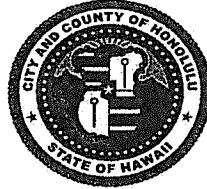


PLANNING COMMISSION  
**CITY AND COUNTY OF HONOLULU**

650 SOUTH KING STREET, 7<sup>TH</sup> FLOOR • HONOLULU, HAWAII 96813  
PHONE: (808) 768-8000 • FAX: (808) 768-6041  
DEPT. WEB SITE: [www.honoluluclerk.org](http://www.honoluluclerk.org) • CITY WEB SITE: [www.honolulu.gov](http://www.honolulu.gov)

RICK BLANGIARDI  
MAYOR



BRIAN LEE, Chair  
KEN K. HAYASHIDA, Vice Chair  
STEVEN S. C. LIM  
RYAN J. K. KAMO  
NATHANIEL KINNEY  
PANE MEATOGA III  
HILARIE ALOMAR  
MELISSA MAY

June 8, 2022

The Honorable Tommy Waters  
Chair and Presiding Officer  
and Members  
Honolulu City Council  
530 South King Street, Room 202  
Honolulu, Hawaii 96813

Dear Chair Waters and Councilmembers:

SUBJECT: Request for Amendments to Revised Ordinances of Honolulu  
(ROH) Chapter 21, the Land Use Ordinance (LUO), relating to  
Height Limits for Rooftop Structures

The Planning Commission held a public hearing on May 18, 2022 on the above subject matter. No public and written testimonies were received. The public hearing was closed on May 18, 2022.

The Planning Commission voted unanimously 7:0 to recommend approval of Resolution No. 21-136, relating to Height Limits for Rooftop Structures, together with the Department of Planning and Permitting's (DPP) proposed amendments to simplify and strengthen language to broaden incentives, and including provisions to mitigate potential negative impacts.

Enclosed is the DPP's transmittal to the Planning Commission.

DEPT. COM. 439

The Honorable Tommy Waters  
Chair and Presiding Officer  
and Members  
June 8, 2022  
Page 2

Should you have any questions, please contact me at (808) 768-8007.

Sincerely,



Brian Lee, Chair  
Planning Commission

Enclosures

ACKNOWLEDGED:



Rick Blangiardi  
Mayor

ACKNOWLEDGED:



Dean Uchida, Director  
Department of Planning and Permitting



Michael D. Formby  
Managing Director

Authorization Dean Uchida, Director

Advertisement May 6, 2022

Public Hearing May 18, 2022

DEPARTMENT OF PLANNING AND PERMITTING

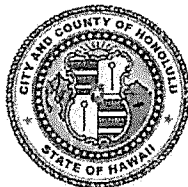
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RICK BLANGIARDI  
MAYOR



DEAN UCHIDA  
DIRECTOR

DAWN TAKEUCHI APUNA  
DEPUTY DIRECTOR

May 3, 2022

2021/GEN-8 (ZS)

**MEMORANDUM**

TO: Brian Lee, Chair  
and Members of the Planning Commission

FROM: Dean Uchida, Director *[Signature]*  
Department of Planning and Permitting (DPP)

SUBJECT: Height Limits for Rooftop Structures

2022 MAY -3 PM 4:22  
CITY OF PLANNING  
AND PERMITTING  
CITY & COUNTY OF HONOLULU

Amendments to Revised Ordinances of Honolulu (ROH) Chapter 21, the  
Land Use Ordinance (LUO)

On August 11, 2021, the City Council adopted Resolution No. 21-136, initiating amendments to the LUO in order to expand existing height exemptions for solar panels so to be placed above rooftop equipment, or to provide shade for a rooftop gathering space. In accordance with ROH Chapter 2, Article 24, the Director of the DPP is required to submit a report and accompanying proposed ordinance or resolution on the proposed amendments to the Planning Commission by May 8, 2022 (270 days after adoption of the resolution).

The DPP supports the intent of the proposed amendment because it encourages rooftop solar proliferation, which is in line with state and county policies. However, we recommend simplifying and, strengthening the amendment to broaden incentives, and including provisions to mitigate potential negative impacts.

