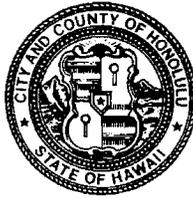


DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

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KIRK CALDWELL
MAYOR



GEORGE I. ATTA, FAICP
DIRECTOR

ARTHUR D. CHALLACOMBE
DEPUTY DIRECTOR

March 17, 2015

The Honorable Ernest Y. Martin
Chair and Presiding Officer
and Members
Honolulu City Council
530 South King Street, Room 202
Honolulu, Hawaii 96813

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Dear Chair Martin and Councilmembers:

SUBJECT: Bill 20 (2015) to Amend Chapter 21, Revised Ordinances of Honolulu 1990, as amended (The Land Use Ordinance), Relating to Accessory Dwelling Units

Enclosed for your consideration are our proposed revisions to Bill 20 (2015), relating to accessory dwelling units. Most of the revisions are minor "housekeeping" changes, while others are added measures to the proposed bill. The proposed revisions are as follows:

Section 2, Section 21-2.140-1(o), is amended by rephrasing the paragraph as follows:

- "(o) Conversion of accessory structures. An existing, legally established, accessory structure constructed prior to the effective date of this ordinance in a residential district may be converted to an accessory dwelling unit and allowed to exceed the maximum floor area established by Section 21-5._(c)(1) and/or exempted from the off-street parking requirement established by Section 21-5._(c)(4) and contained in Table 21-6.1, subject to the following conditions:
- (1) Provided the director finds that viable constraints do not allow the reduction of the floor area of the existing accessory structure.

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- (2) Provided that the director finds that no feasible alternative off-street parking site exists due to the placement of structures, and/or the topography of, the zoning lot.”

Section 21-5._(c) is amended by adding the word “conditions” at the end of the sentence.

Section 21-5._(c)(2) is amended by adding a new subsection (C) prohibiting the construction of accessory dwelling units on lots that are landlocked.

Section 21-5._(c)(4) is amended by measuring the minimum distance from the rail station instead of the station area. Such a change will assure that the distance will be one-half mile rather than one mile.

Section 21-5._(c)(5)(C) is amended by changing the subsection from “(C)” to “(E)” and removing the last sentence to form subsection “(F)”.

Section 21-5._(c)(5)(B) is amended by removing “The accessory dwelling unit or” from the beginning of the paragraph and by adding a provision to allow the primary residential unit or the accessory dwelling unit to be rented or otherwise occupied for a minimum of six months. Such a provision will allow the primary residential unit or the accessory dwelling unit to be occupied at no charge.

Section 21-5._(c)(5)(D) is amended by changing the subsection from “(D)” to “(C)” and by increasing the minimum rental or occupation period of the accessory dwelling unit from three months to six months. Such an increase will facilitate enforcement relating to transient vacation unit rentals and it will be congruent with the State’s policy relating to “Transient Accommodations Tax”. Similarly, the last sentence is removed and added to subsection “(F)”.

Section 21-5._(c)(5) is amended by adding a new subsection “(D)” to clarify that the property owner or owners, or persons who are related by blood, marriage, or adoption to the property owner or owners, or designated authorized representative could occupy the accessory dwelling unit while the primary residential unit could be rented or occupied at no charge for a minimum of six months; but not used as a transient vacation unit. This will prohibit the property owner or owners, or persons who are related by blood, marriage, or adoption to the property owner or owners, or designated authorized representative to use the primary residential unit as a transient vacation unit.

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Section 21-5._(f) is amended by adding the word "the" prior to the word "effective date".

Section 7, Table 21-6.1, is revised by adding the word "rail" before "transit" to reflect the sentencing of Section 21-5._(c)(4).

Should you have any questions, please contact me at 768-8000.

Very truly yours,



George I. Atta, FAICP
Director

Enclosure: Revised Bill 20 (2015)

APPROVED:



Roy K. Amemiya, Jr.
Managing Director



A BILL FOR AN ORDINANCE

TO AMEND CHAPTER 21, REVISED ORDINANCES OF HONOLULU 1990, AS AMENDED (THE LAND USE ORDINANCE), RELATING TO ACCESSORY DWELLING UNITS.

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

SECTION 1. Purpose and intent. The purpose of this ordinance is to establish accessory dwelling units as a permitted use in all residential zoning districts, to encourage and accommodate the construction of accessory dwelling units, increase the number of affordable rental units and alleviate the housing shortage in the City, and to establish land use standards for those accessory dwelling units.

