

REPORT OF THE COMMITTEE ON HOUSING AND THE ECONOMY

Voting Members

Esther Kia'aina, Chair; Calvin Say, Vice-Chair;
Radiant Cordero, Augie Tulba, Andria Tupola

Committee Meeting Held
October 18, 2022

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

Mr. Chair:

Your Committee on Housing and the Economy, which considered Bill 44 (2022),
entitled:

"A BILL FOR AN ORDINANCE RELATING TO THE OAHU HISTORIC
PRESERVATION COMMISSION,"

which passed Second Reading and Public Hearing at the October 5, 2022 Council
meeting, reports as follows:

The purpose of Bill 44 (2022) is to amend the ordinance relating to the
Oahu Historic Preservation Commission.

The Deputy Managing Director offered comments and shared their concerns on
the Bill.

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

A. In SECTION 5 of the bill:

1. Deletes ROH subsection 3-10.7(g) in its entirety and realphabetizes
subsequent subsections accordingly;

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ADOPTED ON **NOV 02 2022**

COMMITTEE REPORT NO. 266

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2. Amends realphabetized ROH subsection 3-10.7(j) to provide that the Historic Preservation Commission may review and comment on:
 - (1) Archaeological reports and cultural impact assessments submitted to the Department of Planning and Permitting (DPP) as part of development proposal applications; and
 - (2) Proposed projects upon request from DPP, including projects located on historic properties identified in the O'ahu historic property system.

B. Makes miscellaneous technical and non-substantive amendments.

At your Committee's meeting, Pu'uhonua O Wailupe and three individuals testified in support of the Bill. One individual offered comments on the Bill.

Your Committee received written testimony in support of the Bill from a representative of Pu'uhonua O Wailupe; Office of Hawaiian Affairs; Haleiwa Waialua Historical Society; Livable Hawaii Kai Hui; Wailupe 'Ohana Council; Kuliouou Kalani Iki; Historic Hawai'i Foundation; the Maritime Group; Sierra Club of Hawai'i; 'Āina Haina Community Association; Kamehameha Schools; and nine individuals. Comments were received from NAIOP Hawaii and one individual.

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Your Committee on Housing and the Economy is in accord with the intent and purpose of Bill 44 (2022), as amended herein, and recommends its passes Third Reading in the form attached hereto as Bill 44 (2022), CD1. (Ayes: Cordero, Kia'aina, Say, Tulba, Tupola – 5; Noes: None.)

Respectfully submitted,



Committee Chair

CITY COUNCIL

CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ADOPTED ON

NOV 02 2022

COMMITTEE REPORT NO.

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HONOLULU, HAWAII

ORDINANCE _____

BILL **44 (2022), CD1**

A BILL FOR AN ORDINANCE

RELATING TO THE OAHU HISTORIC PRESERVATION COMMISSION.

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

SECTION 1. Purpose. The purpose of this ordinance is to amend the ordinance relating to the Oahu Historic Preservation Commission.

SECTION 2. Section 3-10.2, Revised Ordinances of Honolulu 1990 ("Definitions"), is amended by adding new definitions of "department" and "State Historic Preservation Division" to read as follows:

"Department" means the department of planning and permitting."

"State Historic Preservation Division" means the State of Hawaii Department of Land and Natural Resources, State Historic Preservation Division."

SECTION 3. Section 3-10.3, Revised Ordinances of Honolulu 1990 ("Commission established"), is amended by amending subsection (b) to read as follows:

"(b) The commission shall consist of nine members appointed by the mayor ~~[with the approval of]~~ and confirmed by the council. The commission members shall be appointed from among professionals and persons with special interest in the following disciplines:

- (1) Architecture;
- (2) History;
- (3) Archaeology;
- (4) Planning;
- (5) Architectural history; ~~[and]~~
- (6) Hawaiian culture;
- (7) Anthropology;
- (8) Ethnography; and
- (9) Sociology;



