



CITY COUNCIL

CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII 96813-3077

COMMITTEE ON PLANNING AND THE ECONOMY

Voting Members:

Esther Kia'aina, Chair
Radiant Cordero, Vice-Chair
Val A. Okimoto
Calvin K.Y. Say
Matt Weyer

AGENDA

REGULAR MEETING
CITY COUNCIL CHAMBER
THURSDAY, FEBRUARY 9, 2023
9:00 A.M.

PUBLIC PARTICIPATION AND TESTIMONY

Pursuant to Act 220, Session Laws of Hawaii 2021, this meeting will be conducted as a remote meeting by interactive conference technology, with the following procedures in effect for the meeting:

VIEWING THE MEETING

The meeting will be viewable: (1) by internet live streaming through <https://www.honolulucitycouncil.org/meetings> or [olelo.org](https://www.olelo.org); (2) by televised live broadcast on 'Olelo TV Channel 54; and (3) on the monitor situated outside the Council Chamber. Viewers who experience a loss of viewing signal should try switching to another viewing option.

After the meeting, the meeting will be viewable on demand at <https://www.honolulucitycouncil.org/meetings>. Copies of older meeting videos may be requested by calling the City Clerk's Office at (808) 768-5822, charges may apply.

Some Councilmembers and presenters may be participating in the meeting by interactive conference technology from remote locations.

ORAL TESTIMONY

Oral testimony will be permitted on all items on the agenda. Each speaker may not have anyone else read their statement and is limited to a one-minute presentation.

Remote Testimony

1. For direct access to submit oral testimony call: +1-253-215-8782, enter ID: **81882033681** and Passcode: **823557**
2. To testify by videoconference visit: <https://hnlldoc.ehawaii.gov/hnlldoc/testimony>. Videoconference access information will be provided upon registration. Testifiers are encouraged to register/submit testimony at least 24 hours prior to the meeting.

In-Person Testimony in the Council Chamber

Persons wishing to testify are requested to register by 9:00 a.m. by filling out the registration form in person outside the Council Chamber. Persons who have not registered will be given an opportunity to speak following the oral testimonies of the registered speakers.

Oral testimony will be allowed when each agenda item is taken up in the following order:

- 1. In-person testimony in the Council Chamber;**
- 2. Remote testimony.**

WRITTEN TESTIMONY

Written testimony may be uploaded at <https://hnlidoc.ehawaii.gov/hnlidoc/testimony>, or mailed to Office of the City Clerk, Attention: Information Section, 530 South King Street, Room 100, Honolulu, HI 96813. If submitted, written testimonies, including the testifier's address, email address and phone number, will be available to the public at <https://hnlidoc.ehawaii.gov>.

Should you have any questions, please call (808) 768-3119 or send an email to irene.limos@honolulu.gov.

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MATERIALS AVAILABLE FOR INSPECTION

Meeting materials ("*board packet*" under HRS Section 92-7.5) are accessible at <https://hnlidoc.ehawaii.gov/hnlidoc/browse/agendas> by clicking on the appropriate Council meeting.

If you need an auxiliary aid/service or other accommodation due to a disability or an interpreter for a language other than English, please call the Office of the City Clerk Information Section at (808) 768-5822 between 7:45 a.m. and 4:30 p.m. or send an email to irene.limos@honolulu.gov at least three (3) business days before the scheduled meeting. It may not be possible to fulfill requests received after this date.

FOR ACTION

1. **RESOLUTION 22-286 – NOMINATION OF DAWN E. TAKEUCHI APUNA.** Confirming the nomination of Dawn E. Takeuchi Apuna to serve as the Director of Planning and Permitting of the City and County of Honolulu. (Transmitted by Communication MM-224 [2022]; Public hearing held on 1/25/23)

2. **BILL 41 (2022), CD1 – SHORELINE SETBACKS.** Updating ROH Chapter 23, relating to shoreline setbacks, to incorporate amendments made by Act 16, Session Laws of Hawaii 2020, to HRS Chapter 205A, the State Coastal Zone Management law, and to implement an erosion-rate-based shoreline setback formula. (Bill passed Second Reading and Public hearing held on 9/7/22)

PROPOSED CD2 TO BILL 41 (2022), CD1 (Submitted by Councilmember Kia'āina)
– The CD2 (OCS2023-0095/2/2/2023 3:52 PM) makes the following amendments:

- A. In § 26-1.3:
 1. Amends the definition of "*Annual coastal erosion rate*" to mean the average annual rate of coastal erosion applicable to each zoning lot as determined by historical analysis and shown on the Hawaii Shoreline Study web map as of the effective date of the ordinance, and as thereafter updated by the director by rule to reflect updated data in the Hawaii Shoreline Study web map.
 2. Adds a definition of "*Makai*" to mean seaward or in a seaward direction toward the ocean.