SECTION 2. Section 21-2.140-1, Revised Ordinances of Honolulu, as amended (“Specific circumstances”), is amended by adding a new subsection (o) to read as follows:

“(o) Conversion of accessory structures. An existing, legally established, accessory structure constructed prior to the effective date of this ordinance in a residential district may be converted to an accessory dwelling unit and allowed to exceed the maximum floor area established by Section 21-5. (c)(1) and/or exempted from the off-street parking requirement established by Section 21-5. (c)(4) and contained in Table 21-6.1, subject to the following conditions:

- (1) Provided the director finds that viable constraints do not allow the reduction of the floor area of the existing accessory structure.
- (2) Provided that the director finds that no feasible alternative off-street parking site exists due to the placement of structures, and/or the topography of, the zoning lot.”

SECTION 3. Table 21-3, Revised Ordinances of Honolulu 1990, as amended (“Master Use Table”), is amended by amending the “Dwelling and Lodgings” category to permit duplex units and detached two-family dwellings within R-10 and R-20 Residential zoning districts and adding “accessory dwelling units”, to read as follows:



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"TABLE 21-3 MASTER USE TABLE

In the event of any conflict between the text of this Chapter and the following table, the text of the Chapter shall control. The following table is not intended to cover the Waikiki Special District; please refer to Table 21-9.6(A).

- KEY**
- Ac = Special accessory use subject to standards in Article 5
 - Cm = Conditional Use Permit-minor subject to standards in Article 5; no public hearing required (see Article 2 for exceptions)
 - C = Conditional Use Permit-major subject to standards in Article 5; public hearing required
 - P = Permitted Use
 - P/c = Permitted use subject to standards in Article 5
 - PRU = Plan Review Use

ZONING DISTRICTS																						
USES	P-2	AG-1	AG-2	Country	R-20, R-10	R-7.5, R-5, R-3.5	A-1	A-2	A-3	AMX-1	AMX-2	AMX-3	Resort	B-1	B-2	BMX-3	BMX-4	I-1	I-2	I-3	IMX-1	
(Note: Certain uses are defined in Article 10.)																						

DWELLINGS AND LODGINGS

Accessory Dwelling Units					Ac	Ac																
Boarding facilities							P	P	P	P	P	P					P	P				
Consulates					P/c	P/c	P	P	P	P	P	P	P	P	P	P	P	P				
Duplex Units					P	P	P	P	P	P	P	P	P				P					
Dwellings, owner's or caretaker's, accessory														Ac	Ac		Ac	Ac	Ac	Ac	Ac	Ac
Dwellings for cemetery caretakers	Ac		Ac																			
Dwellings, detached, one-family				P	P	P	P	P	P	P	P	P	P				P					
Dwellings, detached, two-family				P	P	P	P	P	P	P	P	P	P				P					
Dwellings, multifamily							P	P	P	P	P	P	P				P/c	P				
Farm dwellings		P/c	P/c																			
Group living facilities		C	C	C	C	C	C	C	C	C	C	C					C	Cm				
Guest houses (R-20 only)					Ac																	
Hotels														P				P		Cm		Cm
Roomers/Rooming				Ac	Ac	Ac																
Special needs housing for the elderly							C	C	C	C	C	C					C	C				
Time sharing								P/c						P								
Transient vacation units								P/c						P								
Vacation cabins	C																					



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SECTION 4. Table 21-3.2, Revised Ordinances of Honolulu 1990, as amended (“Residential Districts Development Standards”), is amended to read as follows:

**“Table 21-3.2
Residential Districts
Development Standards**

Development Standard		District				
		R-3.5	R-5	R-7.5	R-10	R-20
Minimum lot area (square feet)	One-family dwelling detached, and other uses	3,500	5,000	7,500	10,000	20,000
	Two-family dwelling, detached	7,000	7,500	14,000	[Use not permitted] <u>15,000</u>	[Use not permitted] <u>25,000</u>
	Duplex	3,500	3,750	7,000	<u>7,500</u>	<u>12,500</u>
Minimum lot width and depth (feet)		30 per duplex unit, 50 for other uses		35 per duplex units 65 for other uses	65 for dwellings, 100 for other uses	100
Yards (feet):	Front	10 for dwellings, 30 for other uses				
	Side and rear	5 for dwellings ¹ , 15 for other uses			5 for dwellings ¹ , 15 for other uses	
Maximum building area		50 percent of the zoning lot				
Maximum height (feet) ²		25-30				
Height setbacks		per Sec. 21-3.70-1(c)				

¹ For duplex lots, 5 feet for any portion of any structure not located on the common property line; the required side yard is zero feet for that portion of the lot containing the common wall.