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provided that the commission shall include an expert in ~~[architectural history, two archaeologists, a Hawaiian mythology expert and native speaker, an expert in]~~ Native Hawaiian culture issues and concerns and ~~[a Hawaiian Kahu (religious expert)]~~ in archaeology. ~~[At least a majority of the members shall be professionals from among]~~ All members of the commission shall have professional, educational, or demonstrated work experience, or a combination thereof, in the disciplines listed in subdivisions (1) through [(6)] (9). Members also shall reflect an ethnic diversity to carry out the purposes of the commission to identify, protect, preserve, and restore historic properties and artifacts of all ethnic cultures. The mayor shall solicit lists of two or more persons, recommended by the community and professional organizations, and appropriate ethnic organizations dedicated to preserving unique cultural heritages, including but not limited to the Center for Hawaiian Studies at the University of Hawaii-Manoa, the Hawaii Civic clubs, the Honolulu Chapter of the American Institute of Architects, and others, for consideration in making commission appointments. All commission members shall have a demonstrated interest, competence, and knowledge in historic preservation."

SECTION 4. Section 3-10.5, Revised Ordinances of Honolulu 1990, is amended to read as follows:

"Sec. 3-10.5 Staff.

The ~~[commission]~~ department shall employ a full-time commission staff to include, but not be limited to~~[-]~~ a staff archaeologist~~[-, an archivist researcher, and a clerk-typist].~~"

SECTION 5. Section 3-10.7, Revised Ordinances of Honolulu 1990, is amended to read as follows:

"Sec. 3-10.7 Powers and duties.

The commission:

- (a) Shall advise and assist federal, state, and county government agencies in carrying out their historic preservation responsibilities;
- (b) Shall provide public information, public advocacy, education, training, and technical assistance relating to the national~~[-]~~ and state ~~[and county]~~ historic preservation programs;
- (c) May initiate nominations of historic properties for inclusion in the Hawaii or national registers of historic places;



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- (d) Shall accept, review, and recommend to the ~~[state historic preservation officer;]~~ State Historic Preservation Division, nominations of historic properties in the city to the ~~[keeper of the]~~ national register of historic places. This activity ~~[shall]~~ must be consistent and coordinated with the identification, evaluation, and preservation priorities of the statewide comprehensive historic preservation planning process, and ~~[shall be]~~ consistent with the requirements of Section 101(c)(2) of the National Historic Preservation Act;
- (e) Shall maintain ~~[a system]~~ and make public an Oahu historic property system for the survey, identification, and inventory of historic properties and archaeological sites within the ~~[county;]~~ city. This system must be subject to provisions for withholding from the public information on the location, character, or ownership of historic properties where disclosure may cause a significant invasion of privacy, adversely impact the historic properties, or impede the use of a traditional religious site by practitioners. This system ~~[shall]~~ must be integrated into the department's planning, application, review, and compliance system, and coordinated with and be complementary to that of the ~~[state historic preservation office;]~~ State Historic Preservation Division, but shall not be limited to that ~~[office's]~~ agency's system;
- (f) Shall administer the certified local government program of federal assistance for historic preservation within the ~~[City and County of Honolulu;]~~ city;
- ~~[(g)]~~ Shall, pursuant to rules and regulations adopted by the planning department concerning the review of all proposed projects affecting historic, cultural or archaeological sites, buildings, structures or districts, make recommendations when appropriate to the planning department, the department of land utilization or other city agencies, in accordance with said rules and regulations. Review of all proposed projects shall be conducted by the commission as provided for in said rules and regulations. Such review shall commence, notwithstanding completion of the inventory, no later than January 1, 1995;]
- ~~[(h)]~~ (g) Shall develop and implement a comprehensive ~~[county-wide]~~ citywide historic preservation identification and planning process ~~[which]~~ that is consistent and coordinated with the statewide comprehensive historic preservation planning process. The commission shall submit information pertaining to the ~~[state]~~ city inventory of historic ~~[places]~~ properties to the ~~[state historic preservation officer;]~~ State Historic Preservation Division;
- ~~[(i)]~~ Shall also establish a county register of historic places as provided by Section 3-10.8, which shall include, but not be limited to, those sites listed on the Hawaii and national registers, and shall establish policies and procedures for the preservation, acquisition, development and nomination of historic properties to the national and Hawaii registers of historic places;]



