

# REPORT OF THE COMMITTEE ON ZONING AND PLANNING

## Voting Members:

Brandon J.C. Elefante, Chair; Esther Kia'aina, Vice-Chair;  
Radiant Cordero, Calvin K.Y. Say

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Committee Meeting Held  
August 25, 2022

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

Mr. Chair:

Your Committee on Zoning and Planning, to which was referred Bill 46 (2022) entitled:

"A BILL FOR AN ORDINANCE RELATING TO HEIGHT LIMITS FOR ROOFTOP STRUCTURES,"

transmitted by Departmental Communication 439 (2022), dated June 8, 2022, and which passed First Reading at the Council meeting on August 10, 2022, reports as follows:

The purpose of the Bill is to amend the Land Use Ordinance ("LUO"), Chapter 21, Revised Ordinances of Honolulu 1990, to allow rooftop solar panels to be placed above rooftop equipment, and allow the creation of new rooftop gathering spaces underneath rooftop solar panels.

The Bill is an alternative bill proposed by the Department of Planning and Permitting ("DPP") in response to a Council-initiated bill proposed by Resolution 21-136.

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

ADOPTED ON **SEP 7 2022**

COMMITTEE REPORT NO. **230**

# REPORT OF THE COMMITTEE ON ZONING AND PLANNING

## Voting Members:

Brandon J.C. Elefante, Chair; Esther Kia'aina, Vice-Chair;  
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Your Committee finds that the Planning Commission, after a public hearing held on May 18, 2022, at which no public or written testimony was received, voted unanimously (7 ayes) to recommend approval of the DPP's alternative bill, which in concurrence with the recommendation of the DPP in the attachment to Departmental Communication 439 (2022), simplifies and strengthens the Bill's provisions to broaden incentives and mitigate potential negative impacts.

DPP staff members gave a brief presentation on the Council-initiated proposed bill and the DPP's alternative proposed bill. The Director of the Department of Planning and Permitting testified in support of the proposed CD1 version of the Bill.

Your Committee received written testimony in support of the Bill from The MacNaughton Group; NAIOP Hawaii.

Your Committee plans to consider these matters further after receiving public testimony on the Bill at the public hearing to be held as required by law.

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

- A. In SECTION 3 of the bill, clarifies in ROH Section 21-4.100 that for a rooftop gathering space that is not enclosed, outdoor lighting must be shielded with full cut-off fixtures to eliminate direct illumination beyond the rooftop gathering space.
- B. In SECTION 5 of the bill, deletes instructions to the Revisor of Ordinances regarding replacement of the phrase "effective date of this ordinance" with the actual date on which the ordinance takes effect (the bill does not refer to the "effective date of this ordinance").

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

ADOPTED ON SEP 7 2022

COMMITTEE REPORT NO. 230

# REPORT OF THE COMMITTEE ON ZONING AND PLANNING

## Voting Members:

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C. Makes miscellaneous technical and nonsubstantive amendments.

Your Committee believes that additional public testimony at the public hearing recommended herein to be scheduled on this Bill will provide further assistance to your Committee and to the Council in their deliberations on this Bill.

Your Committee on Zoning and Planning is in accord with the intent and purpose of Bill 46 (2022), 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 46 (2022), CD1. (Ayes: Cordero, Elefante, Kia'āina, Say – 4; Noes: None.)

Respectfully submitted,

  
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Committee Chair

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

ADOPTED ON SEP 7 2022

COMMITTEE REPORT NO. 230



## 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 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]~~



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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.] pursuant to the standards in Article 5.~~
- (8) Any energy-savings ~~[device,] devices,~~ 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 subdivision must not be enclosed and will 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] that~~ is nonconforming with respect to height, under the following specified restrictions:



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- (1) Any energy-savings ~~[device,]~~ devices, including heat pumps, and solar ~~[collectors,]~~ panels not to exceed ~~[12]~~ 5 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 subdivision must not be enclosed and will 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, is amended to read as follows:

### "Sec. 21-4.100 Outdoor lighting.

For any commercial, industrial, or outdoor recreational development, outdoor lighting ~~[shall]~~ must 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 a rooftop gathering space that is not enclosed, outdoor lighting must 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]~~ that is not enclosed by exterior walls ~~[shall be]~~ is the area under the covering, roof, or floor above ~~[which]~~ that is supported by posts, columns, partial walls, or similar structural members ~~[which]~~ that 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]~~ 7 feet;
- (3) Basements;



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- (4) Lanais;
- (5) Projections such as sunshade devices and architectural embellishments ~~[which]~~ that are decorative only;
- (6) Areas covered by roofing treatment to screen ~~[roof top]~~ rooftop machinery only; and
- (7) Areas underneath rooftop solar panels or unsupported building overhangs, provided the area is not otherwise enclosed."

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.



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**A BILL FOR AN ORDINANCE**

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SECTION 6. This ordinance takes effect upon its approval.

INTRODUCED BY:

Tommy Waters (br)

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DATE OF INTRODUCTION:

August 1, 2022  
Honolulu, Hawai'i

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Councilmembers

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
Deputy Corporation Counsel

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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RICK BLANGIARDI, Mayor  
City and County of Honolulu