



**A BILL FOR AN ORDINANCE**

RELATING TO THE HOUSING CODE.

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

SECTION 1. Purpose. The purpose of this ordinance is to protect residential property and uses from unsafe and unsanitary conditions that prevent or impair the safe use and quiet enjoyment of residential property.

The Council finds that the purpose and intent of the existing Housing Code will be furthered by extending the requirements of the Housing Code to nonresidential property that is capable to impacting property that is used or intended to be used for residential purposes. In addition, the Council also finds that the enforcement of the Housing Code will be improved by further defining the unsafe and unsanitary conditions that are prohibited by the Housing Code. Finally, the Council finds that the enforcement of the Housing Code will be improved by authorizing the Director of Planning and Permitting to seek and obtain judicial warrants and injunctive relief.

It is the Council's intent that the amendments herein will allow the City to effectively investigate potential violations of the Housing Code and abate any unsafe or unsanitary conditions that prevent or impair the use of residential property for its intended purposes.

SECTION 2. Section 27-1.1, Revised Ordinances of Honolulu 1990, as amended, is amended to read as follows:

**"Sec. 27-1.1 Findings—Intent.**

- (a) Findings. The council finds that there are buildings, [or] structures, [or] properties and portions thereof[,] within the City and County of Honolulu that are used or designed or intended to be used for human habitation [in the City and County of Honolulu, which] that are unfit for such habitation due to dilapidation; disrepair; structural defects; defects increasing the hazards of fire, accidents or other calamities; lack of adequate ventilation, light or sanitary facilities; uncleanliness; overcrowding; inadequate ingress and egress; inadequate drainage; [violation] violations of the health and fire regulations; and [violation] violations of other laws, regulations and ordinances relating to the use of land and the use and occupancy of buildings and improvements. The council further finds that such unsafe and unsanitary conditions affect their surrounding areas and threaten the health, safety and welfare of the public by creating unsafe living conditions; fire



**A BILL FOR AN ORDINANCE**

hazards; breeding grounds for insects, rodents and vermin; and public nuisances.

(b) Declaration of Intent. In view of the foregoing findings, the council declares that:

- (1) The purpose of this code is to provide minimum standards [to safeguard life and limb, health, property and public welfare by regulating and controlling] regarding the [use and] use, occupancy, location and maintenance of all [residential] buildings and [structures] properties that are used or intended to be used for human habitation, and properties and structures that may affect the use of buildings or properties for human habitation within the city.
- (2) [The provisions prescribed hereinbelow are based on the standards contained in the Uniform Housing Code, 1994 Edition, as copyrighted and published in 1994 by the international conference of building officials, 5360 South Workman Mill Road, Whittier, California.] All property owners and persons in possession of real property shall keep their property free from unsafe or unsanitary conditions that harm or threaten to harm the lawful use of property for human habitation or that may prevent, impair, or otherwise unreasonably interfere with the quiet enjoyment of residential property within the city."

SECTION 3. Section 27-1.3, Revised Ordinances of Honolulu 1990, as amended, is amended to read as follows:

**"Sec. 27-1.3 Application—Compliance required.**

- (a) Application.
  - (1) The provisions of this code [shall] apply in the City and County of Honolulu to any building, as defined in this code[.], and to any parcel of real property located within thirty feet of any building governed by this code.
  - (2) Where any building is used or intended to be used as a combination apartment house-hotel, the provisions of this code relative to each part of such combination [shall apply] applies to such part as if it were a separate building.
  - (3) Every rooming house, congregate residence or lodging house [shall] must comply with all the requirements of this code for dwellings.



**A BILL FOR AN ORDINANCE**

- (b) Alteration. When alterations, additions or repairs are made to an existing building, such alterations, additions or repairs [shall] must conform to the provisions of this code.
- (c) Relocation. Buildings or structures moved into or within [this jurisdiction] the city [shall] must comply with the requirements in the building code for new buildings and structures."

