

A BILL FOR AN ORDINANCE

RELATING TO THE ADAPTIVE REUSE OF COMMERCIAL BUILDINGS.

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

SECTION 1. Purpose and Findings.

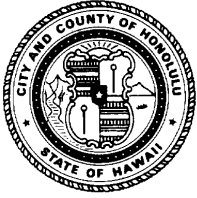
The City Council ("Council") finds that the lack of affordable housing has been one of Honolulu's most significant and challenging social problems and has resulted in a housing crisis in the City. The Council further finds that the COVID-19 pandemic has resulted in many employees electing to work from home on an either temporary or permanent basis, causing numerous vacancies in office and commercial building spaces throughout the City, particularly in Downtown Honolulu. Accordingly, the Council finds that the adaptive reuse of commercial buildings for residential use as multi-family dwellings, subject to certain requirements, may increase the City's housing inventory and address the City's housing crisis.

Structurally, commercial buildings often differ from multi-family dwellings because commercial buildings generally have more interior space that may not have direct access to operable windows and associated natural light and ventilation. Multi-family dwellings are subject to Chapter 16A, Revised Ordinances of Honolulu 2021 (the "Housing Code"), which requires natural light for all habitable rooms, and natural ventilation for all bedrooms. Due to the buildings' configurations, when commercial buildings are adaptively reused as multi-family dwellings, bedrooms may need to be located in the interior of the building because there is not enough space for them along the perimeter of the building.

The purpose of this ordinance is to temporarily allow for the modification of certain requirements in the Housing Code relating to the provision of light and ventilation for multi-family dwellings, subject to the approval of the Council, to address the City's housing crisis by facilitating the adaptive reuse of commercial buildings as multi-family dwellings.

SECTION 2. Temporary modifications to ROH § 16A-4.4 for the adaptive reuse of certain commercial buildings for residential use as multi-family dwellings.

- (a) For the purposes of this SECTION, the following definitions apply unless the context clearly indicates a different meaning.



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Adaptive Reuse. The process of reusing an existing building for a purpose other than that for which it was originally built or designed.

Council. The Council of the City and County of Honolulu.

Director. The Director of Planning and Permitting of the City and County of Honolulu.

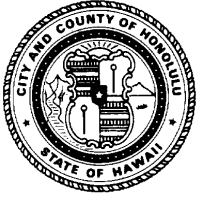
Habitable Room. Means the same as the term "Habitable Space" is defined in the Hawaii State Building Code, as adopted pursuant to ROH Chapter 16.

Multi-family Dwelling. Means the same as defined in ROH Chapter 21.

Natural Ventilation System. Means a method of supplying fresh air to a building or room by means of passive forces without the use of mechanical systems, typically by wind speed or differences in pressure internally and externally.

ROH. The Revised Ordinances of Honolulu 2021.

- (b) Existing buildings used solely for commercial purposes that are adaptively reused for residential purposes as multi-family dwellings need not comply with ROH § 16A-4.4(a)(1) and ROH § 16A-4.4(c)(1), and instead may comply with the following provisions:
- (1) All guest rooms and habitable rooms within a dwelling unit or congregate residence must be provided with natural light by means of windows or skylights with an area of not less than one-tenth of the floor area of such rooms with a minimum of 10 square feet, and not less than one-half of the required window or skylight area must be openable to provide natural ventilation; provided that:
 - (A) Bedrooms may be provided with indirect or artificial light so long as all other habitable rooms in the dwelling unit or congregate residence are provided with natural light in compliance with this subdivision;
 - (B) For a dwelling unit or congregate residence of up to and including 600 square feet of floor area, a minimum of one openable window must be provided;

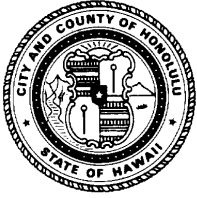


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- (C) For a dwelling unit or congregate residence that exceeds 600 square feet of floor area, up to and including 1,000 square feet of floor area, a minimum of two openable windows in separate habitable rooms must be provided;
 - (D) For a dwelling unit or congregate residence that exceeds 1,000 square feet of floor area, up to and including 1,200 square feet of floor area, a minimum of three openable windows in separate habitable rooms must be provided; and
 - (E) A dwelling unit or congregate residence that exceeds 1,200 square feet of floor area is not eligible for the modified requirements in this subsection.
- (2) In lieu of required openable windows for natural ventilation, a natural ventilation system may be provided for all spaces, and a mechanical ventilation system may be provided to supplement (but not replace) the natural ventilation system; provided that the openable window requirements in subdivision (1) are satisfied;

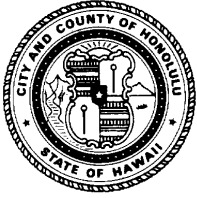
provided that the adaptive reuse project must comply with all other laws, codes, rules, and requirements applicable to the project and the underlying zoning district, and Council approval of the conceptual plan for the project is required.