² Heights above the minimum of the given range may require height setback or may be subject to other requirements. See the appropriate section for the zoning district for additional development standards concerning height.”



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SECTION 5. Chapter 21, Article 5, Revised Ordinances of Honolulu 1990, as amended (“Specific Use Development Standards”), is amended by adding a new Section for “Accessory dwelling units,” to be appropriately numbered by the revisor of ordinances and to read as follows:

“Section 21-5. Accessory dwelling units.”

- (a) The purpose of this section is to encourage and accommodate the construction of accessory dwelling units to increase the number of affordable rental units, without substantially altering existing neighborhood character, in order to alleviate the housing shortage in the City.
- (b) It is intended that accessory dwelling units shall only be allowed in areas where wastewater, water supply, and transportation facilities are adequate to support the additional dwelling units.
- (c) One accessory dwelling unit may be located on a lot in the R-3.5, R-5, R-7.5, R-10, and R-20 zoning districts, subject to the following conditions:

(1) The maximum size of an accessory dwelling unit shall be as follows:

Lot Area	Maximum Floor Area
3,500 to 4,999 sq. ft.	400 sq. ft.
5,000 sq. ft. or more	800 sq. ft.

(2) Accessory dwelling units shall not be permitted:

- (A) On lots with a lot area of less than 3,500 square feet;
- (B) On lots that have more than one dwelling unit, including but not necessarily limited to, more than one single-family dwelling, two-family dwelling, accessory authorized ohana dwelling, guest house, multi-family dwellings, planned development housing, cluster, or group living facility;
- (C) On lots that are landlocked.

(3) The property owner or owners or persons who are related by blood, marriage, or adoption to the property owner or owners, or designated



A BILL FOR AN ORDINANCE

authorized representative shall occupy the primary residential unit or the accessory dwelling unit; except in unforeseen hardship circumstances (e.g., active military deployment, serious illness) which prevents the continued occupancy of the primary residential unit or the accessory dwelling, subject to confirmation by the director.

- (4) One off-street parking space per accessory dwelling unit shall be provided in addition to the required off-street parking for the primary residential unit, except for accessory dwelling units located within a one-half mile of a rail transit station. For purposes of this section, the minimum distance requirement shall be measured as the shortest straight line distance between the edge of the rail station and the zoning lot line(s) of the project site.
- (5) The owner or owners of the lot shall record a covenant running with the land with the bureau of conveyances of the State of Hawaii, or if the lot is subject to land court registration under HRS Chapter 501, they shall record in the land court, stating that:
- (A) Neither the owner or owners, nor their heirs, successors or assigns of the owner or owners shall submit the lot or any portion thereof to the condominium property regime established by HRS Chapter 514A to separate the ownership of an accessory dwelling unit from its primary dwelling;
- (B) The property owner or owners or persons who are related by blood, marriage, or adoption to the property owner or owners, or designated authorized representative shall occupy the primary residential unit or the accessory dwelling unit as long as one of the two units is being rented or otherwise occupied for a minimum of six months. Except in unforeseen hardship circumstances (e.g., active military deployment, serious illness) which prevents the continued occupancy of the primary residential unit or the accessory, subject to confirmation by the director;
- (C) The accessory dwelling unit shall only be used for long-term rental or otherwise occupied for at least six months, and explicitly not as a transient vacation unit;



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- (D) In case that the property owner or owners, or persons who are related by blood, marriage, or adoption to the property owner or owners, or designated authorized representative choose to receive rent for the primary residential unit and occupy the accessory dwelling unit; the primary residential unit shall only be used for long-term rental or otherwise occupied for a minimum of six months, and explicitly not as a transient vacation unit;
- (E) The accessory dwelling unit shall be limited to the approved size;
- (F) The deed restrictions shall lapse upon removal of the accessory dwelling unit; and all declarations are binding upon any successor in ownership of the property.

The covenant shall be recorded on a form approved by or provided by the director and may contain such terms as the director deems necessary to ensure its enforceability. The failure of an owner or of an owner's heir, successor or assign to abide by such a covenant shall be deemed a violation of Chapter 21 and be grounds for enforcement by the director pursuant to Section 21-2.150, et seq.