SECTION 4. Section 27-2.1, Revised Ordinances of Honolulu 1990, as amended, is amended to read as follows:

**"Sec. 27-2.1 Definitions.**

For the purpose of this code, [certain] all terms, phrases, words and their derivatives [shall be construed as specified in either this chapter or as specified] have the meanings respectively ascribed to them in this article. Terms that are not defined in this article have the meanings ascribed to them in the building code or Chapter 21, as appropriate under the context in which such terms are used. Where terms are not defined by this article, the building code, or Chapter 21, they [shall] have their ordinary accepted meanings within the context with which they are used. [Webster's Third New International Dictionary of the English Language, Unabridged, copyright 1986, shall be considered as providing ordinary accepted meanings.] Words in the singular include the plural and the plural the singular. Words used in the masculine gender include the feminine and the feminine the masculine.

"Building" means any [building or] structure, or portion thereof, which is used, or designed or intended to be used for lawful human habitation[, for living, sleeping, cooking or eating purposes or any combination thereof and including] and includes any appurtenances belonging thereto or usually enjoyed therewith. The term [shall include,] includes, without limiting the generality of the foregoing, any structure mounted on wheels or otherwise, such as a trailer, wagon or powered vehicle which is parked and stationary and used for living purposes. The term [shall] 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.

"Building code" means the building code of the City and County of Honolulu, as amended.

"Building official" means the director of the department of planning and permitting, or the director's duly authorized representative or agent.



A BILL FOR AN ORDINANCE

"Ceiling height" means the clear vertical distance from the finished floor to the finished ceiling.

"Chapter 21" means the Land Use Ordinance of the city.

"Family" is as defined in Chapter 21.

["Health officer" means the director of health of the department of health, State of Hawaii, or the director's duly authorized agent.]

"Hot water" means water at a temperature of not less than 110 degrees Fahrenheit.

"Human habitation" means the use or occupancy of a property or structure as a dwelling, place of residence, abode, hotel, or place of overnight accommodation. The presence of a kitchen, bathroom, personal hygienic products, toiletries, shower, personal mail, bed, couch or other domestic furnishings in a structure creates a rebuttable presumption that it is used for human habitation. However, the term does not apply to tents or temporary structures that are used for permitted camping activities.

"Kitchen" is as defined in Chapter 21.

["Nuisance." The following shall be defined as nuisances:

- (1) Any public nuisance known at common law or in equity jurisprudence;
- (2) Any attractive nuisance which may prove detrimental to children whether in a building or on the premises of a building or upon an unoccupied lot. This includes any abandoned wells, shafts, basements or excavations; abandoned refrigerators and motor vehicles; or any structurally unsound fences or structures or any lumber, trash, fences, debris or vegetation which may prove a hazard for inquisitive minors;
- (3) Whatever is dangerous to human life or is detrimental to health, as determined by the health officer;
- (4) Overcrowding a room with occupants;
- (5) Insufficient ventilation or illumination;
- (6) Inadequate or unsanitary sewerage or plumbing facilities;



**A BILL FOR AN ORDINANCE**

- (7) Uncleanliness, as determined by the health officer; and
- (8) Whatever renders air, food or drink unwholesome or detrimental to the health of human beings, as determined by the health officer.]

"Nuisance" means any public or private nuisance as defined by this code located on property governed by this code.

"Nuisance in fact" means an otherwise lawful use or condition on property that unreasonably interferes with the quiet enjoyment of private property or the use of public property for its intended purposes.

"Person" means 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 governed by this code.

"Private nuisance" means a nuisance in fact that does not affect the health, safety, or welfare of the general public.

"Property" means real property that is used or intended to be used for human habitation or residential purposes. The term also includes real property that is located within thirty feet of real property that is used or intended to be used for human habitation or residential purposes, and includes all improvements on and appurtenances to real property governed by this code. Where appropriate, property also refers to personal property that is located on real property that is governed by this code.

"Public nuisance" means 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 director of the state department of health, or the director's duly authorized representative or agent pursuant to an enforcement order or declaratory ruling;



---

A BILL FOR AN ORDINANCE

---

- (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 in the apartment, apartment mixed use, or residential zoning districts;
- (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 which 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 zoning district;
- (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



**A BILL FOR AN ORDINANCE**

(16) Any building or structure which 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.

"Public place" means a place, structure, or area open and accessible to the general public and includes all city roads, courts, malls, and paved areas unless otherwise indicated by signage.

"Responsible person" or "responsible persons" means any property owner, tenant, or person with an interest in real property governed by this code and also includes all persons with an interest in or right to use or possess personal property governed by this code.

"Rooming house" means a lodging house.

