental housing projects developed under ROH Chapter 32; or
- (2) Involves the renovation of an existing building if no floor area is added.

HAR. The Hawaii Administrative Rules.

HRS. The Hawaii Revised Statutes.

Owner or Tenant. The person having control over the real property that is the subject of a building permit application and having responsibility for the work identified in the building permit application and accompanying plans.

Land Use Ordinance. ROH Chapter 21.

Project. Development that is the subject of a building permit application processed under the self-certification program established by this SECTION.

Relevant Code. The Building Code and Residential Code (ROH Chapter 16), Electrical Code (ROH Chapter 17), Plumbing Code (ROH Chapter 19), Sidewalk Code



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(ROH Chapter 14, Article 3), or Housing Code (ROH Chapter 16A), as appropriate, applicable to the work identified in a building permit application and accompanying plans, for which a self-certified professional is licensed.

ROH. The Revised Ordinances of Honolulu 2021.

Self-Certified Professional. The design professional appropriately licensed under HRS Chapter 464, duly qualified and registered to participate in the self-certification program under the rules implementing this SECTION, and identified on a building permit application and accompanying plans.

Self-Certification Program. The process by which a building permit application and accompanying plans are reviewed and a building permit is issued pursuant to this SECTION.

State. The State of Hawai'i.

- (b) **Self-Certification Program.** To process a building permit application and accompanying plans pursuant to this SECTION, the self-certified professional identified in a building permit application shall submit to the Building Official a signed, personal verification that:
- (1) The plans accompanying the building permit application and stamped by the self-certified professional do not contain any false information;
 - (2) The plans are to the best of the self-certified professional's knowledge, information, and belief in compliance with the requirements of the relevant code;
 - (3) The plans were prepared by, prepared under the direct supervision of, or reviewed and stamped by the self-certified professional;
 - (4) Every sheet of the plans is authenticated pursuant to HAR § 16-155-9; and
 - (5) The personal verification includes a compliance statement in black text directly below the signature of the self-certifying professional as follows: "Having duly read the obligations and requirements relating to the self-certification program, my intent is to design under its provisions."



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- (c) ***Self-Certified Professional.*** In stamping and signing every drawing, the self-certified professional attests that:
- (1) The self-certified professional has exercised a professional standard of care in the preparation, completion, and submission of the documents and is aware that the Building Official will rely upon the truth and accuracy of this statement as the basis for issuing a building permit. If it is determined by the Building Official that the submitted plans do not conform to the relevant codes, the self-certified professional shall immediately take all remedial measures within the self-certified professional's control to meet relevant code requirements;
 - (2) If the self-certified professional becomes aware of any false or inaccurate statements made in any of the documents, whether the misrepresentation is made by the self-certified professional, or an employee or agent of the self-certified professional, the self-certified professional shall immediately take all necessary measures to correct the statements; and
 - (3) The self-certified professional realizes that failure to take corrective action may result in termination of the self-certified professional's participation in the self-certification program and notification to the State Department of Commerce and Consumer Affairs Board of Professional Engineers, Architects, Surveyors, and Landscape Architects under HAR § 16-115-10.
- (d) ***Owner or Tenant.*** The owner or tenant of the real property that is the subject of a building permit application processed pursuant to the self-certification program:
- (1) Agrees to take all measures necessary to correct any misrepresentation or falsification of facts made knowingly or negligently in the building permit application or in any document submitted in support of the building permit application, by the owner or tenant or by the owner's or tenant's agents, contractors, or employees;
 - (2) Understands that a building permit application processed pursuant to the self-certification program is subject to audit and field inspection by the Building Official;
 - (3) Agrees to take all remedial measures necessary to bring the plans and all project construction completed under the building permit into conformity with City requirements, relevant codes, and all other applicable laws;



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- (4) Agrees to protect, defend, indemnify, and hold the City and its officers, representatives, managers, and employees harmless against any and all claims, demands, awards, suits, judgments, liabilities, losses, or damages arising out of, or being in any way connected with the design, construction, or code compliance review of the work covered by the building permit application; provided that this obligation does not negate, waive, or otherwise reduce any other right or obligation of indemnity that may exist in favor of the City; and
 - (5) Understands and agrees that if project construction is contrary to, or does not comply with the relevant codes, the Land Use Ordinance, or the building permit to be issued for the project, the owner or tenant shall, at the owner or tenant's own expense, remove or modify any and all noncompliant components of the project in order to bring the project into compliance.
- (e) The Building Official may:
- (1) Publish a non-exhaustive list of eligible and ineligible building types for the self-certification program, based on the definition of eligible project in subsection (a);
 - (2) Include in the building permit application form options to process the building permit application under the standard building permit review procedures or under the self-certification program;
 - (3) Determine whether a structural peer reviewer's report is required under the self-certification program;
 - (4) Require a building permit application otherwise eligible for the self-certification program to be reviewed under the standard building permit review procedures if the Building Official determines the project presents an unusual risk or hazard to life or property;
 - (5) Require a building permit application to be reviewed under the standard building permit review procedures if there is a dispute as to whether the building permit application is eligible for the self-certification program;
 - (6) Issue a building permit application number for tracking pre-approvals and allow self-certified professionals to route their plans to agencies for pre-approvals, including approvals by the State Historic Preservation Division,



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State Department of Health, Board of Water Supply, Department of Planning and Permitting Land Use Permits Division or Civil Engineering Branch, Department of Environmental Services Division of Wastewater Engineering and Construction, or other governmental agencies, without regard to the completeness of the relevant code-compliant drawings and plans to be finally uploaded to a computer-based system;

- (7) Qualify and register Hawai'i-licensed design professionals to participate in the self-certification program, notwithstanding the dollar values of HRS § 464-13; and
- (8) Rescind any building permit issued under the self-certification program if warranted for health and safety reasons.
- (f) The self-certification program does not absolve or relieve department building code inspectors from performing routine inspections of the buildings during construction, and conducting a final inspection upon completion of construction for purposes of issuing a certificate of occupancy.
- (g) *Penalties.* A self-certified professional who violates this SECTION will be subject to the penalties set forth in subsection (c)(3) and any other penalty provisions included in the rules adopted by the Building Official pursuant to subsection (h). Nothing in this SECTION precludes the Building Official from taking enforcement action pursuant to the Land Use Ordinance and ROH Chapter 18.
- (h) *Adoption of Administrative Rules.* The Building Official shall adopt rules pursuant to HRS Chapter 91 for the implementation, administration, and enforcement of this SECTION.

SECTION 3. This ordinance takes effect upon its approval; provided that:

- 1. This ordinance will be repealed four years after its effective date; and



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2. All building permit applications submitted to the Department of Planning and Permitting and accepted for review and processing under the self-certification program established pursuant to this ordinance prior to the repeal date of this ordinance must be processed in accordance with this ordinance and the rules adopted thereunder.

INTRODUCED BY:

Tommy Waters (br)

DATE OF INTRODUCTION:

February 16, 2023
Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Deputy Corporation Counsel

APPROVED this _____ day of _____, 20 _____.

RICK BLANGIARDI, Mayor
City and County of Honolulu