



RESOLUTION

PROPOSING AN AMENDMENT TO CHAPTER 21, REVISED ORDINANCES OF HONOLULU 1990 (THE LAND USE ORDINANCE), RELATING TO HEIGHT LIMITS FOR ROOFTOP STRUCTURES.

WHEREAS, the zoning maps and the Land Use Ordinance ("LUO") of the City and County of Honolulu ("City") establish zoning districts and zoning district regulations for the utilization of land in the City pursuant to Section 6-1514, Revised Charter of the City and County of Honolulu 1973 (Amended 2017 Edition) ("Charter"); and

WHEREAS, each zoning district is designated for certain uses and restricted for other uses in order to encourage orderly development in accordance with adopted land use policies, including the Oahu general plan, and the applicable development plans or sustainable community plans, and to promote and protect the public health, safety, and welfare; and

WHEREAS, Section 196-10.5, Hawaii Revised Statutes ("HRS"), establishes the Hawaii Clean Energy Initiative Program within the State Department of Business, Economic Development, and Tourism, to manage the State's transition to a clean energy economy; and

WHEREAS, the goal of the Hawaii Clean Energy Initiative is to achieve 100 percent clean energy for the State of Hawaii ("State") by 2045; and

WHEREAS, the State has earned recognition as a clean energy leader, and currently enjoys a robust clean energy industry; and

WHEREAS, since 2010, the State's solar industry has experienced significant growth, in part due to Hawaii's abundant solar resources, strong federal policies such as the solar investment tax credit, rapidly declining costs, and increasing demand for clean electricity; and

WHEREAS, Section 21-4.60(c)(8), Revised Ordinances of Honolulu 1990 ("ROH"), provides an exemption from zoning district height limits for any energy-savings device, including heat pumps and solar collectors, not to exceed five feet above the governing height limit; and

WHEREAS, while developers of new buildings may plan ahead and include energy-savings devices such as solar panels as a part of the building design plans, developers of older buildings may not have anticipated the need for additional rooftop



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space to accommodate solar panels, and as a result many older buildings contain existing rooftop structures; and

WHEREAS, with the growing interest in renewable energy, the owners of older buildings are exploring the feasibility of installing energy-savings devices on building rooftops, which may require that the energy-savings devices be positioned over existing rooftop structures; and

WHEREAS, the current height limit for an energy-savings device of five feet above the governing height limit may prevent older buildings with existing rooftop structures from installing rooftop solar panels and achieving energy efficiency; and

WHEREAS, ROH Section 21-4.60(c)(1) provides that vent pipes, fans, roof access stairwells, and structures housing rooftop machinery (such as elevators and air conditioning) are exempt from zoning district height limits, not to exceed 18 feet above the governing height limit (except that structures housing rooftop machinery on detached dwellings and duplex units are not exempt from zoning district height limits); and

WHEREAS, the Council finds that older buildings with existing rooftop structures should be allowed some zoning district height limit flexibility to permit energy-savings devices to be installed above certain existing rooftop structures; and

WHEREAS, the Council therefore believes that, except for detached dwellings and duplex units, owners of buildings constructed in the past who wish to install energy-savings devices above existing rooftop structures exempted from the height limit pursuant to ROH Section 21-4.60(c)(1), should be allowed to do so, subject to certain restrictions; and

WHEREAS, in zoning districts where the height limit is 60 feet or greater, there has been interest in creating rooftop gathering spaces by installing solar panels that cover the open gathering area, thereby providing shade and protection; and

WHEREAS, the current height limit for an energy-savings device of five feet above the governing height limit would not allow for the creation of this type of rooftop gathering space, and if the floor area of the gathering space were to be included as a part of the floor area for the structure, some structures may exceed their maximum allowable density; and



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WHEREAS, the Council finds that in zoning districts where the height limit is 60 feet or greater, some zoning district height limit and density flexibility should be allowed to permit the creation of rooftop gathering spaces beneath installed solar panels; and

WHEREAS, the Council therefore believes that in zoning districts where the height limit is 60 feet or greater, owners of buildings who wish to create rooftop amenities by installing solar panels to shade and protect an open gathering space, should be allowed to do so, subject to certain restrictions; and