"Service room" means any room used for storage, bath or utility purposes, and not included in the definition of habitable rooms.

"Structure" means anything above existing grade constructed or erected with a fixed location on the ground, or requiring a fixed location on the ground, or attached to something having a fixed location on the ground. The term "structure" includes the term "building" as defined in this code.

"Substandard building" means [a building as defined in Section 27-9.1.] any building or portion thereof that is determined to be an unsafe building in accordance with the building code or that endangers the life, limb, health, property, safety or welfare of the public or its occupants due to one or more violations of this code.

"Superficial floor area" means the net floor area within the enclosing walls of a room in which the ceiling height is not less than five feet, excluding built-in equipment such as wardrobes, cabinets, kitchen units or fixtures.

"Used" means used or designed or intended to be used.

"Vent shaft" means a court used only to ventilate or light a water closet, bath, toilet, utility room or other service room.

"Window" means a fixed or operable glazed opening or a shuttered opening using transparent, or translucent materials.

"Yard" is as defined in Chapter 21."



**A BILL FOR AN ORDINANCE**

SECTION 5. Section 27-3.1, Revised Ordinances of Honolulu 1990, as amended, is amended to read as follows:

**"Sec. 27-3.1 Inspections.**

All property, buildings and structures within the scope of this code shall be subject to inspection by the building official as provided in Section 27-10.1(b)."

SECTION 6. Article 9, Chapter 27 of Revised Ordinances of Honolulu 1990, as amended ("Substandard Buildings"), is repealed.

**["Article 9. Substandard Buildings**

- (a) General. "Substandard building" means any building or portion thereof which is determined to be an unsafe building in accordance with the building code; or any building or portion thereof, including any dwelling unit, guest room or suite of rooms, or the premises on which the same is located, in which there exists any of the conditions listed or defined in subsections (b) through (n), to an extent that it endangers the life, limb, health, property, safety or welfare of the public or the occupants thereof.
- (b) "Inadequate sanitation" shall include but not be limited to the following:
  - (1) Lack of, or improper water closet, lavatory, bathtub or shower in a dwelling unit or lodging house;
  - (2) Lack of, or improper water closets, lavatories and bathtubs or showers per number of guests in a hotel;
  - (3) Lack of, or improper kitchen sink;
  - (4) Lack of hot and cold running water to plumbing fixtures in a hotel;
  - (5) Lack of hot and cold running water to plumbing fixtures in a dwelling unit or lodging house;
  - (6) Lack of, or improper operation of required ventilating equipment;
  - (7) Lack of minimum amounts of natural light and ventilation required by this code;



---

A BILL FOR AN ORDINANCE

---

- (8) Room and space dimensions less than required by this code;
  - (9) Lack of required electrical lighting;
  - (10) Dampness of habitable rooms;
  - (11) Infestation of insects, vermin or rodents, as determined by the health officer;
  - (12) General dilapidation or improper maintenance;
  - (13) Lack of connection to required sewage disposal system; and
  - (14) Lack of satisfactory garbage and rubbish storage and removal facilities as determined by the health officer.
- (c) "Structural hazards" shall include but not be limited to the following:
- (1) Deteriorated or inadequate foundations;
  - (2) Defective or deteriorated flooring or floor supports;
  - (3) Flooring or floor supports of insufficient size to carry imposed loads with safety;
  - (4) Members of walls, partitions or other vertical supports that split, lean, list or buckle due to defective material or deterioration;
  - (5) Members of walls, partitions or other vertical supports that are of insufficient size to carry imposed loads with safety;
  - (6) Members of ceilings, roofs, ceiling and roof supports, or other horizontal members which sag, split or buckle due to defective material or deterioration;
  - (7) Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that are of insufficient size to carry imposed loads with safety;
  - (8) Fireplaces or chimneys which list, bulge or settle, due to defective material or deterioration; and



