HONOLULU CITY COUNCIL

KE KANIHELA O KE KALANA O HONOLULU

CITY AND COUNTY OF HONOLULU

ORDINANCE _____

BILL 57 (2023)

FILED

SEP 20 2025

PURSUANT TO ROH Sec. 1-2.4

A BILL FOR AN ORDINANCE

RELATING TO GAME ROOMS.

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

SECTION 1. Purpose and Findings. The purpose of this ordinance is to address game rooms throughout the City and County of Honolulu. Illegal game rooms have plagued Honolulu for decades and have been perpetuated by a lack of enforcement, due in part to inadequate legal means to punish the responsible parties. As such, the City Council finds that there is a need to provide an additional legal means to prevent the proliferation of illegal game rooms, including through the use of public nuisance abatement.

SECTION 2. Chapter 16, Revised Ordinances of Honolulu 2021 ("Building Code"), is amended by adding a new article to be appropriately designated by the Revisor of Ordinances and to read as follows:

"**ARTICLE __: GAMBLING-RELATED PUBLIC NUISANCES**

§ 16-__.1 Findings—Intent.

(a) *Findings.* The council finds that illegal game rooms attract other criminal elements and activities, such as violent crime and the distribution of illegal drugs. These activities undermine the peace, safety, and security of neighborhoods and drive out legitimate businesses. The council further finds that buildings and structures that promote such unsafe conditions affect the surrounding areas and threaten the health, safety, and welfare of the public by creating unsafe public nuisances.

(b) *Declaration of intent.* In view of the foregoing findings, the council declares that all property owners and persons in possession of real property shall keep their property free from unsafe conditions that harm or threaten to harm the health, safety, or welfare of the general public.

§ 16-__.2 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Building. Has the same meaning as defined in § 21-10.1.

Coin-Operated. Activated by, or activated by an attendant upon receipt of, a coin, cash, credit, a token, or something of value.

Gambling Device. Has the same meaning as defined in HRS § 712-1220.

Gambling-Related Offense. Any offense set forth in HRS Chapter 712, Part III, except for those offenses excluded by HRS § 712-1270, such as social gambling.

Gambling-Related Public Nuisance. A public nuisance declared under § 16-__.3.

Person. Has the same meaning as defined in § 16A-2.1.

Portion of a Building or Structure. Any part of a building or structure that is under ownership, lease, or sublease separate from the ownership, lease, or sublease of other parts of the building or structure.

Private Nuisance. Has the same meaning as defined in § 16A-2.1.

Public Nuisance. Any unsafe or unsanitary use or condition on real property that harms or threatens to harm the health, safety, or welfare of the general public.

Responsible Person or ***Responsible Persons.*** Any property owner, tenant, or person with an interest in real property governed by this chapter, and all persons with an interest in or right to use or possess personal property governed by this chapter.

Something of Value. Has the same meaning as defined in HRS § 712-1220.

Structure. Has the same meaning as defined in § 21-10.1.

§ 16-__.3 "Public nuisance" declaration for gambling-related offenses.

(a) Any building or structure, or portion thereof, that:

(1) Is a nuisance pursuant to HRS § 712-1270 and in or upon which gambling-related offenses are held or occur; or

(2) Contains more than ___ electronic or coin-operated gambling devices;

is declared to be a gambling-related public nuisance.

(b) To declare a building or structure, or portion thereof, to be a gambling-related public nuisance under subsection (a), it is not a requirement that the responsible person of the building or structure, or portion thereof:

(1) Had knowledge that a gambling-related offense was committed or more than __ electronic or coin-operated gambling devices were present on that premises;

(2) Ordered the commission of a gambling-related offense or the installation of more than __ electronic or coin-operated gambling devices on that premises; or

(3) Acquiesced to the commission of a gambling-related offense or to the installation of more than __ electronic or coin-operated gambling devices on that premises.

§ 16-__.4 Complaints, inquiry, and inspection.

(a) Any person may submit a written complaint to the building official to report a violation of this article. The complainant must sign the complaint and describe the suspected violation, the property on which it is occurring, its location on the property, and any reports, documents, or citations that support a finding of a violation.