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~~[(f)](h)~~ Shall make recommendations to the council for the expenditure or other use of gifts and grants accepted by the council for projects connected with the identification, rehabilitation, restoration, and reconstruction of historic properties, the historic preservation planning process, and the promotion of exhibits and other information activities in connection therewith;

~~[(k)]~~ ~~Shall advise the mayor, the council, and the county planning commission on the establishment of historic districts in the county and regulations thereof;~~

~~(h)](i)~~ Shall adopt rules pursuant to HRS[-] Chapter 91[-] for the implementation of this article and the administration and enforcement of the ~~[county's]~~ city's historic preservation program;

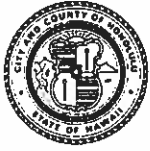
~~[(m)](i)~~ May review and comment on ~~[archaeological]~~:

- (1) Archaeological reports and cultural impact assessments submitted to the department as part of development [proposals to various county agencies;] proposal applications; and
- (2) Proposed projects upon request from the department, including projects located on historic properties identified in the O'ahu historic property system.

If the commission recommends measures to mitigate adverse impacts to historic resources resulting from the project, the commission shall submit its recommendations to the State Historic Preservation Division for its consideration;

~~[(n)](k)~~ May undertake any other action or activity necessary or appropriate to implement its powers and duties, and to implement the purpose of this article. More specifically, these may include[-] but are not ~~[be]~~ limited to[-] the following:

- (1) Recommend new ordinances establishing special districts and archaeological districts;
- (2) Review and recommend amendments to current policies and laws relating to historic ~~[sites;] properties;~~
- (3) Continually reevaluate building code requirements and recommend amendments that are more sympathetic to historic preservation or that provide exemptions for historic properties;
- (4) Encourage the ~~[county;] city,~~ state, and federal governments, and the private sector, to implement appropriate management strategies,



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curatorships, and meaningful interpretive programs at significant historical and archaeological structures, sites, and districts; and

- (5) Assist in programs of historic preservation including presentations, films, exhibits, conferences, publications, and other educational means ~~[which]~~ that increase public awareness and participation in preserving the past;

~~[(e)]~~(l) With respect to city-owned or controlled land having historical significance, carry out the policies and provisions of Chapter 41, Article 30~~[, Chapter 41, ROH-4990]~~;

~~[(p)]~~(m) Shall prepare an annual report that reviews and evaluates the state of historic preservations in the city, which includes but is not limited to ~~[its]~~ the commission's achievements, concerns, and recommendations; and

~~[(q)]~~(n) May provide design review assistance and comment to appropriated agencies on projects proposed to be located within locally-designated historic and other special districts."

SECTION 6. Section 3-10.8, Revised Ordinances of Honolulu 1990, is repealed.

~~["Sec. 3-10.8 Establishment of the Oahu register of historic places:~~

~~(a) The commission shall establish a register of historic places for the county, hereinafter to be known as the "Oahu Register of Historic Places."~~

~~(b) The commission shall adopt criteria for nominations to and inclusions on the Oahu register, and shall serve as the review board for determining inclusion on the register. Such criteria shall be consistent with, but not limited to, the criteria used for the Hawaii or national registers of historic places.~~

~~(c) The commission shall give special emphasis to inclusion of prehistoric Hawaiian sites for nomination to the Oahu register."~~

SECTION 7. Section 3-10.9, Revised Ordinances of Honolulu 1990, is repealed.

~~["Sec. 3-10.9 Nominations to the Oahu, Hawaii or national register of historic places:~~

~~(a) Any person or organization, including the commission, may submit a nomination to the Hawaii register of historic places by submitting a completed nomination form to the state historic preservation officer.~~

~~(b) The commission may submit a nomination to the national register by submitting a~~



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~~completed nomination form to the state historic preservation officer.~~