**A BILL FOR AN ORDINANCE**

- (9) Fireplaces or chimneys which are of insufficient size or strength to carry imposed loads with safety.
- (d) "Nuisance." Any building or portion thereof in which there exists any nuisance as defined in this code is deemed to be a substandard building.
- (e) "Hazardous wiring" means all wiring, except that which conformed with all applicable laws in effect at the time of installation and which has been maintained in good condition and is being used in a safe manner.
- (f) "Hazardous plumbing" means all plumbing, except that which conformed with all applicable laws in effect at the time of installation and which has been maintained in good condition and which is free of cross connections and siphonage between fixtures.
- (g) "Hazardous mechanical equipment" means all mechanical equipment, including vents, except that which conformed with all applicable laws in effect at the time of installation and which has been maintained in good and safe condition.
- (h) "Faulty weather protection" shall include but not be limited to the following:
  - (1) Deteriorated, crumbling or loose plaster;
  - (2) Deteriorated or ineffective waterproofing of exterior walls, roof, foundations or floors, including broken windows or doors;
  - (3) Defective or lack of weather protection for exterior wall coverings, including lack of paint, or weathering due to lack of paint or other approved protective covering; and
  - (4) Broken, rotted, split or buckled exterior wall coverings or roof coverings.
- (i) "Fire hazard" means building or portion thereof, device, apparatus, equipment, combustible waste or vegetation which, in the opinion of the chief of the fire department or the chief's deputy, is in such a condition as to cause a fire or explosion or provide a ready fuel to augment the spread and intensity of fire or explosion arising from any cause.
- (j) "Faulty materials of construction" means materials of construction, other than those which (1) have been adequately maintained in a good and safe condition, and (2) are specifically allowed or prescribed by this code and the building code,



---

## A BILL FOR AN ORDINANCE

---

or approved by the building official pursuant to the provisions of the building code relating to approval of alternate materials and methods of construction.

- (k) "Hazardous or unsanitary premises" means premises on which an accumulation of weeds, vegetation, junk, dead organic matter, debris, garbage, offal, rat harborages, stagnant water, combustible materials and similar materials or conditions constitute fire, health or safety hazards.
- (l) Inadequate Exits.
  - (1) All buildings or portions thereof not provided with adequate exit facilities as required by this code shall be deemed to have inadequate exits, except those buildings or portions thereof whose exit facilities conformed with all applicable laws at the time of their construction and which have been adequately maintained and increased in relation to any increase in occupant load due to alteration or addition, or any change in occupancy.
  - (2) When an unsafe condition exists through lack of, or improper location of exits, additional exits may be required to be installed.
- (m) Inadequate Fire-Protection or Fire Fighting Equipment. All buildings or portions thereof which are not provided with the fire-resistive construction or fire-extinguishing systems or equipment required by this code shall be deemed to have inadequate fire-protection or fire fighting equipment, except those buildings or portions thereof which conformed with all applicable laws at the time of their construction and whose fire-resistive integrity and fire-extinguishing systems or equipment have been adequately maintained and improved in relation to any increase in occupant load due to alteration or addition, or any change in occupancy.
- (n) Improper Occupancy. All buildings or portions thereof occupied for living, sleeping, cooking or dining purposes which were not designed or intended to be used for such occupancies shall be deemed improper occupancies."]

SECTION 7. Chapter 27, Revised Ordinances of Honolulu 1990, as amended ("Housing Code"), is amended by adding a new Article 9 to read as follows:



**A BILL FOR AN ORDINANCE**

**"Article 9. Violations**

**Sec. 27-9.1 Violations.**

- (a) It is unlawful for any person to permit or maintain any use or condition on property that does not meet the requirements of this code or to maintain or permit any public nuisance on property governed by this code.
- (b) Responsibilities Defined. The owner of a building, structure or real property governed by this code shall be liable for violations of this code. The duty to comply with this code also extends to the occupants of any building and persons in possession of real property governed by this code. However, the imposition of liability for violations of this code 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 code or any penalties imposed by this code.
- (c) This code is not intended to create a procedure for the elimination of private nuisances by the city. All members of the public shall be responsible for resolving disputes arising from private nuisances through the appropriate legal process."

SECTION 8. Section 27-10.1, Revised Ordinances of Honolulu 1990, as amended, is amended to read as follows:

**"Sec. 27-10.1 Authority—Responsibilities.**

- (a) Authority. The building official is authorized and directed to administer and enforce all of the provisions of this code.
- (b) Right of Entry. Upon presentation of proper credentials, the building official [or the building official's duly authorized representatives] may enter at reasonable times any building, structure or [premises] property in the city to perform any duty imposed upon such person by this code[; provided, that such entry shall be made in such manner as to cause the least possible inconvenience to the persons in possession; and provided further, that an order of a court authorizing such entry shall be obtained in the event such entry is denied or resisted].
- (c) [Responsibilities Defined. The owner of a building shall be liable for violations of the requirements of this code. The duty to comply with such requirements may also be imposed on the occupants of the building by this code or by agreement. Imposition of said duty on the occupants shall not relieve the owner from liability.]