(b) If the building official receives a complaint that contains sufficient facts or allegations to support a determination that a violation of this article exists, the building official shall make inquiry into or investigate the complaint.

(c) The identity of any person who submits a written complaint pursuant to subsection (a) or any personally identifiable information submitted thereby is collected for the confidential use of the department of planning and permitting, the police department, or other city agencies having use for the records for investigation, administration, or enforcement purposes. Any such personally identifiable information must be held in confidence and may not be disclosed to the public or any other person, unless such disclosure is ordered by a court of

competent jurisdiction or required by applicable law. The complainant must be notified that their identity and any personally identifiable information will be kept confidential except where disclosure is required by law or court order.

(d) Nothing in this chapter precludes the building official from investigating potential violations of this article that are not reported by a written complaint.

§ 16-__.5 Violation—Penalty.

(a) *Violation.* It is unlawful for any person to maintain or permit any gambling-related public nuisance in a building or structure, or portion thereof, governed by this chapter.

(b) *Responsibilities defined.* The owner of a building, structure, or other real property, or portion thereof, governed by this chapter is liable for violations of this article. The duty to comply with this article also extends to the occupants of any building and persons in possession of real property governed by this chapter. However, the imposition of liability for violations of this article against the occupants of a building or structure or persons in possession of real property does not relieve the owner of a building, structure, or real property from the responsibility to comply with this article or from any penalties imposed by this article.

(c) *Private nuisances.* This article is not intended to create a procedure for the elimination of private nuisances by the city. All members of the public must resolve disputes arising from private nuisances through the appropriate legal process.

(d) *Notice of violation.* For the notice of violation provisions of this article, see § 16-10.2.

(e) *Criminal prosecution.* For the criminal prosecution provisions of this article, see § 16-10.3.

(f) *Administrative enforcement.* In lieu of or in addition to enforcement pursuant to subsection (e), if the building official determines that any person is not complying with a notice of violation, the building official may have the responsible person served with a notice of order.

A BILL FOR AN ORDINANCE

(1) *Contents of order.*

(A) The order may require the responsible person to do any or all of the following:

(i) Correct the violation within the time specified in the order;

(ii) Pay a civil fine not to exceed $1,000 in the manner, at the place, and before the date specified in the order; or

(iii) Pay a civil fine not to exceed $1,000 per day for each day in which the violation persists, in the manner and at the time and place specified in the order.

(B) The order must advise the responsible person that the fines, if unpaid within the prescribed time period, can be added to specified fees, taxes, or charges collected by the city, and can be recorded as an administrative lien on all real property owned by the responsible person.

(C) The order must advise the responsible person that the order becomes final 30 calendar days after the date of its delivery. The order must also advise that the building official's action may be appealed to the building board of appeals.

(2) *Service of notice of order.* A notice of order issued pursuant to this section must be served upon the responsible person either personally or by certified mail. However, if the whereabouts of one or more responsible persons is unknown and the same cannot be ascertained by the building official in the exercise of reasonable diligence, and the building official provides an affidavit to that effect, a notice of order may be served by publishing the same in accordance with HRS § 1-28.5, or if that provision no longer applies, by publication once each week for two consecutive weeks in a newspaper of general circulation in the city. A copy of the notice of order must also be posted in a conspicuous place on the property affected by the complaint or order and may be recorded in the State bureau of conveyances or the land court, or both, as appropriate. If so recorded, a notice of order has the same force and effect as other lis pendens or other legal notices provided by law.

(3) *Effect of order—right to appeal.* The order issued by the building official under this section becomes final 30 calendar days after the date of the delivery of the order. The responsible person may appeal the order to the building board of appeals as provided in Article 1 of this chapter. The appeal must be received in writing on or before the date the order becomes final. However, an appeal to the building board of appeals does not stay any provision of the order.

(4) *Addition of unpaid civil fines to fees or charges collected by the city; administrative liens.*

(A) When civil fines imposed pursuant to this subsection remain unpaid after all rights to administrative appeal or judicial review have been exhausted, and the fines either:

(i) Exceed $150,000; or

(ii) Have been outstanding for more than five years;

the building official shall, pursuant to Chapter 6, Article 1, and rules adopted by the building official, add the civil fines to the fees and charges specified in paragraph (B) and record the unpaid civil fines as a lien in favor of the city on all real property owned by the responsible person.