- ~~(c) Any person or organization may submit a nomination to the Oahu register by submitting a completed nomination form to the county historic preservation officer.~~
- ~~(d) The commission shall hold a public hearing after receiving notification from the state or county historic preservation officer of properties within the county nominated for inclusion on the Hawaii, national or Oahu registers of historic places. At least 10 days prior to the hearing, notice of the date, time, place and purpose of such hearing shall be published in a newspaper of general circulation in the county. Not later than 14 days prior to the date of the hearing, the commission shall send such notice by certified mail to the owner or owners of property nominated for inclusion on the Oahu register. The notice shall state that the owner or owners may submit written comments, including an objection to the inclusion of the property on the Oahu register. Oral or written testimony concerning the significance of the proposed nomination to the Hawaii, national or Oahu registers shall be taken at the public hearing from any person.~~
- ~~(e) With regard to nominations to the Hawaii or national registers, the commission shall forward its report to the mayor within 45 days after receiving notice from the state historic preservation officer. The report shall include findings on whether the property meets the criteria for nomination and its recommendation that the property be included or not included in the Hawaii or national registers, as the case may be. The mayor shall have 15 days after receiving the report of the commission to send this report and a recommendation to the state historic preservation officer. The mayor's recommendation may, but need not, concur with the recommendation contained in the commission's report.~~
- ~~(f) With respect to nominations to the Oahu register, the commission shall decide whether to include the property on the register within a reasonable time after the close of the hearing on the matter. The commission's decision shall be consistent with the criteria it has adopted pursuant to Section 3-10.8.~~
- ~~(g) The commission shall publish procedures for the assessment of potential national register nominations and for compliance with appropriate regulations."]~~



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~~completed nomination form to the state historic preservation officer.~~

- ~~(c) Any person or organization may submit a nomination to the Oahu register by submitting a completed nomination form to the county historic preservation officer.~~
- ~~(d) The commission shall hold a public hearing after receiving notification from the state or county historic preservation officer of properties within the county nominated for inclusion on the Hawaii, national or Oahu registers of historic places. At least 10 days prior to the hearing, notice of the date, time, place and purpose of such hearing shall be published in a newspaper of general circulation in the county. Not later than 14 days prior to the date of the hearing, the commission shall send such notice by certified mail to the owner or owners of property nominated for inclusion on the Oahu register. The notice shall state that the owner or owners may submit written comments, including an objection to the inclusion of the property on the Oahu register. Oral or written testimony concerning the significance of the proposed nomination to the Hawaii, national or Oahu registers shall be taken at the public hearing from any person.~~
- ~~(e) With regard to nominations to the Hawaii or national registers, the commission shall forward its report to the mayor within 45 days after receiving notice from the state historic preservation officer. The report shall include findings on whether the property meets the criteria for nomination and its recommendation that the property be included or not included in the Hawaii or national registers, as the case may be. The mayor shall have 15 days after receiving the report of the commission to send this report and a recommendation to the state historic preservation officer. The mayor's recommendation may, but need not, concur with the recommendation contained in the commission's report.~~
- ~~(f) With respect to nominations to the Oahu register, the commission shall decide whether to include the property on the register within a reasonable time after the close of the hearing on the matter. The commission's decision shall be consistent with the criteria it has adopted pursuant to Section 3-10.8.~~
- ~~(g) The commission shall publish procedures for the assessment of potential national register nominations and for compliance with appropriate regulations."~~



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SECTION 8. Section 3-10.10, Revised Ordinances of Honolulu 1990, is amended to read as follows:

"Sec. 3-10.10 Guidelines.

The following documents ~~[shall]~~ must be placed on file in the ~~[planning]~~ department and ~~[shall be]~~ used as a guide in matters pertaining to the review functions of the commission:

- (a) "Oahu revised general plan";
- (b) "State historic preservation plan" prepared by the ~~[State of Hawaii]~~ state department of land and natural resources;
- (c) "Historic preservation program guidelines" prepared by the ~~[national park service]~~ National Park Service;
- (d) "National Historic Preservation Act of 1966, as amended;" ~~[and]~~
- (e) "Guidelines for the Consideration of Traditional Native Hawaiian Cultural Values in Historic Preservation Review," prepared by the state Office of Hawaiian Affairs;
and

~~[(e)]~~(f) Other reports, plans, studies, issue papers, and memos as may be adopted by the commission."

SECTION 9. 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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SECTION 10. This ordinance takes effect upon its approval.

INTRODUCED BY:

Esther Kia'aina

Tommy Waters

DATE OF INTRODUCTION:

July 15, 2022

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