Attachments

# LAND USE ORDINANCE AMENDMENT - A COUNCIL-INITIATED PROPOSAL RELATING TO HEIGHT LIMITS FOR ROOFTOP STRUCTURES

## Staff Report

May 3, 2022

### I. BACKGROUND

On August 11, 2021, the City Council adopted Resolution No. 21-136, initiating amendments to Revised Ordinances of Honolulu (ROH) Chapter 21, also known as the Land Use Ordinance (LUO). In accordance with ROH Chapter 2, Article 24, the Director of the Department of Planning and Permitting (DPP) is required to submit a report and accompanying proposed ordinance or resolution on the proposed amendments to the Planning Commission by May 8, 2022 (270 days after adoption of the resolution). The primary purpose of the Council-initiated amendments is to expand existing height exemptions for solar panels so that they may be placed above rooftop equipment, or so that they may provide shade for a rooftop gathering space. Currently, energy-savings devices (including heat pumps and solar panels) are allowed to exceed the governing height limit by up to five feet.

The Council-initiated amendments would apply to energy-saving devices (including heat pumps and solar panels) on buildings for which a certificate of occupancy was obtained prior to the effective date of the amendment, other than detached dwellings and duplexes. The amendments set two separate standards for zoning lots with a height limit of 60 feet or greater, versus all other lots.

On zoning lots with a height limit of 60 feet or greater, the Council-initiated amendments would allow energy-saving devices to exceed the governing height limit by up to 10 feet. This allows the creation of shaded rooftop gathering spaces. Resolution No. 21-136, whereas clause 14, states, "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 space, thereby providing shade and protection..." Additionally, for zoning lots with a height limit of 60 feet or greater, the area under solar panels exceeding the governing height limit could not be enclosed, and would not count as floor area.

On all other lots, excluding detached dwellings and duplex units, the Council-initiated amendments would allow energy-saving devices to be installed up to five feet above the highest point of existing structures that are exempted from the height limit, but no higher than 18 feet above the height limit. Such existing structures could include vent pipes, fans, roof access stairwells, and rooftop machine rooms for things like elevators and air conditioning equipment. The goal seems to be to allow rooftop gathering spaces on taller buildings, while avoiding negative visual impacts in areas with lower height limits.

## II. EXISTING REGULATIONS AND POLICIES

**City and State Policies and Plans:** Building height limits for each zoning district are specified in the LUO and on the Council-adopted zoning maps. Height limits are a regulatory control on development found in the zoning codes of almost every city in the United States (U.S.) Height limits set the upper boundary of a building envelope. Height limits are justified for a variety of reasons, including protection of views, protection against aviation accidents, preservation of historic districts and structures, maintenance of neighborhood character, and facilitation of air flow and light. Currently, the LUO offers height exemptions for vent pipes, fans, roof access stairwells, and rooftop machine rooms for things like elevators and air conditioning equipment (the exemption does not apply for rooftop machine rooms on detached dwellings and duplex units). These rooftop features are allowed to extend up to 18 feet above the governing height limit. The 18-foot height exemption accommodates industry standards associated with rooftop machine rooms (e.g. for elevators), often referred to as bulkheads. This type of allowance is typical in other major cities, although the exact height allowance varies (13.5 feet in Kirkland, Washington, 15 feet in Bangor, Maine, 14 feet in New Orleans) or is not specified at all (as in Missoula County and New York City's zoning code). Energy-saving devices, including heat pumps and solar panels, are currently allowed to extend up to five feet above the governing height limit.

Oahu's regional plans discuss the need for height limits. For example, Section 3.1.1.2 of the Primary Urban Center Development Plan (June 2004) states that in some areas, especially within central Honolulu, building height limits have been adopted specifically to protect view planes. That section goes on to say that "the Kakaako and Ala Moana districts, recognized as areas with substantial capacity for future urban development, are located in the central portion of the skyline. It is in these districts, as well as in McCully-Moiliili, where lower building height limits would not only help maintain the visual prominence of the Downtown skyline, but also promote a feasible and desirable building form." Further, it states that buildings closer to Pearl Harbor should retain low profiles in order to remain visually subordinate to the Honolulu skyline and its mountain backdrop. Section 3.1.3.3 explains that height limits should be established based on view plane analyses to preserve several specific panoramic views. The regional plans generally recommend limiting buildings in residential communities and neighborhood business centers to two stories in height.