**A BILL FOR AN ORDINANCE**

Administrative Warrant. If the building official is unable to obtain the consent of a property owner or person in possession of real property to carry out any duty required of this code, or if such consent is denied, the building official may obtain an administrative warrant issued by any circuit or district court judge within the jurisdiction upon:

- (1) Proper oath or affirmation showing probable cause that a violation of this code exists on the property; or
- (2) An order issued by a court of competent jurisdiction that authorizes the building official to enter private property to abate a public nuisance by seizing, removing, repairing, altering, demolishing, or otherwise destroying private property pursuant to this code."

SECTION 9. Section 27-10.3, Revised Ordinances of Honolulu 1990, as amended, is amended to read as follows:

**"Sec. 27-10.3      [Urban renewal project area.] Complaints inquiry and inspection.**

[Enforcement of this code in urban renewal areas for projects undertaken pursuant to HRS Section 53-51 shall follow the procedure set forth in the applicable provision of HRS Section 53-60.]

- (a) Any person may submit a written complaint to the building official reporting a violation of this code. The complainant shall 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 the complaint.
- (c) 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 10. Section 27-10.5, Revised Ordinances of Honolulu 1990, as amended, is amended to read as follows:



**A BILL FOR AN ORDINANCE**

**"Sec. 27-10.5 [Violation—] Enforcement—Penalty.**

(a) [Violation. It is unlawful for any person, firm, or corporation to maintain a public nuisance or unsafe building as declared or defined in this code or to do anything, or permit anything to be done, or to use or occupy any building in the city, contrary to or in violation of any of the provisions of this code. It shall further be unlawful to maintain and keep any building in the city, contrary to or in violation of any such provisions.

(b)] Notice of Violation. Whenever any person[, firm, or corporation] violates any provision of this code [so as to create a public nuisance or unsafe building], the building official shall serve a notice of violation upon the [party responsible for the violation to make] responsible person or persons. The notice of violation must require that the responsible person or persons bring the property [or the], building or structure or any noncompliant portion [thereof comply] of the same into compliance with the requirements of this code. Notices of violation must be served upon responsible persons either personally or by certified mail. However, if the whereabouts of such 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, then a notice of violation may be issued by publishing the same in accordance with HRS Section 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.

[The notice] Notices of violation [shall] must include at least the following information:

- (1) Date of the notice;
- (2) The name and address of the person noticed and the location of the violation;
- (3) The section number of the ordinance, code, or rule [which] that has been violated;
- (4) The nature of the violation or a description of the same; and
- (5) The deadline for compliance with the notice.



A BILL FOR AN ORDINANCE

[(c)] (b) Criminal Prosecution.

- (1) General. Any person[, firm, or corporation] violating any of the provisions of this code [so as to create a public nuisance or unsafe building] shall be [deemed] guilty of a misdemeanor, and each such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which such violation is committed, continued, or permitted, and upon conviction of any such violation such person shall be punishable by a fine of not more than \$1,000.00, or by imprisonment for not more than one year, or by both such fine and imprisonment.
- (2) Any officer[, ] or inspector designated by the building official, who has been deputized by the chief of police as a special officer for the purpose of enforcing the provisions of the building, plumbing, electrical or housing code (hereinafter referred to as "authorized personnel"), may arrest without warrant alleged violators by issuing a summons or citation in accordance with the procedure specified in this section. Nothing in this section shall be construed as barring such authorized personnel from initiating prosecution by warrant or such other judicial process as is permitted by statute or rule of court.
- (3) Any authorized personnel designated by the building official, upon making an arrest for a violation of the building, plumbing, electrical or housing code, may take the name and address of the alleged violator and shall issue to the violator in writing a summons or citation hereinafter described, notifying the violator to answer the complaint to be entered against the violator at a place and at a time provided in the summons or citation.
- (4) [There shall be provided for use by authorized personnel, a form of summons or citation for use in citing] Where the circumstances do not mandate the physical arrest of violators of the building, plumbing, electrical or housing code [which does not mandate the physical arrest of such violators. The form and content of such], authorized personnel shall use a form of summons or citation [shall be as adopted or prescribed by the] to cite such violators. The administrative judge of the district court [and] shall adopt or prescribe the form and content of the summons or citation. The summons or citation must be printed on a form commensurate with the form of other summonses or citations used in modern methods of arrest, so designed to include all necessary information to make the same valid under the laws and regulations of the State of Hawaii and the [City and County of Honolulu.] city.



