



A BILL FOR AN ORDINANCE

RELATING TO INDUSTRIAL LANDS.

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

SECTION 1. Purpose. The purpose of this ordinance is to preserve and promote industrial uses within areas designated as transit-oriented development zones. One direct means of promoting industrial uses in such areas is through modifications to the real property tax valuations of such uses.

SECTION 2. Chapter 8, Article 7, Revised Ordinances of Honolulu 1990 ("Valuations"), is amended by adding a new section to be appropriately designated by the revisor of ordinances and to read as follows:

"Sec. 8-7. Dedication of lands for industrial use.

(a) As used in this section:

"Industrial use of land" means the active use of the land for industrial activities such as automotive repair, manufacturing, print publishing, warehousing, and wholesaling and distribution.

"Maintain as industrial land" means that the land dedicated for industrial use must remain in substantial and continuous industrial use throughout the dedication period.

"Owner" or "property owner" means the fee simple owner or lessee of real property where (i) the lease allows industrial use, and (ii) the lease term extends through the period of the dedication.

"Residential homesite area" means that portion of the parcel, which is zoned industrial and used for residential purposes, including land upon which the house is located and the land designated to be the yard space.

"Substantial and continuous industrial use" means no less than 75 percent of the area of the subject land, but excluding the area of unusable land, is in active, continuous and revenue-generating industrial use throughout the subject time period.

"Unusable land" means that portion of the lands dedicated for industrial use that the director determines to be unsuitable for the dedicated industrial use.



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- (b) The owner of any parcel of land within a one mile radius of a fixed guideway rapid transit station may dedicate such parcel for industrial use for a period of 10 years and have the property assessed at a percentage of the land's fair market value as established in subsection (c), provided that the property is substantially and continuously maintained as industrial land for the duration of the dedication period.
- (c) Land dedicated for industrial use for a period of 10 years is assessed at 50 percent of its fair market value.
- (d) The owner of any parcel of land who wishes to dedicate such parcel for industrial use and have the property assessed in accordance with subsection (c) shall petition the director and declare in such petition that if the petition is approved, the owner will meet the applicable requirements of subsection (b). The petition must be supported by an industrial plan. The director shall prescribe the form of the petition and the industrial plan. The industrial plan may include the following:
- (1) A description of the industrial use;
 - (2) A tax map key number of the owner's land;
 - (3) A description of the acreage to be utilized for the industrial use;
 - (4) A description of the residential homesite area, if any, excluded from the dedication;
 - (5) A timetable for implementation of the plan; and
 - (6) A copy of a valid State of Hawaii general excise tax license issued for industrial use.
- (e) Upon receipt of a petition as provided in subsection (d), the director shall make a finding of fact as to whether the land in the petition area is reasonably well suited for the designated industrial use or is classified industrial under Section 8-7.1 and qualifies to be maintained as industrial land. The finding must be based upon a study of the present use of surrounding similar lands, state and county land use restrictions for the land, land use conformity with area development plans, and other criteria as may be appropriate. If all the findings are favorable, the director shall approve the petition and declare the land to be dedicated to industrial use.
- (f) The petition for dedication must be filed with the director by September 1st of any calendar year. The notice of assessment serves as notification of approval or



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disapproval of the petition for dedication. If the petition is approved, the assessment based upon the use requested in the dedication is effective as of October 1st of the same calendar year.

- (g) The approval by the director of the petition to dedicate constitutes a forfeiture on the part of the owner of any right to change the use of the owner's land to a use other than industrial for a minimum period of 10 years.
- (h) The owner of any parcel of land dedicated under this section shall annually submit a report to the director no later than September 1st following each tax year of the dedication. The director shall prescribe the form of the report. The report may include but is not limited to:
 - (1) An updated description of the industrial use of the land during the immediately preceding and current tax years;
 - (2) A copy of all state general excise tax returns for the immediately preceding tax year concerning activities conducted on the parcel of land dedicated for industrial use;
 - (3) A description of the acreage and percentage of the area of the parcel of land utilized for the industrial use during the immediately preceding and current tax years; and
 - (4) A declaration, if applicable, that the owner will keep the land in substantial and continuous industrial use, or will maintain the land as industrial land through the remaining period of the dedication.

Any part of the report containing confidential commercial or financial information, including income statements or tax statements, must be clearly labeled by the owner as such and will not be open to inspection by the public. The report may be rejected by the director in the event the report is incomplete or contains erroneous or incorrect information. The report must be accepted or rejected by the director by October 31st of the year in which it is submitted.