Various government policies and plans reinforce the need to accelerate rooftop solar development and other sustainable rooftop uses. For example:

- The City and County of Honolulu General Plan (amended 2021), Part VI, Objective A is "to increase energy self-sufficiency through renewable energy and maintain an efficient, reliable, resilient, and cost-efficient energy system." Policy 2 of Objective A is to "Support and encourage programs and projects, including economic incentives, regulatory measures, and educational efforts, and seek to eliminate Oahu's dependence on fossil fuels."

- The Oahu Resiliency Strategy (2019), Action 32, states, “By adapting our building rooftops we can more effectively combat the adverse effects of rainwater flooding and high temperatures. Rooftop design and construction is an untapped resource for solar capture, rainwater harvesting, urban cooling, and overall green space... The City will develop a Sustainable Roof Systems Ordinance for all commercial, government, and multi-dwelling unit buildings.” Such an ordinance does not yet exist.
- The City and County of Honolulu’s Climate Action Plan (June 2021) for 2020-2025, Action 6.2, states, “The City will continue to identify low-impact locations for deployment of renewable energy production and storage, such as over parking lots, rooftops, and retired landfills. Preference will be given to projects that maximize co-benefits while limiting competing uses in urban green spaces; for example, providing shade over parking lots. Utilizing already developed space alleviates pressure on valuable agricultural land, habitats, and rural communities.”
- The Hawaii 2050 Sustainability Plan (revised June 2021) includes relevant language within the following strategies:
  - **Strategy 11:** Create incentives for energy-efficient behavior;
  - **Strategy 12:** Align policies and processes to enable the adoption of more renewable energy sources, increase solar projects, and increase statewide rooftop solar installation;
  - **Strategy 23:** Use green building requirements for new construction and major renovation projects, incentivize green roofs, expand rainwater harvesting and stormwater management, and update standards in a timely manner to increase clean energy;
  - **Strategy 29:** Integrate land use planning for sustainable energy goals; and
  - **Strategy 30:** Maximize the use of solar on all state buildings and parking facilities, especially for new construction and major renovations.
- The goal of the Hawaii Clean Energy Initiative (renewed 2014) is to achieve 100 percent clean energy for the state by 2045. In line with this goal, Hawaiian Electric Company, has pledged to reduce its carbon emissions by 70 percent by the year 2030, compared with 2005 levels. A key element to meeting this goal is adding 50,000 new rooftop solar panel systems.

**Policies and Plans in Other Jurisdictions:** A number of other jurisdictions have introduced policies to encourage rooftop solar proliferation. Below are some examples in major U.S. cities:

- Minneapolis allows solar panels to extend up to three feet above the ridge level of a sloped roof and 10 feet above a flat roof surface
- Seattle allows solar panels to exceed the height limits of single-family residential zoning districts by four feet or extend four feet above the ridge of a pitched roof. Solar panels may not extend more than nine feet above the height limit established for the zone.
- In Missoula County, rooftop mounted solar panels are not subject to height regulations.
- In New Orleans, solar panels can be mounted up to six feet above the surface of a flat roof.
- As of 2020, California's building codes require all new homes under three stories to include solar panels. The solar panel system must be sized to meet the annual kilowatt-hour energy usage of the dwelling. Homes deemed unsuitable for rooftop solar do not need to comply. The requirement will also apply to many new multi-family and commercial buildings starting in 2023.
- San Francisco, Denver, and New York City have introduced requirements to install solar on new and replacement roofs. Many of these requirements come as part of more comprehensive sustainable roof ordinances, which require either solar panels or green roofs (generally characterized by a layer of vegetation within a growing medium, a layer for drainage, and a waterproof membrane, integrated into a roof), or some combination of the two. San Francisco became the first U.S. city to require solar and green roofs in 2017. There, most new construction projects must incorporate solar panels or green roofs, or a combination thereof, on 15 to 30 percent of their rooftop space. In Denver, new buildings, additions, or roof replacements with floor area greater than 25,000 square feet must provide solar panels or a green roof on 20 to 60 percent of available rooftop space. In New York City, all new construction and buildings undertaking major roof renovations must have all of their available rooftop space covered with solar panels or a green roof, or a combination thereof. There are exemptions, however, for areas used for access, rooftop structures and equipment, stormwater management, recreational space, and rooftop space that cannot accommodate green roofs or at least 4kW of solar energy generating capacity.

