SUMMARY OF PROPOSED FLOOR DRAFT:

BILL 3 (2013), CD1, FD1
RELATING TO THE DISPOSAL OF WEEDS, GARBAGE, TRASH AND WASTE FROM PROPERTY.

PROPOSED FD1:

A. Amends Section 41-10.5, ROH, to provide that a Notice of Order may be served upon the owner by publication in a local newspaper of general circulation, or by posting a copy of the notice on the property, if service cannot be made by certified or registered mail.

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ORDINANCE _____

BILL 3 (2013), CD1, FD1
Proposed

A BILL FOR AN ORDINANCE

RELATING TO THE DISPOSAL OF WEEDS, GARBAGE, TRASH AND WASTE FROM PROPERTY.

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

SECTION 1. Purpose. The purpose of this ordinance is to encourage compliance with city laws related to the clearing of weeds, garbage, trash and waste from property.

SECTION 2. Section 41-10.4, Revised Ordinances of Honolulu 1990, ("Clearing of weeds, garbage, trash and waste from property"), as amended, is amended to read as follows:

"**Sec. 41-10.4 Clearing of weeds, garbage, trash and waste from property.**

(a) Notice to Remove. The building superintendent is authorized and empowered to notify the owner of property within the city to properly cut and remove weeds, garbage, trash and waste located on such owner's property. Such notice shall be served upon the owner of the property by certified mail, addressed to said owner at the owner's last known address[.] , by publication in a newspaper of general circulation, or by posting [A] a copy of [said] the notice [shall] upon [be posted on] the property.

(b) Period During Which Owner Shall Commence Cutting and Removing Weeds, Garbage, Trash or Waste. The owner of such property shall be given 30 calendar days within which to commence the cutting and removal of said weeds, garbage, trash or waste as described in the notice.

(c) Form of Notice. The notice shall describe the work to be done and shall state that if the work is not commenced within 30 calendar days after notice is given and diligently prosecuted to completion without interruption, the building superintendent [shall] may cut and remove the weeds, garbage, trash or waste and the cost thereof shall be a lien on the property.

[(d) Building Superintendent to Keep Record. The building superintendent shall cause to be kept in the building superintendent's office a permanent record containing:

(1) A description of each parcel of property for which notice to cut and remove weeds, garbage, trash and waste has been given;

(2) The name of the owner, if known;

(3) The date on which such notice was mailed and posted;

(4) The charges incurred by the city in cutting and removing the weeds, garbage, trash or waste and all incidental expenses in connection therewith; and

(5) A brief summary of the work performed.
Each such entry shall be made as soon as practicable after completion of such act.]

[(e)](d) Action upon Noncompliance. Upon the failure, neglect or refusal of any owner so notified to commence cutting and removing the weeds, garbage, trash or waste within 30 days after notice has been given as hereinbefore provided, or within 30 days after the date of mailing such notice in the event the post office department is unable to make delivery thereof; provided, that same was properly addressed to the last known address, of such owner, the building superintendent is authorized and empowered to pay for cutting and removing such weeds, garbage, trash or waste out of city funds or to order its disposal by city employees. The building superintendent and the building superintendent's authorized representatives, including any contractor with whom the building superintendent contracts hereunder, and assistants, employees, or agents of such contractor, are authorized to enter upon said property for the purposes of cutting and removing the weeds, garbage, trash or waste described in the notice. Before the building superintendent or the building superintendent's authorized representative or contractor arrives, any property owner may cut and remove the weeds, garbage, trash or waste at the property owner's own expense.

[(f)](e) Charge to Owner. When the city has cut and removed such weeds, garbage, trash or waste or has paid for their removal, the cost thereof, including overhead costs, plus accrued interest at the rate of seven percent per annum shall be charged to the owner of such property and the owner shall be billed therefor by mail. The bill shall apprise the owner that failure to pay the bill will result in a lien. Interest at the rate of seven percent per annum shall accrue from the 31st calendar day after the bill has been mailed to the owner for payment in the event the same has not been paid prior thereto.

[(g)](f) Statement of Building Superintendent. Where the full amount due the city is not paid by such owner within 30 calendar days after the bill has been mailed for payment, the building superintendent shall cause to be recorded with the

city director of finance a statement showing the cost and expense incurred for the work, the date the work was done and the location of the property on which said work was done and file the same with the director of finance who shall refer the collection thereof to the corporation counsel.

[(h)](g) Mechanic's and Materialman's Lien Procedure. Any work done by the city hereunder is deemed to be done pursuant to quasi contract or constructive contract between the city and the owner. Based on the foregoing contractual relationship, if the owner fails to pay the amount duly noted on the statement filed by the building superintendent, the corporation counsel may proceed to file a mechanic's and materialman's lien pursuant to the provisions of Part II of HRS Chapter 507, or any other appropriate lien procedures."

SECTION 3. Section 41-10.5, Revised Ordinances of Honolulu 1990, ("Administrative enforcement"), as amended, is amended by amending subsection (a) to read as follows:

"(a) Contents of Order.

(1) The order may require the party responsible for the violation to do any or all of the following:

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

(B) Pay a civil fine not to exceed [$1,000.00] $5,000.00 in the manner, at the place and before the date specified in the order, after an opportunity for a hearing before the building board of appeals as provided for in subsection (b) of this section;

(C) Pay a civil fine not to exceed [$1,000.00] $5,000.00 per day for each day in which the violation persists, in the manner and at the time and place specified in the order, after an opportunity for a hearing before the building board of appeals as provided for in subsection (b) of this section;

(2) The order shall advise the party responsible for the violation that the order shall become final 30 calendar days after the date of its delivery. The order shall also advise that the building official's action may be appealed to the building board of appeals."

(3) Notice of Order (NOO) Servicing: The NOO shall be served upon the owner of the property by certified or registered mail, addressed to said owner at the owner's last known address. However, if service cannot be made by certified or registered mail, service may also be satisfied by publication in a local newspaper of general circulation, or by posting a copy of the notice on the property."

SECTION 4. Ordinance material to be repealed is bracketed. 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 bracketed material or the underscoring.

A BILL FOR AN ORDINANCE

SECTION 5. This ordinance shall take effect upon its approval.

INTRODUCED BY:

Stanley Chang

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DATE OF INTRODUCTION:

January 23, 2013
Honolulu, Hawaii

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Councilmembers

APPROVED AS TO FORM AND LEGALITY:

_____
Deputy Corporation Counsel

APPROVED this _____ day of _____, 20____.

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KIRK CALDWELL, Mayor
City and County of Honolulu