- (6) All other provisions of the zoning district shall apply.
- (d) At the time of application, the applicant shall first obtain written confirmation from the responsible agencies that wastewater treatment and disposal, water supply, and access roadways are adequate to accommodate an accessory dwelling unit.
- (e) An accessory dwelling unit may be created by building a new structure (attached or detached from the primary residential unit) or through conversion of a legally established structure (attached or detached from the primary residential unit), attic or basement, subject to meeting all pertaining zoning requirements.
- (f) The owner of a structure constructed without a building permit prior to the effective date of this ordinance, who wants to convert that structure to an accessory dwelling unit shall obtain an after-the-fact building permit. In addition to fulfilling the base requirements of the after-the-fact permit, any adjustments to the structure shall conform with the accessory dwelling unit regulations enumerated in Section 21-5 of the LUO and any additional adopted policies.



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(g) The Department of Planning and Permitting shall be notified upon removal of an accessory dwelling unit.

SECTION 6. Section 21-6.30, Revised Ordinances of Honolulu 1990, as amended (“Method of determining number”), is amended by amending subsection (d) to read as follows:

“(d) All required parking spaces shall be standard-sized parking spaces, except that duplex units, detached dwellings and multifamily dwellings may have up to 50 percent compact spaces, and accessory dwelling units may have one compact space.”

SECTION 7. Table 21-6.1, Revised Ordinances of Honolulu 1990, as amended (“Off-street Parking Requirements”), is amended by amending the DWELLINGS AND LODGINGS category to read as follows:

“Table 21-6.1 Off-street Parking Requirements		
Use¹	Requirement²	
DWELLING AND LODGINGS		
Boarding facilities	2 plus 0.75 per unit	
Consulates	1 per dwelling or lodging unit, plus 1 per 400 square feet of office floor area, but not less than 5	
Dwellings, accessory dwelling unit	<u>1 per accessory dwelling unit or none if the accessory dwelling unit is located within a one-half mile of a rail transit station</u>	
Dwellings, detached, duplex and farm	2 per unit plus 1 per 1,000 square feet over 2,500 square feet (excluding carport or garage)	
Dwellings, multifamily	Floor Area of Dwelling or Lodging Units	Required Parking per Unit
	600 sq. ft. or less	1
	More than 600 but less than 800 sq. ft.	1.5
	800 sq. ft. and over	2
	Plus 1 guest parking stall per 10 units for all projects	
Hotels: dwelling units	1 per unit	
Hotels: lodging units	0.75 per unit	



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SECTION 8. Section 21-6.40, Revised Ordinances of Honolulu 1990, as amended (“Arrangement of parking spaces”), is amended by amending subsection (c) to read as follows:

- “(c) All spaces shall be arranged so that any automobile may be moved without moving another except that tandem parking shall be permissible in any of these instances:
- (1) Where two or more parking spaces are assigned to a single dwelling unit and/or a parking space is assigned to an accessory dwelling unit.
 - (2) For use for employee parking, except that at no time shall the number of parking spaces allocated for employees exceed 25 percent of the total number of required spaces. Also, for employee parking, "tandem" parking shall be limited to a configuration of two stacked parking stalls.
 - (3) Where all parking is performed by an attendant at all times, and vehicles may be moved within the lot without entering any street, alley or walkway.
 - (4) For public assembly facilities and temporary events when user arrivals and departures are simultaneous and parking is attendant directed.”

SECTION 9. Section 21-10.1, Revised Ordinances of Honolulu 1990, as amended (“Definitions”), is amended by adding a new definition for “Accessory dwelling unit” and “Designated authorized representative” to be inserted in the proper alphabetical order by the revisor of ordinances and to read as follows:

““Accessory dwelling unit” means a second dwelling unit, including separate kitchen, bedroom and bathroom facilities, attached or detached from the primary dwelling unit on the zoning lot.”

“Designated authorized representative” means one or more persons appointed by the owner or owners to reside in the primary dwelling unit or accessory dwelling unit and act on behalf of the owner or owners in his or her absence.”

SECTION 10. 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 to include the brackets, the bracketed material, or the underscoring.



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ORDINANCE _____

BILL _____

A BILL FOR AN ORDINANCE

SECTION 11. This ordinance shall take effect upon its approval.

INTRODUCED BY:

DATE OF INTRODUCTION:

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