- B. In § 26-1.4(a), delays the effective date for establishing the shoreline setback line in accordance with that section from January 1, 2024, to July 1, 2024.

- C. In § 26-1.4(a)(1), for the determination of the shoreline setback line based on the annual coastal erosion rate, provides that any property owner who believes the annual erosion rate applicable to a specific zoning lot does not represent an accurate representation of the actual erosion rate for that zoning lot may submit an application to the director requesting approval of an alternative coastal erosion rate methodology and data for the zoning lot in accordance with the procedures and informational requirements set forth in the department's rules implementing the chapter.

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- D. In § 26-1.4(b), provides that adjustment of the shoreline setback line for shallow zoning lots to allow for a minimum buildable area 1,500 square feet is subject to the review and confirmation (instead of approval) of the DPP Director.
- E. In § 26-1.4(b)(2), clarifies that the shoreline setback line may only be reduced to the minimum extent required to permit construction and repair within the reduced buildable area, including the minimum necessary area for wastewater treatment structures, required parking spaces, and other accessory structures.
- F. Adds a new § 26-1.4(b)(6) to provide that the front yard may be increased if the Department of Health requires wastewater treatment to be located within the front yard setback area; provided that the required front yard for the underlying zoning district may not be increased by more than 10 feet. Renumbers subsequent subdivisions.
- G. In § 26-1.4(b)(8), clarifies that if a proposed structure is outside of the special flood hazard area but within the sea level rise exposure area under the scenario envisioning 3.2 feet of sea level rise by the year 2100, the lowest floor of the structure must be a minimum of 3 feet above the highest adjacent grade.
- H. In § 26-1.6(a), provides that a nonconforming structure may be repaired or altered; provided that the repairs or alterations do not increase or intensify the nonconformity, and the cumulative valuation of the repairs or alterations:
 - (1) Does not exceed 50 percent of the replacement cost over a 10-year period of that portion of the structure that is nonconforming and located 40 feet or less from the certified shoreline; or
 - (2) Does not exceed 75 percent of the replacement cost over a 10-year period of that portion of the structure that is nonconforming and located more than 40 feet from the certified shoreline but makai of the shoreline setback line.
- I. In § 26-1.7(a)(1), delays the effective date for establishing the shoreline setback line for subdivision actions in accordance with that section from January 1, 2024, to July 1, 2024.

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- J. In § 26-1.9(b), provides that the DPP director may condition the approval of a shoreline setback variance (for structures, activities, and uses within the shoreline setback area) on the property being ineligible for subsequent shoreline setback variances to construct shoreline hardening within the shoreline setback area (to be determined on a case-by-case basis instead of a blanket prohibition).
- K. In § 26-1.16, which requires the DPP Director to adopt rules to implement ROH Chapter 26 and HRS Chapter 205A, Part III, adds that the rules:
 - 1. May, after the initial determination of the average annual rate of coastal erosion on the effective date of the ordinance, update the determination of the average annual rate of coastal erosion as necessary to reflect updated data in the Hawaii Shoreline Study web map; and
 - 2. Must set forth the procedures and informational requirements by which a property owner may submit an application requesting approval of an alternative coastal erosion rate methodology and data if the property owner believes the annual erosion rate applicable to the zoning lot does not represent an accurate representation of the actual erosion rate for that zoning lot.
- L. In SECTION 3 of the bill (relating to instructions to the Revisor of Ordinances), provides that in SECTION 2 of the ordinance, the Revisor of Ordinances shall, pursuant to the Revisor of Ordinances' authority under ROH § 1-16.3(b)(1), replace the phrase "effective date of this ordinance" with the actual effective date.
- M. In SECTION 4 of the bill (relating to the effective date of the bill):
 - 1. Provides that any application for a shoreline setback variance submitted to the DPP Director and accepted as complete prior to July 1, 2024 (instead of January 1, 2024) is not affected by the determination of the shoreline setback line under the ordinance; and
 - 2. Provides that any application for a subdivision action submitted to the DPP Director and accepted as complete prior to July 1, 2024 (instead of January 1, 2024) is not affected by the determination of the shoreline setback line under the ordinance.

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- N. Makes miscellaneous technical and nonsubstantive amendments, including amendments to conform to the Revised Ordinances of Honolulu 2021.