- (c) To qualify for the modified requirements set forth in subsection (b), the applicant must submit to the Director an application in the form prescribed by the Director, which must include a conceptual plan for the proposed project and will be subject to an application fee of \$_____.
- (1) At a minimum, the conceptual plan must contain:
 - (A) A project name;
 - (B) A location map;
 - (C) A site plan showing property lines, the locations of buildings and other major structures on the same and adjacent zoning lots, and building access and activity zones;



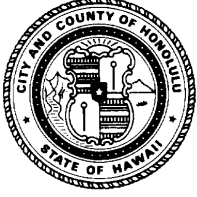
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- (D) Preliminary floor plans for the project, including the total floor area (in square feet) of each dwelling unit or congregate residence;
 - (E) Plans showing where windows for the project will be located and the extent to which the windows are openable; and
 - (F) A narrative description of how light and ventilation for the project will be handled, in conformance with the modified requirements set forth in subsection (b).
- (2) In making a recommendation to the Council, the Director may consider:
- (A) The commercial building configuration, and the feasibility of providing natural light and ventilation to dwelling units or congregate residences in compliance with ROH § 16A-4.4(a)(1) and ROH § 16A-4.4(c)(1);
 - (B) Whether light direction and wind flow conditions make a particular project not suitable for the modified requirements set forth in subsection (b);
 - (C) The extent to which an electrical power outage or mechanical system failure may adversely affect light and ventilation within the dwelling unit or congregate residence; and
 - (D) Whether the absence of natural light and ventilation to bedrooms via openable windows in a specific project may pose any health or safety concerns for occupants of the dwelling unit or congregate residence.
- (3) The Director has 90 days after the Director's acceptance of the application and conceptual plan for the proposed project to transmit to the Council the Director's findings, recommendation, and a draft resolution that sets forth the rationale for the Director's recommendation.
- (d) The Council must approve the conceptual plan for the project before the project may proceed under the modified light and ventilation requirements set forth in subsection (b).



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- (1) The Council, upon receipt of the Director's recommendation, has 60 days to take action on the Director's recommendation, with or without modifications or conditions of approval, by the adoption of a resolution; provided that if the Council does not take any action on the resolution, the approval of the project's conceptual plan will be deemed denied. The Council may approve an extension of the 60-day deadline upon the written request of the applicant.
- (2) Any change to the conceptual plan after its approval by the Council that relates to the modified requirements set forth in subsection (b) will require a new application to be submitted to the Director and Council approval of a new conceptual plan.
- (3) A Council resolution approving a conceptual plan pursuant to this section must establish a deadline within which a building permit for the project must be obtained. The resolution must provide that the failure to obtain any building permit within the prescribed period will render null and void the Council's approval of the conceptual plan and all approvals issued thereunder. The resolution must further provide that the deadline to obtain a building permit for the project may be extended as follows:
 - (A) The Director may extend the deadline for one year if the applicant demonstrates good cause; provided that the Director shall notify the Council in writing of any extensions approved by the Director that do not require Council approval;
 - (B) If the applicant requests an extension beyond one year from the initial deadline and the Director finds that the applicant has demonstrated good cause for the extension, the Director shall prepare and submit to the Council a report on the proposed extension, which must include the Director's finding, recommendation, and a proposed resolution approving the extension;
 - (C) The Council may approve the proposed extension, or an extension for a shorter or longer period, or deny the proposed extension by resolution; and



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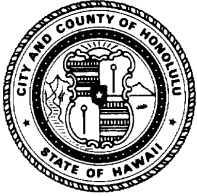
(D) If the Council fails to take final action on the proposed extension within the first to occur of:

- (i) Sixty days after the receipt of the Director's report; or
- (ii) The applicant's then-existing deadline for obtaining a building permit;

the extension will be deemed denied.

SECTION 3. This ordinance takes effect upon its approval; provided that:

1. This ordinance will be repealed five years after its effective date; and



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2. Any project, the conceptual plan for which has been approved by the City Council prior to the repeal of this ordinance, may continue to be constructed in accordance with this ordinance and the approved conceptual plan notwithstanding the repeal; provided that if the deadline within which a building permit must be obtained for the project, including any approved extension thereof, lapses after the repeal of this ordinance, the project may not be constructed in accordance with this ordinance.

INTRODUCED BY:

Colin K. ...

DATE OF INTRODUCTION:

SEP 6 2023

Honolulu, Hawai'i

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

 Deputy Corporation Counsel

APPROVED this _____ day of _____, 20 _____.

 RICK BLANGIARDI, Mayor
 City and County of Honolulu