**A BILL FOR AN ORDINANCE**

- (5) In every case when a citation is issued, the original of the same [shall] must be given to the violator; provided that the administrative judge of the district court may prescribe [by giving to] that the violator [of] be given a carbon copy of the citation and provide for the disposition of the original and any other copies.
  - (6) Every citation [shall] must be consecutively numbered and each carbon copy [shall] must bear the number of its respective original.
- [(d)] (c) Administrative Enforcement. In lieu of or in addition to enforcement pursuant to subsection [(c),] (b), if the building official determines that any person[, firm, or corporation] is not complying with a notice of violation, the building official may have the [party responsible for the violation] responsible person or persons served[, by mail or delivery, with an] with a notice of order [pursuant to this section].
- (1) Contents of Order.
    - (A) The order may require the [party responsible for the violation] responsible person or persons 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 \$1,000.00 in the manner, at the place and before the date specified in the order;
      - (iii) Pay a civil fine not to exceed \$1,000.00 per day for each day in which the violation persists, in the manner and at the time and place specified in the order.
    - (B) The order [shall] must advise the [party responsible for the violation] responsible person or persons that the fines, if unpaid within the prescribed time period, can be added to specified fees, taxes, or charges collected by the city.
    - (C) The order [shall] must advise the [party responsible for the violation] responsible person or persons that the order [shall become] becomes final 30 calendar days after the date of its delivery. The order [shall] must also advise that the building official's action may be appealed to the building board of appeals.



**A BILL FOR AN ORDINANCE**

(2) Service of Notices of Order. A notice of order issued pursuant to this section must be served upon the responsible person or persons 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 Section 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. If so recorded, a notice of order shall have the same force and effect as other lis pendens or other legal notices provided by law.

[(2)] (3) Effect of Order; Right to Appeal. The [provisions of the] order issued by the building official under this section [shall become] becomes final 30 calendar days after the date of the delivery of the order. The [party responsible for the violation] responsible person or persons may appeal the order to the building board of appeals as provided by the building code. 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 [shall] does not stay any provision of the order.

[(3)] Judicial Enforcement of Order. The building official may institute a civil action in any court of competent jurisdiction for the enforcement of any order issued pursuant to this section. Where the civil action has been instituted to enforce the civil fine imposed by said order, the building official need only show that the notice of violation and order were served, that a civil fine was imposed, the amount of the civil fine imposed and that the fine imposed has not been paid.]

(d) Judicial Enforcement.

(1) Injunctive relief. The corporation counsel is hereby authorized to bring an action to enjoin any public nuisance, as defined by this code, 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 public nuisance.



**A BILL FOR AN ORDINANCE**

- (2) The corporation counsel may seek an injunction from a court under subsection (a) if it appears that:
  - (A) The 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 exhausted or expired; or
  - (B) It appears that a building, use of real property, or conditions on real property governed by this code 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 of condition of the property.
- (3) Where the city enters private property to abate a public nuisance, all costs of correction, including legal costs and attorneys 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 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 prior to the city lien.
- (4) Any person aggrieved by a private nuisance may bring a civil action for damages or for injunctive relief to enjoin such private nuisance."

SECTION 11. 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 12. This ordinance takes effect 30 days after its approval.

INTRODUCED BY:

Carol Fukunaga

Ann Kobayashi

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

DATE OF INTRODUCTION:

August 4, 2014  
Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Don S. Kitaoka  
Deputy Corporation Counsel DON S. KITAOKA

APPROVED this 2nd day of December, 20 14.