Related communications:

- MM-216 (2022) Office of Climate Change, Sustainability and Resiliency, submitting Response to Informational Briefing on Bills 41 and 42 (2022).
- D-793 (2022) Office of Climate Change, Sustainability and Resiliency, Department and Planning and Permitting, submitting presentation titled "Shoreline Setbacks and the Special Management Area" from the November 17, 2022 Committee on Zoning and Planning meeting.
- M-504 (2022) University of Hawai'i Mānoa, School of Ocean and Earth Science and Technology, submitting presentation titled "Sea Level Rise" from the November 17, 2022 Committee on Zoning and Planning meeting.
- M-507 (2022) State of Hawai'i, Hawaii Coastal Zone Management Program, submitting presentation titled "Act 16, SLH 2020 Amendments to HRS Ch. 205A Coastal Zone Management" from the November 17, 2022 Committee on Zoning and Planning meeting.

3. **BILL 42 (2022), CD1 – SPECIAL MANAGEMENT AREA.** Updating ROH Chapter 25, relating to the special management area, and to incorporate amendments made by Act 16, Session Laws of Hawaii 2020, to HRS Chapter 205A, the State Coastal Zone Management law. (Bill passed Second Reading and Public hearing held on 9/7/22; Committee postponed action on 9/22/22)

PROPOSED CD2 TO BILL 42 (2022), CD1 (Submitted by Councilmember Kia'āina)
– The CD2 (OCS2023-0036/2/2/2023 2:43 PM) makes the following amendments:

- A. Updates the appropriate provisions of the bill to reflect that the bill is amending the Revised Ordinances of Honolulu 2021 as opposed to the Revised Ordinances of Honolulu 1990.

B. In SECTION 2 of the bill:

1. Revises the definition of "development" in ROH § 25-1.3 as follows:
 - i. Combines subdivisions (1)(F), (G), and (H) with subdivision (1)(E) for clarity; and
 - ii. In subdivision (2):
 - a. Combines paragraphs (B) and (N) for clarity and renumbers paragraphs throughout the subdivision accordingly; and
 - b. Specifies that nonstructural improvements to existing commercial or noncommercial structures including, but not limited to, structural and nonstructural improvements directly related to relocating a dwelling unit farther mauka or to an area less susceptible to coastal hazards, on the same zoning lot, and activities related to the relocation of the dwelling unit, is not considered "development."
 - c. In subdivisions (3) and (4), clarifies that cumulative impacts and significant effects must have a significant adverse environmental or ecological effect on the SMA area to be considered "development."
2. Adds definitions for "Dwelling, Detached," and "Shoreline Setback Area."
3. Revises proposed new ROH § 25-4.1(b)(6) to provide that the agency or Council shall seek to minimize, among other things and whenever reasonable, risk to development from sea level rise and other coastal hazards by siting habitable structures away from the sea level rise exposure area.
4. In ROH § 25-5.3:
 - i. Exempts one-family and two-family detached dwellings on a single zoning lot from the requirement of preparing the applicable environmental disclosure document.

- ii. Reinstates the director's authority to allow the application for an SMA major permit application to be processed concurrently with the preparation of the applicable environmental disclosure document.

C. Makes miscellaneous technical and nonsubstantive amendments.

Related communications:

<u>MM-216 (2022)</u>	Office of Climate Change, Sustainability and Resiliency, submitting Response to Informational Briefing on Bills 41 and 42 (2022).
<u>D-793 (2022)</u>	Office of Climate Change, Sustainability and Resiliency, Department and Planning and Permitting, submitting presentation titled "Shoreline Setbacks and the Special Management Area" from the November 17, 2022 Committee on Zoning and Planning meeting.
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<u>M-507 (2022)</u>	State of Hawai'i, Hawaii Coastal Zone Management Program, submitting presentation titled "Act 16, SLH 2020 Amendments to HRS Ch. 205A Coastal Zone Management" from the November 17, 2022 Committee on Zoning and Planning meeting.

INFORMATIONAL BRIEFING

- 4. **UPDATE ON THE ALLOCATION AND USE OF AMERICAN RESCUE PLAN ACT FISCAL RECOVERY FUNDS, INCLUDING FUNDING APPROVED FOR USE BY THE DEPARTMENT OF PLANNING AND PERMITTING.**
- 5. **UPDATE FROM THE DEPARTMENT OF PLANNING AND PERMITTING ON BUILDING PERMIT PROCESS BACKLOG.**

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6. **UPDATE FROM THE DEPARTMENT OF PLANNING AND PERMITTING ON DEVELOPMENT AND SUSTAINABLE COMMUNITIES PLAN SCHEDULE AND TRANSIT-ORIENTED DEVELOPMENT PLANS AND ZONING STATUS.**

ESTHER KIA'ĀINA, Chair
Committee on Planning and the Economy