(B) The building official shall, at a minimum, add the civil fines to the following fees and charges collected by the city, if applicable, to the responsible person:

(i) All fees collected by the department of planning and permitting, unless the fees are for permits, applications, or approvals for work necessary to correct the violation that is the subject of the notice of order;

(ii) Motor vehicle registration fee and vehicle weight tax;

(iii) Motor vehicle transfer of ownership fee;

(iv) Driver's license renewal fee;

(v) Business license renewal fee;

(vi) Liquor license and renewal fees;

(vii) Refuse collection fee; and

(viii) Refuse disposal fee.

(g) *Judicial enforcement.*

(1) The corporation counsel is authorized to bring an action to enjoin any gambling-related public nuisance, as defined by this article, at the request of the building official. An injunction sought by the corporation counsel may request any appropriate relief, including but not limited to an order requiring a responsible person to remove, demolish, destroy, or otherwise abate a public nuisance, or city authorization to enter private property and seize, remove, demolish, destroy, or otherwise abate a gambling-related public nuisance.

(2) The corporation counsel may seek an injunction from a court under subdivision (1) if it appears that:

(A) The gambling-related public nuisance complained of was cited by the building official pursuant to a notice of violation and notice of order and remains unabated after all rights to appeal the notice of order have been exhausted or expired; or

(B) A building, use of real property, or conditions on real property governed by this chapter present an unreasonable risk of harm to the public health, safety, or welfare, and the public interests favor the removal of such unsafe or unsanitary condition over the property owner's interest in maintaining the current use or condition of the property.

(3) Where the city enters private property to abate a gambling-related public nuisance, all costs of correction, including legal costs and attorney's fees, may be reduced to a judgment or recorded as a lien against the property on which such abatement occurs. A lien recorded against the property that is registered in the bureau of conveyances or land court, or both, as

appropriate, is enforceable in the same manner as any mortgage or other lien on real property. The interest secured by the city lien is senior to any lien recorded or registered after the city lien is recorded and subordinate to any lien recorded before the city lien.

(4) The corporation counsel may seek enforcement of a lien under subdivision (3) or subsection (f)(4) in the circuit court of the first circuit, and the proceedings before the circuit court shall be conducted in the same manner and form as ordinary foreclosure proceedings as provided for in HRS Chapter 667. The corporation counsel may request the court to permit service to be made in the manner provided by HRS §§ 634-23 through 634-29 if:

(A) The owners or claimants of the property against which a lien is sought to be foreclosed are at the time out of the city or cannot be served within the city, or the owners are unknown;

(B) That fact is made to appear by affidavit to the satisfaction of the court; and

(C) In like manner, it appears prima facie that a cause of action exists against such owners or claimants or against the property described in the complaint, or such owners or claimants are necessary or proper parties to the action.

(5) Nothing in this section precludes the corporation counsel from seeking any other remedy or enforcement action available by law or preclude any person from bringing a private nuisance action as permitted by law."

SECTION 3. Section 16A-2.1, Revised Ordinances of Honolulu 2021, is amended by amending the definitions of "Building," "Hot Water," and "Public Nuisance" to read as follows:

"***Building.*** Any structure, or portion thereof, which is used, or designed or intended to be used for lawful human habitation and includes any appurtenances belonging thereto or usually enjoyed therewith. The term includes, without limiting the generality of the foregoing, any structure mounted on wheels or otherwise, such as a trailer, wagon, or powered vehicle that is parked, [~~and~~] stationary, and used for living purposes. The term does not include any jail, hospital, asylum, sanitarium, orphanage,

prison, detention home, or other institution in which human beings are housed and detained under legal restraint."

"***Hot Water.*** Water at a temperature of not less than [~~110°F~~] 110 degrees Fahrenheit."