### **III. ANALYSIS**

**Applicability:** The Council-initiated amendments apply to any energy-saving device, including heat pumps and solar panels. The intention of the amendments is specifically to allow solar panels at higher levels than what is currently allowed. Therefore, the scope of the proposed amendments should be limited to solar panels, and should not include other energy-saving devices, like heat pumps.

**Zoning District Height Limit:** The Council-initiated amendments intend to not only encourage the installation of solar panels, but also to create rooftop gathering spaces in zoning districts where the height limit is 60 feet or greater. In districts where the height limit is less than 60 feet, the proposed additional height depends on the height of existing rooftop vent pipes, fans, stairwells, and structures. Energy-saving devices could be installed up to five feet above the highest point of existing structures that are exempted from the height limit, but no higher than 18 feet above the height limit. In cases where such existing rooftop structures are less than five feet in height, solar panels would not provide 10 feet of clearance, limiting the ability to create shaded rooftop gathering spaces. In cases where such existing rooftop structures are greater than five feet in height, solar panels could be placed up to 18 feet above the rooftop, increasing visual impacts.

Alternatively, permitting solar panels to be no more than 10 feet above the height limit in all zoning districts would allow for the creation of more rooftop gathering spaces, making rooftop solar installations more enticing. It would also reduce the potential for visual impacts by lowering the additional height allowance from 18 feet to 10 feet. Finally, amendments that do not provide two separate standards based on zoning lot height limits would be easier to understand and administer.

**Existing versus New Buildings:** The Council-initiated amendments limit the height exemption to buildings for which a certificate of occupancy was obtained prior to the effective date of the amendments. The intention of the Council-initiated amendments is to allow solar panels above existing rooftop equipment for old buildings that may not have considered rooftop solar panels prior to design and construction. However, to incentivize the proliferation of rooftop solar on new buildings, a height exemption for new buildings should be allowed as well. Removing the certificate of occupancy limitation would bring the proposed amendments in line with state and county goals, and make the law simpler to understand and administer.

**Floor Area:** The Council-initiated amendments further incentivize rooftop solar by exempting areas underneath rooftop solar panels from floor area calculations on zoning lots with a height limit of 60 feet or greater. This exemption should be strengthened to apply to all rooftop solar panels and should be incorporated into the definition of floor area in Article 10 of the LUO.



**Nonconforming Structures:** For existing buildings that are nonconforming with respect to height (e.g. a 200-foot-tall structure on a lot with a 150-foot height limit, that was legally established under former zoning regulations), the LUO currently allows energy-saving devices, including heat pumps and solar panels, to reach up to 12 feet above the height of the building. However, it does not prohibit the area underneath the rooftop solar panels from being enclosed and does not exempt that area from floor area calculations. The proposed amendments should ensure that height exemptions for nonconforming structures align with those for conforming structures.

**Visual Impacts:** The Council-initiated amendments acknowledge the potential for negative visual impacts. They would allow solar panels up to 10 feet above the height limit where the height limit is 60 feet or greater, regardless of whether there is existing rooftop equipment. On all other lots, other than detached dwellings and duplex units, the proposed amendment would limit solar panels to no more than five feet above existing rooftop equipment, but no higher than 18 feet above the height limit.

Allowing solar panels up to 18 feet above the height limit - specifically where height limits are lower than 60 feet and rooftops are closer to street level - could result in significant visual impacts. Presumably, the 18 foot allowance is to allow solar panels to be placed above large rooftop structures such as machine rooms. However, that allowance would allow solar panels to reach 18 feet above the height limit across the entire roof, even if a 13-foot-high machine room is located in one corner of the rooftop. Reducing the maximum additional height allowance from 18 feet to 10 feet reduces that potentiality. Ten feet is sufficient clearance for a rooftop gathering space, and low enough to avoid unnecessary added visual impacts.

The Council-initiated amendments also attempt to mitigate visual impacts by prohibiting enclosing the area under rooftop solar panels on zoning lots with a height limit of 60 feet or greater. This should be strengthened to include all rooftop solar panels that exceed the height limit. This ensures that any new rooftop gathering spaces above the height limit will be open rather than appearing as additional building bulk.