WHEREAS, Charter Section 6-1513 provides that "[a]ny revision of or amendment to the zoning ordinances may be proposed by the council and shall be processed in the same manner as if proposed by the director [of planning and permitting]"; and

WHEREAS, the term "zoning ordinances," as used in Charter Section 6-1513, includes both amendments to the LUO and to ordinances designating particular parcels of property in terms of the LUO; and

WHEREAS, ROH Chapter 2, Article 24, Part A, establishes procedures and deadlines for the processing of City Council ("Council") proposals to revise or amend the general plan, the development plans, the zoning ordinances, and the subdivision ordinance, and clarifies the responsibility of the Director of Planning and Permitting to assist the Council in adequately preparing its proposals for processing; now, therefore,

BE IT RESOLVED by the Council of the City and County of Honolulu that the Director of Planning and Permitting and the Planning Commission are directed, pursuant to Charter Section 6-1513 and ROH Chapter 2, Article 24, Part A, to process the proposed amendment to ROH Chapter 21 (the "Land Use Ordinance"), attached hereto as Exhibit A, in the same manner as if the proposal had been proposed by the Director; and

BE IT FURTHER RESOLVED that the Director of Planning and Permitting is directed to inform the Council upon the transmittal of the Director's report and the proposed Land Use Ordinance amendment to the Planning Commission; and



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

No. **21-136**

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BE IT FINALLY RESOLVED that, pursuant to ROH Chapter 2, Article 24, Part A, the Clerk shall transmit copies of this resolution and the exhibit attached hereto to the Director of Planning and Permitting and the Planning Commission of the City and County of Honolulu, and shall advise them in writing of the date by which the Director's report and accompanying proposed ordinance are required to be submitted to the Planning Commission.

INTRODUCED BY:

Tony Wain

DATE OF INTRODUCTION:

JUN 9 2021

Honolulu, Hawaii

Councilmembers

EXHIBIT A



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ORDINANCE _____

BILL _____

A BILL FOR AN ORDINANCE

RELATING TO HEIGHT LIMITS FOR ROOFTOP STRUCTURES.

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

SECTION 1. Purpose. The purpose of this ordinance is to address the exemptions from zoning district height limits in the Land Use Ordinance, Chapter 21, Revised Ordinances of Honolulu 1990.

SECTION 2. Section 21-4.60, Revised Ordinances Honolulu 1990 ("Heights"), is amended by amending subsections (c) and (d) to read as follows:

"(c) The following structures and associated screening ~~[shall be]~~ are exempt from zoning district height limits under the following specified restrictions:

- (1) Vent pipes, fans, roof access stairwells, and structures housing rooftop machinery, such as elevators and air conditioning, not to exceed 18 feet above the governing height limit~~[, except];~~ provided that structures housing rooftop machinery on detached dwellings and duplex units shall not be exempt from zoning district height limits.
- (2) Chimneys, which may also project into required height setbacks.
- (3) Safety railings not to exceed 42 inches above the governing height limit.
- (4) Utility Poles and Antennas. The council finds and declares that there is a significant public interest served in protecting and preserving the aesthetic beauty of the city. Further, the council finds that the indiscriminate and uncontrolled ~~[erection,]~~ installation, location, and height of antennas ~~[can be and]~~ are detrimental to the city's appearance and~~[, therefore,]~~ image; ~~[that this can cause]~~ may result in significant damage to the community's sense of well-being, particularly in residential areas~~[,];~~ and ~~[can further harm the economy of the city with its tourist trade]~~ may have negative economic impacts to the city's tourism industry, which relies heavily on the city's physical appearance. However, the council also finds that there is a need for additional height for certain types of utility poles and antennas, and that there is a clear public interest served by ensuring that those transmissions and receptions providing the public with power and ~~[telecommunications]~~ telecommunication services are unobstructed. Therefore, in accord with the health, safety, and aesthetic objectives ~~[contained]~~ set forth in Section 21-1.20, and ~~[in view of the particular]~~



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considering the public interest needs associated with certain types of
[telecommunications] power and telecommunication services:

- (A) Utility poles and broadcasting antennas ~~[shall]~~ must not exceed 500 feet from existing grade.
 - (B) Antennas associated with utility installations ~~[shall]~~ must not exceed 10 feet above the governing height limit~~[-, but]; provided that~~ in residential districts where utility lines are predominantly located underground the governing height limit ~~[shall]~~ will apply.
 - (C) Receive-only antennas ~~[shall]~~ must not exceed the governing height limit, except as provided under Section 21-2.140-1.
- (5) Spires, flagpoles, and smokestacks, not to exceed 350 feet from existing grade.
 - (6) One antenna for an amateur radio station operation per zoning lot, not to exceed 90 feet above existing grade.
 - (7) Wind machines, where permitted~~[-]; provided that~~ each machine ~~[shall]~~ must be set back from all property lines one foot for each foot of height, measured from the highest vertical extension of the system.
 - (8) Any energy-savings device, including heat pumps and solar ~~[collectors,]~~ panels, not to exceed five feet above the governing height limit~~[-]; provided that:~~
 - (A) For buildings other than detached dwellings and duplex units, for which a certificate of occupancy was obtained prior to the effective date of this ordinance, if the energy-savings device is installed above existing structures exempted from the height limit pursuant to subdivision (1), the energy-savings device must not exceed five feet above the highest point of the existing structures or 18 feet above the governing height limit, whichever is less; and
 - (B) On zoning lots with a height limit of 60 feet or greater, solar panels must not exceed 10 feet above the governing height limit. The area beneath solar panels installed pursuant to this paragraph must not be enclosed and will not be included when determining floor area.



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- (9) Construction and improvements in certain flood hazard districts, as ~~[specified]~~ set forth in Sections 21-9.10-6 and 21-9.10-7.
- (10) Farm structures in agricultural districts, as specified in Article 3.
- (d) The following structures and associated screening may be placed on top of an existing building which is nonconforming with respect to height, under the specified restrictions:
 - (1) Any energy-savings device, including heat pumps and solar ~~[collectors,]~~ panels, not to exceed 12 feet above the height of the building.
 - (2) Safety railings not to exceed 42 inches above the height of the building."

SECTION 3. Ordinance material to be repealed is bracketed and stricken. 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 brackets, the material that has been bracketed and stricken, or the underscoring. The Revisor of Ordinances shall, pursuant to the Revisor's authority under ROH Section 1-16.3(b)(1), replace the phrase "effective date of this ordinance" or similar phrase used in the codified language of this ordinance with the actual date on which the ordinance takes effect.



CITY COUNCIL

CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

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A BILL FOR AN ORDINANCE

SECTION 4. This ordinance takes effect upon its approval.

INTRODUCED BY:

DATE OF INTRODUCTION:

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

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII
CERTIFICATE

RESOLUTION 21-136

Introduced: 06/09/21 By: TOMMY WATERS


Committee: ZONING AND PLANNING (ZP)

Title: PROPOSING AN AMENDMENT TO CHAPTER 21, REVISED ORDINANCES OF HONOLULU 1990 (THE LAND USE ORDINANCE), RELATING TO HEIGHT LIMITS FOR ROOFTOP STRUCTURES.

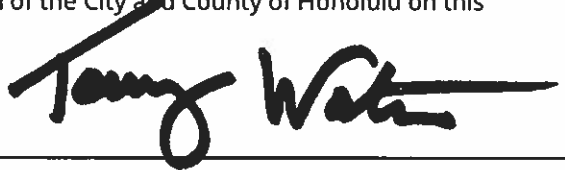
Voting Legend: * = Aye w/Reservations

06/09/21	INTRO	Introduced.
07/22/21	ZP	Reported out for adoption. CR-226 4 AYES: CORDERO, ELEFANTE, KIA'ĀINA, SAY
08/11/21	CCL	Committee report and Resolution were adopted. 8 AYES: CORDERO, ELEFANTE, FUKUNAGA, SAY, TSUNEYOSHI, TULBA, TUPOLA, WATERS 1 ABSENT: KIA'ĀINA

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



GLEN I. TAKAHASHI, CITY CLERK



TOMMY WATERS, CHAIR AND PRESIDING OFFICER