- (i) If land dedicated for industrial use undergoes a change in classification which is not at the initiation of owner or with the authorization of the owner, the dedication continues unless the owner files a written notice of cancellation with the director within 60 days of the change. Such cancellation is effective on the next July 1st which is at least nine months after the filing.



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- (j) In the event that a dedication is canceled or expires, the director shall execute an expiration or cancellation of the dedication.
- (k) In the event the director, upon inspection, finds that dedicated industrial land is not in substantial and continuous industrial use, that the land has not been maintained as industrial land, that the property owner failed to file the required report in a timely manner, or that the required report must be rejected, the owner must be notified of the finding and the owner has 60 days to address the finding. In the event the owner fails to satisfactorily address the finding, the dedication is canceled and the property owner is subject to a rollback tax and penalty. The rollback tax is the difference between the taxes owed for the land at 100 percent of the land's assessed value at fair market value and the taxes actually imposed on the land, retroactive from June 30th of the tax year in which the dedication was canceled to July 1st of the initial year of the dedication at the tax rate applicable for the respective tax years, except as otherwise provided under this subsection. The penalty is 10 percent for each year of the rollback tax. The rollback tax and penalty constitutes a paramount lien upon the property.

For lands dedicated for 10 years and subject to a cancellation after the fifth year of the dedication period, the period of the rollback tax is in accordance with the following schedule:

- (1) For five tax years for a cancellation in the sixth tax year of the dedication period, retroactive from June 30th of the sixth tax year to July 1st of the second tax year of the dedication period;
- (2) For four tax years for a cancellation in the seventh tax year of the dedication period, retroactive from June 30th of the seventh tax year to July 1st of the fourth tax year of the dedication period;
- (3) For three tax years for a cancellation in the eighth tax year of the dedication period, retroactive from June 30th of the eighth tax year to July 1st of the sixth tax year of the dedication period;
- (4) For two tax years for a cancellation in the ninth tax year of the dedication period, retroactive from June 30th of the ninth tax year to July 1st of the eighth tax year of the dedication period; or
- (5) For one tax year for a cancellation in the tenth tax year of the dedication period, retroactive from June 30th of the tenth tax year to July 1st of the tenth tax year of the dedication period.



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- (l) The owner may appeal any disapproval of the petition for dedication, rejection of the annual report, cancellation of the dedication, or imposition of a rollback tax and penalty in the same manner as an appeal from an assessment.
- (m) Notwithstanding any provision in this section to the contrary, the occurrence of any of the following events causes the dedication to be canceled without the imposition of any rollback taxes or penalties whatsoever:
- (1) The death of any owner; or
 - (2) Events beyond the owner's control that make it unfeasible to continue the industrial use of the dedicated property, including, but not limited to:
 - (A) A serious or debilitating long-term illness or injury suffered by the owner;
 - (B) A natural disaster such as a fire, flood, hurricane or tsunami that destroys a structure that is essential for the industrial use of the dedicated parcel; or
 - (C) The taking of the dedicated parcel or any portion thereof by a governmental entity, provided that where only a portion of the parcel is taken, the cancellation shall be effective only as to the portion taken.
- (n) Notwithstanding any provisions in this section to the contrary, the director may grant an owner a grace period, subject to the following conditions:
- (1) A grace period may be granted only if one of the following events occurs:
 - (A) A bank or other lending institution acquires possession of a property as a result of a default of a mortgage on the property; or
 - (B) The industrial use of a dedicated parcel is terminated because a lessee has abandoned or terminated a lease prior to the end of the term of the lease, the owner of the parcel has not found another lessee, and the lease has a term of five years or longer.
 - (2) During the grace period, the owner is not required to use the land for industrial purposes.



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- (3) At the end of the grace period, the owner must use the land for industrial purposes for the entire remaining period of the owner's dedication. The grace period is not to be counted in determining the owner's compliance with the dedication.
- (4) The grace period must not exceed two years.
- (5) During the grace period, the land is assessed at 100 percent of market value.
- (6) No grace period will be granted for a parcel of land within five years following the expiration of a previous grace period."

SECTION 3. New material is underscored. When revising, compiling or printing this ordinance for inclusion in the Revised Ordinances of Honolulu, the revisor of ordinances need not include the underscoring.



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SECTION 4. This ordinance takes effect upon its approval and applies to tax years beginning July 1, 2017 and thereafter.

INTRODUCED BY:

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DATE OF INTRODUCTION:

JUL 30 2015

Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Deputy Corporation Counsel

APPROVED this _____ day of _____, 20____.

KIRK CALDWELL, Mayor
City and County of Honolulu