There is a pressing need to proliferate rooftop solar panels in developed urban areas. However, regulations encouraging rooftop solar panels must be balanced with provisions that minimize the potential for negative visual impacts. Therefore, in order to further incentivize rooftop solar, mitigate visual impacts, and simplify the Council-initiated amendments, we recommend allowing solar panels up to 10 feet above the height limit, regardless of whether there is existing rooftop equipment, on all zoning lots, except for detached dwellings and duplex units. Detached dwellings and duplex units will still have the current exemption that allows solar panels to be installed up to five feet above the governing height limit.

**Lighting for Rooftop Gathering Spaces:** Ideally, the amendments will result in the creation of more rooftop gathering spaces. Assuming these spaces may also be used at night, exterior lighting will be necessary. Increasing the amount of exterior rooftop lighting could result in negative visual and environmental impacts. Therefore, existing

outdoor lighting restrictions should be amended to shield such lighting to prevent the direct illumination of adjacent lots. This provision would serve to minimize impacts to neighbors, as well as birds and bats.

**Sustainable Roof Systems Ordinance:** The Council-initiated amendments provide an incentive for the installation of rooftop solar panel systems. State and county policies also call for the establishment of a sustainable roof systems ordinance, the identification of low-impact locations for deployment of renewable energy production and storage, and land use policies designed to meet energy goals. Comprehensive sustainable roof systems ordinances are being implemented in progressive municipalities across the country, and these ordinances often address solar panels, green roofs, rooftop gathering spaces, and other common rooftop features in a way that encourages sustainable development while providing flexibility for developers to achieve compliance. A sustainable roof systems ordinance that allows a diverse range of compliance options can ensure that initial costs can be recovered (and ultimately provide savings), help manage storm water, and alleviate pressure to develop new solar farms on valuable agricultural land, sensitive habitats, and rural communities. Although such an ordinance is not recommended as part of these proposed amendments, it should be considered as part of the overall effort to achieve state and county energy goals.

#### **IV. RECOMMENDATION**

The DPP supports the intent of the Council-initiated amendments because they encourage rooftop solar proliferation, which is in line with state and county policies. However, we recommend simplifying and strengthening the amendments to broaden incentives, and including provisions to mitigate potential negative impacts. We recommend adopting the attached revised draft bill, which makes the following changes to the Council-initiated amendments:

- Allows solar panels to reach up to 10 feet above the governing height limit in all zoning districts. This change allows the creation of places for people to gather under structures that support solar panels on all buildings except detached dwellings and duplex units, regardless of the height limit.
- Ensures that the area beneath rooftop solar panels on all lots does not count towards floor area, regardless of whether they are below or above the governing height limit, and amends the definition of floor area accordingly.
- Revises height exemptions for nonconforming structures to align with those proposed for conforming structures.
- Requires lighting for rooftop gathering spaces be shielded to eliminate direct illumination of adjacent zoning lots and the night sky.

## **COUNCIL-INITIATED RESOLUTION 21-136**



# CITY COUNCIL

CITY AND COUNTY OF HONOLULU  
HONOLULU, HAWAII

No. 21-136

## 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



## **RESOLUTION**

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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



## RESOLUTION

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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

**RESOLUTION**

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 \_\_\_\_\_

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**A BILL FOR AN ORDINANCE**

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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]~~



**CITY COUNCIL**  
CITY AND COUNTY OF HONOLULU  
HONOLULU, HAWAII

ORDINANCE \_\_\_\_\_

BILL \_\_\_\_\_

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**A BILL FOR AN ORDINANCE**

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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.



**CITY COUNCIL**  
CITY AND COUNTY OF HONOLULU  
HONOLULU, HAWAII

ORDINANCE \_\_\_\_\_

BILL \_\_\_\_\_

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**A BILL FOR AN ORDINANCE**

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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

ORDINANCE \_\_\_\_\_

BILL \_\_\_\_\_

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**A BILL FOR AN ORDINANCE**

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SECTION 4. This ordinance takes effect upon its approval.

