



A BILL FOR AN ORDINANCE

RELATING TO TREES.

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

SECTION 1. Purpose. The purpose of this ordinance is to address nuisance trees and their removal by the City on private property.

SECTION 2. The title of Chapter 41, Article 10, Revised Ordinances of Honolulu 1990, is amended to read as follows:

**"Article 10. Disposal of Weeds, Nuisance Trees, Garbage, Trash and Waste From Property"**

SECTION 3. Section 41-10.1, Revised Ordinances of Honolulu 1990, is amended to read as follows:

**"Sec. 41-10.1 Declaration of legislative intent.**

The following is the declaration of legislative intent of the council:

- (a) The provisions which are set forth hereinafter are authorized pursuant to the provisions of HRS Section 46-1.5.
- (b) Any weeds, nuisance trees, garbage, trash [or] and waste, which are more specifically defined [hereinafter] in this article, are declared to be public nuisances to the health, safety and welfare of the residents of the city and, therefore, cutting and removal thereof shall be accomplished pursuant to the provisions [set forth hereinafter] of this article.
- (c) The provisions [set forth hereinafter] in this article, are intended to [remove] allow for the removal of and control [such] of weeds, nuisance trees, garbage, trash and waste and to provide the necessary power and authority to an administrative agency of the city to effectuate said [purpose] removal and control."



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SECTIONS 4. Section 41-10.2, Revised Ordinances of Honolulu 1990, as amended, is amended by amending the definitions of "Building Superintendent" and "Cut" and adding a new definition of "Nuisance Tree" to read as follows:

""Building superintendent" means the director [and building superintendent of the building department of the city] of the department of planning and permitting."

""Cut" means to clear, trim, shape, prune, separate, divide, sever, shorten, reduce, curtail, slash or to otherwise control and dispose of weeds or nuisance trees on property; provided, however, that weeds may be disposed of by incineration in accordance with the Fire Code."

""Nuisance Tree" means any tree deemed to be a nuisance because it meets one of the following criteria:

- (1) Any tree or its debris causing a hazard to public safety by reason of its location or condition;
- (2) Any tree obstructing the free passage of pedestrian or vehicular traffic on a public street or sidewalk or a public right-of-way or which obstructs public street lighting;
- (3) Any tree causing obvious physical damage to a private or public structure, including but not limited to a: sidewalk, curb, road, driveway, parking lot, building foundation, or roof, except a private structure owned by the owners of the property on which the tree is situated; or
- (4) Any tree harboring pests that may reasonably be expected to injure or harm public trees."

SECTION 5. Section 41-10.3, Revised Ordinances of Honolulu 1990, is amended to read as follows:

**"Sec. 41-10.3      Regulations for premises.**

The owner of vacant property shall at all times maintain the premises free of weeds, nuisance trees, garbage, trash and waste. The owner of property that is not vacant shall at all times maintain the premises free of nuisance trees."



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SECTION 6. Section 41-10.4, Revised Ordinances of Honolulu 1990, is amended to read as follows:

**"Sec. 41-10.4 Clearing of weeds, nuisance trees, 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, nuisance trees, garbage, trash and waste located on [such] the owner's property. [Such] The notice shall be served upon the owner of the property by certified mail, addressed to [said] the owner at the owner's last known address, by publication in a newspaper of general circulation, or by posting a copy of the notice upon the property.
- (b) Period [During] Within Which Owner Shall Commence Cutting and Removing Weeds, Nuisance Trees, Garbage, Trash [or] and Waste. The owner of [such] the property shall be given 30 calendar days within which to commence the cutting and removal of [said] the weeds, nuisance trees, garbage, trash [or] and 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 may cut and remove the weeds, nuisance trees, garbage, trash [or] and waste on the property and [the cost thereof shall be a lien on the property] a lien in the amount of the work shall be placed on the property.
- (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] and waste within 30 days after notice has been given as [hereinbefore] provided in subsection (a), or within 30 days after the date of mailing [such] the notice in the event the [post office department] postal service is unable to make delivery [thereof] of the notice; provided, that [same] the notice was properly addressed to the last known address, of [such] the owner, the building superintendent is authorized and empowered to pay for the cutting and [removing such] and removal of weeds, nuisance trees, garbage, trash [or] and 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] the contractor, are authorized to enter upon [said] the property for the purposes of cutting and removing the weeds, nuisance trees,



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- garbage, trash [or] and 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, nuisance trees, garbage, trash [or] and waste at the property owner's own expense.
- (e) Charge to Owner. When the city has cut and removed [such] the weeds, nuisance trees, garbage, trash [or] and 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] the 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 on the property in favor of the city. 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.
- (f) Statement of Building Superintendent. Where the full amount due the city is not paid by [such] the owner within 30 calendar days after the bill has been mailed for payment, the building superintendent shall [cause to be recorded] record with the city director of [finance] budget and fiscal services 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] the work was done and file the [same] statement with the director of [finance] budget and fiscal services who shall refer the collection [thereof] to the corporation counsel.
- (g) Mechanic's and Materialman's Lien Procedure. Any work done by the city [hereunder] under this section 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.
- (h) Nuisance Trees. The problems associated with the nuisance tree must be such that they cannot be corrected by reasonable practices including but not limited to: pruning of the crown or roots of the tree, bracing, and/or cabling to reconstruct a healthy crown. This Article does not apply to exceptional trees under Article 13 nor government owned lots. In the case of a nuisance tree, the notice given under subsection (a) may require the owner to remove only a portion of a tree if the removal of that portion will prevent the tree from meeting the definition of "nuisance tree" in section 41-10.2."



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SECTION 7. 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.

SECTION 8. This ordinance shall take effect upon its approval.

INTRODUCED BY:

*Ma Kobayashi (BR)*

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DATE OF INTRODUCTION:

SEP 03 2013

Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Deputy Corporation Counsel

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

KIRK CALDWELL, Mayor  
City and County of Honolulu

FILED  
SEP 03 2013  
PURSUANT TO RCW Sec. 42.4