"***Public Nuisance.*** Any unsafe or unsanitary use or condition on real property that harms or threatens to harm the health, safety, or welfare of the general public and includes, without limitation, the following uses and conditions:

(1) Any use or condition of real property that creates a fire hazard, as determined by the fire chief or the fire chief's duly authorized representative or agent pursuant to an enforcement order or declaratory ruling;

(2) Any use or condition of real property that is determined to be detrimental to the public health, safety, or welfare by the State director of the department of health[~~,~~] or the director's duly authorized representative or agent pursuant to an enforcement order or declaratory ruling;

(3) Any structure that is determined to be a substandard building by the building official pursuant to an enforcement order or a declaratory ruling;

(4) Uncultivated, flammable weeds in excess of 18 inches in height located within 30 feet of any building:

(A) In the apartment, apartment [~~mixed-use,~~] mixed-use, or residential zoning districts; or

(B) In a housing project developed in another zoning district pursuant to exemptions authorized by State law;

(5) Items or materials that may impede, interfere with, or obstruct entry or exit points to a building or driveway;

(6) Accumulations of leaves, needles, vines, or other dead vegetation on the roof of any building;

(7) Dead trees or deadwood overhanging the roof of any building;

(8) Any substance, item, material, building, place, or structure that emits or causes offensive, disagreeable, or nauseous odor detectable from a public place;

(9) Stagnant ponds or pools of water;

(10) An infestation of insects, vermin, or rodents found in the country, residential, apartment, or apartment [~~mixed use~~] mixed-use zoning [~~district,~~] districts, or in a housing project developed in another zoning district pursuant to exemptions authorized by State law;

(11) The human habitation of structures or vehicles that are not designed or intended for living, sleeping, cooking, or dining;

(12) The occupancy or habitation of a building in excess of permitted occupancy limits;

(13) The storage of accumulated personal property covering 30 percent or more of any required yard unless fully enclosed in a lawful structure;

(14) Abandoned, inoperable, or unused iceboxes or refrigerators, unless the door, opening, or lid thereof is closed and secured by a lock or restraint;

(15) One or more junked vehicles, defined as an inoperable vehicle that is at least three years old and subject to extensive damages, including but not limited to: a broken or missing window, broken or missing wheels or tires, or broken or missing motor or transmission; [~~and~~]

(16) Any building or structure, or portion thereof, that presents a reasonable risk of harm to its occupants or the public by reason of hazardous, dilapidated, or improper wiring, weather protection, plumbing, or mechanical equipment, as defined by this code[~~.~~]; and

(17) Any building or structure, or portion thereof, that:

(A) Is a nuisance pursuant to HRS § 712-1270 and in or upon which violations of the provisions set forth in HRS Chapter 712, Part III, except for those offenses excluded by HRS § 712-1270, such as social gambling, are held or occur; or

(B) Contains more than ____ electronic or coin-operated gambling devices."

SECTION 4. Section 16A-2.1, Revised Ordinances of Honolulu 2021, is amended by adding new definitions of "Coin-Operated," "Gambling Device," and "Something of Value" to read as follows:

"***Coin-Operated.*** Activated by, or activated by an attendant upon receipt of, a coin, cash, credit, a token, or something of value."

"***Gambling Device.*** Has the same meaning as defined in HRS § 712-1220."

"***Something of Value.*** Has the same meaning as defined in HRS § 712-1220."

SECTION 5. Section 16A-10.3, Revised Ordinances of Honolulu 2021, is amended to read as follows:

"**§ 16A-10.3 Complaints, inquiry, and inspection.**

(a) Any person may submit a written complaint to the building official [~~reporting~~] to report a violation of this code. The complainant [~~shall~~] must sign the complaint and describe the suspected violation, the property on which it is occurring, its location on the property, and any reports, documents, or citations that support a finding of violation.

(b) If the building official receives a complaint that contains sufficient facts or allegations to support a determination that a violation of this code exists, the building official shall make inquiry [~~or take up an investigation of~~] into or investigate the complaint.

(c) The identity of any person who submits a written complaint pursuant to subsection (a) or any personally identifiable information submitted thereby is collected for the confidential use of the department of planning and permitting, the police department, or other city agencies having use for the records for investigation, administration, or enforcement purposes. Any such personally identifiable information must be held in confidence and may not be disclosed to the public or any other person, unless such disclosure is ordered by a court of competent jurisdiction or required by applicable law. The complainant must be

notified that their identity and any personally identifiable information will be kept confidential except where disclosure is required by law or court order.