INTRODUCED BY:

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\_\_\_\_\_  
\_\_\_\_\_

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

## **DPP's PROPOSED BILL**



**CITY COUNCIL**  
CITY AND COUNTY OF HONOLULU  
HONOLULU, HAWAII

ORDINANCE \_\_\_\_\_

BILL \_\_\_\_\_

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**A BILL FOR AN ORDINANCE**

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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 increase the proliferation of rooftop solar panels by allowing rooftop solar panels to be placed above rooftop equipment and allowing the creation of new rooftop gathering space underneath rooftop solar panels.

SECTION 2. Section 21-4.60, Revised Ordinances of 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]~~ are not exempt from zoning 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]~~



# CITY COUNCIL

CITY AND COUNTY OF HONOLULU  
HONOLULU, HAWAII

ORDINANCE \_\_\_\_\_

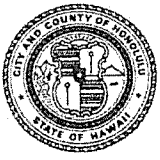
BILL \_\_\_\_\_

## A BILL FOR AN ORDINANCE

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.]~~ pursuant to the standards in Article 5.
- (8) Any energy-savings device, including heat pumps and solar ~~[collectors,]~~ panels, not to exceed five feet above the governing height limit~~[-];~~ provided that solar panels on buildings other than detached dwellings or duplex units must not exceed 10 feet above the governing height limit. The area underneath rooftop solar panels installed pursuant to this paragraph must not be enclosed and not be counted as floor area.
- (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:





# CITY COUNCIL

CITY AND COUNTY OF HONOLULU  
HONOLULU, HAWAII

ORDINANCE \_\_\_\_\_

BILL \_\_\_\_\_

## A BILL FOR AN ORDINANCE

- (1) Any energy-savings device, including heat pumps, and solar ~~[collectors,]~~ panels not to exceed ~~[42]~~ five feet above the height of the ~~[building]~~ rooftop~~[-]~~; provided that solar panels on buildings other than detached dwellings or duplex units must not exceed 10 feet above the height of the rooftop. The area underneath rooftop solar panels installed pursuant to this paragraph must not be enclosed and not be counted as floor area.
- (2) Safety railings not to exceed 42 inches above the height of the ~~[building]~~ rooftop.

SECTION 3. Section 21-4.100, Revised Ordinances of Honolulu 1990 ("Outdoor lighting"), is amended to read as follows:

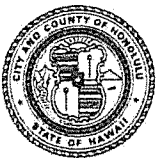
"For any commercial, industrial, or outdoor recreational development, lighting shall be shielded with full cut-off fixtures to eliminate direct illumination to any adjacent country, residential, apartment, apartment mixed use, or resort zoning district. For rooftop gathering spaces, lighting shall be shielded with full cut-off fixtures to eliminate direct illumination beyond the rooftop gathering space."

SECTION 4. Section 21-10.1, Revised Ordinances of Honolulu 1990 ("Definitions"), is amended by amending the definition of "Floor area" to read as follows:

**"Floor area"** means the area of all floors of a structure excluding unroofed areas, measured from the exterior faces of the exterior walls or from the center line of party walls dividing a structure. The floor area of a structure, or portion thereof, which is not enclosed by exterior walls shall be the area under the covering, roof or floor above which is supported by posts, columns, partial walls, or similar structural members which define the wall line (see Figure 21-10.4).

Excluded from the floor area are:

- (1) Parking structures, including covered driveways and accessways, porte cocheres, and parking attendant booths;
- (2) Attic areas with head room less than seven feet;
- (3) Basements;
- (4) Lanais;
- (5) Projections such as sunshade devices and architectural embellishments which are decorative only;
- (6) Areas covered by roofing treatment to screen roof top machinery only; and
- (7) Areas underneath rooftop solar panels or unsupported building overhangs, provided the area is not otherwise enclosed."



# CITY COUNCIL

CITY AND COUNTY OF HONOLULU  
HONOLULU, HAWAII

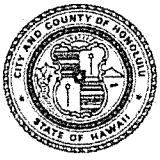
ORDINANCE \_\_\_\_\_

BILL \_\_\_\_\_

## A BILL FOR AN ORDINANCE

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SECTION 5. 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

ORDINANCE \_\_\_\_\_

BILL \_\_\_\_\_

## A BILL FOR AN ORDINANCE

SECTION 6. This ordinance takes effect upon its approval.

INTRODUCED BY:

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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