Kirk Caldwell  
KIRK CALDWELL, Mayor  
City and County of Honolulu

CITY COUNCIL  
CITY AND COUNTY OF HONOLULU  
HONOLULU, HAWAII  
CERTIFICATE

ORDINANCE 14-36

BILL 52 (2014), CD2

Introduced: 08/04/14 By: CAROL FUKUNAGA

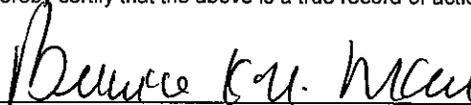
Committee: PUBLIC SAFETY AND  
ECONOMIC  
DEVELOPMENT

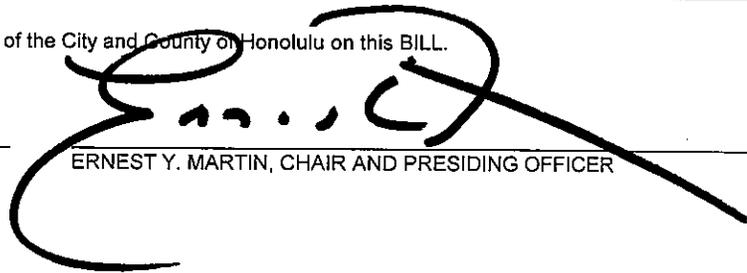
Title: A BILL FOR AN ORDINANCE RELATING TO THE HOUSING CODE.

Voting Legend: \* = Aye w/Reservations

|          |  |  |
|----------|--|--|
| 08/13/14 | COUNCIL                                | BILL PASSED FIRST READING AND REFERRED TO COMMITTEE ON ZONING AND PLANNING.<br>9 AYES: ANDERSON, CHANG, FUKUNAGA, HARIMOTO, KOBAYASHI, MANAHAN, MARTIN, MENOR, PINE.   |
|          |  | <u>CC-187</u> FUKUNAGA – RE-REFERRAL OF BILL 52 (2014) FROM THE COMMITTEE ON ZONING AND PLANNING TO THE COMMITTEE ON PUBLIC SAFETY AND ECONOMIC DEVELOPMENT.   |
| 08/26/14 | PUBLIC SAFETY AND ECONOMIC DEVELOPMENT | CR-239 – BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON SECOND READING AND SCHEDULING OF A PUBLIC HEARING AS AMENDED IN CD1 FORM.   |
| 08/30/14 | PUBLISH                                | PUBLIC HEARING NOTICE PUBLISHED IN THE HONOLULU STAR-ADVERTISER.   |
| 09/10/14 | COUNCIL/PUBLIC HEARING                 | CR-239 ADOPTED. BILL PASSED SECOND READING AS AMENDED, PUBLIC HEARING CLOSED AND REFERRED TO COMMITTEE ON PUBLIC SAFETY AND ECONOMIC DEVELOPMENT.<br>8 AYES: ANDERSON, CHANG, FUKUNAGA, HARIMOTO, KOBAYASHI *, MANAHAN*, MARTIN, MENOR.<br>1 ABSENT: PINE.   |
| 09/17/14 | PUBLISH                                | SECOND READING NOTICE PUBLISHED IN THE HONOLULU STAR-ADVERTISER.   |
| 10/14/14 | PUBLIC SAFETY AND ECONOMIC DEVELOPMENT | CR-288 – BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON THIRD READING AS AMENDED IN CD2 FORM.   |
|          |  | NOTE: EFFECTIVE NOVEMBER 4, 2014, COUNCILMEMBER BREENE HARIMOTO, REPRESENTING COUNCIL DISTRICT VIII, RESIGNED FROM OFFICE. (Refer to Communication <u>CC-245</u> )<br>NOTE: BRANDON ELEFANTE WAS SWORN IN AND TOOK OFFICE AS A MEMBER OF THE HONOLULU CITY COUNCIL ON WEDNESDAY, NOVEMBER 12, 2014 REPRESENTING DISTRICT VIII. |
| 11/12/14 | COUNCIL                                | CR-288 ADOPTED AND BILL 52 (2014), CD2 PASSED THIRD READING AS AMENDED.<br>9 AYES: ANDERSON, CHANG, ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN, MENOR, PINE.   |

I hereby certify that the above is a true record of action by the Council of the City and County of Honolulu on this BILL.

  
BERNICE K. N. MAU, CITY CLERK

  
ERNEST Y. MARTIN, CHAIR AND PRESIDING OFFICER

14-36