[~~(c)~~] (d) Nothing in this code precludes the building official from initiating an investigation into potential violations of this code that are not reported by a written complaint."

SECTION 6. Chapter 41, Revised Ordinances of Honolulu 2021 ("Public Health and Safety"), is amended by adding a new article to be appropriately designated by the Revisor of Ordinances and to read as follows:

"**ARTICLE __: GAMBLING-RELATED PUBLIC NUISANCES**

§ 41-__.1 Definitions.

For purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Building. Has the same meaning as defined in § 21-10.1.

County Organization. A city agency with authority under the charter to bring suit to enjoin, abate, and prevent a nuisance under HRS Chapter 712, Part V.

Gambling-Related Offense. Any offense set forth in HRS Chapter 712, Part III, except for those offenses excluded by HRS § 712-1270, such as social gambling.

Gambling-Related Public Nuisance. A public nuisance declared under § 41-__.2.

Person. Any natural person, corporation, limited liability company, partnership, limited partnership, registered business entity, trust, firm, joint venture, association, club, organization, or other entity, and may include any officer, agent, servant, or employee thereof that is responsible for the use or condition of any property.

Responsible Person or ***Responsible Persons.*** Any property owner, tenant, or person with an interest in real property.

Structure. Has the same meaning as defined in § 21-10.1.

A BILL FOR AN ORDINANCE

§ 41-__.2 "Public nuisance" declaration for gambling-related offenses.

(a) Every building, structure, or property, or portion thereof, in or upon which a gambling-related offense is held or occurs is a public nuisance per se that must be enjoined, abated, and prevented.

(b) To declare a building, structure, or property, or portion thereof, a public nuisance under subsection (a), it is not a requirement that the responsible person of the building, structure, or property, or portion thereof:

(1) Had knowledge that a gambling-related offense was committed on that premises;

(2) Ordered the commission of a gambling-related offense on that premises; or

(3) Acquiesced to the commission of a gambling-related offense on that premises.

§ 41-__.3 Abatement.

(a) This article does not affect the authority of the prosecuting attorney or a county organization under HRS Chapter 712, Part V, to bring a suit to enjoin, abate, and prevent a gambling-related public nuisance.

If, however, the prosecuting attorney or a county organization does not bring such a suit within 30 days of notice that a gambling-related public nuisance is in existence, kept, or maintained in a building, premises, or place within the city's jurisdiction, as provided in HRS Chapter 712, Part V, the department of the corporation counsel shall take action in accordance with subsection (b).

(b) When authorized to take action pursuant to subsection (a), the department of the corporation counsel shall either:

(1) Seek to enjoin, abate, and prevent the gambling-related public nuisance by suit brought as a county organization pursuant to HRS Chapter 712, Part V; or

(2) Seek to enjoin and prohibit the gambling-related public nuisance under HRS § 603-23.

When the department of the corporation counsel brings an action under HRS § 712-1271 or § 603-23 against a gambling-related public nuisance, the proceedings, including proof required, and remedies available will be subject to that section, as applicable.

§ 41-__.4 Other actions not prohibited.

(a) This article does not affect the right of a private person under statutory or common law to bring an action to abate or collect damages for a nuisance created by a gambling-related offense.

(b) This article does not impose any liability on the city for failure to seek the abatement of a gambling-related public nuisance as declared under this article."

SECTION 7. In SECTIONS 3, 4, and 5 of this ordinance, material to be repealed is bracketed and stricken and 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.

HONOLULU CITY COUNCIL

KE KANIHELA O KE KALANA O HONOLULU

CITY AND COUNTY OF HONOLULU

ORDINANCE _____

BILL 57 (2023)

A BILL FOR AN ORDINANCE

SECTION 8. This ordinance takes effect upon its approval.

INTRODUCED BY:

DATE OF INTRODUCTION:

SEP 20 2023
Honolulu, Hawai'i

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

FILED
SEP 20 2025
PURSUANT TO ROH Sec. 1-2.4

Deputy Corporation Counsel

APPROVED this _____day of _____, 20 _____.

RICK BLANGIARDI, Mayor
City and County of Honolulu