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A BILL FOR AN ORDINANCE

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RELATING TO NONCONFORMING STRUCTURES.

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

SECTION 1. Purpose. The purpose of this ordinance is to amend certain provisions relating to nonconforming structures.

SECTION 2. Section 21-4.110, Revised Ordinances Honolulu 1990 ("Nonconformities"), is amended by amending subsection (b) to read as follows:

"(b) Nonconforming Structures.

- (1) If that portion of a structure ~~[which]~~ that is nonconforming is destroyed by any means to an extent of more than ~~[50]~~ 90 percent of its replacement cost at the time of destruction, it ~~[shall]~~ may not be reconstructed except in conformity with the provisions of this chapter. All reconstruction and restoration work must comply with building code and flood hazard regulations, and commence within two years of the date of destruction.
  - (A) Notwithstanding the foregoing provision, a nonconforming structure devoted to a conforming use which contains multifamily dwelling units owned by owners under the authority of HRS Chapter 514A, 514B or 421H, or units owned by a "cooperative housing corporation" as defined in HRS Section 421I-1, whether or not the structure is located in a special district, and which is destroyed by ~~[accidental]~~ any means, ~~[including destruction by fire, hurricane, other calamity, or act of God,]~~ may be fully reconstructed and restored to its former permitted condition, provided that such restoration is permitted by the current building code and flood hazard regulations and is started within two years from the date of destruction.
  - (B) ~~[The burden of proof to establish that the destruction of a structure was due to accidental means as described above and that the structure was legally nonconforming shall be on the owner.~~
  - (C) ~~Except as otherwise provided in this section, no~~ No nonconforming structure that is ~~[voluntarily razed or]~~ required by law to be razed by the owner thereof may thereafter be reconstructed and restored except in full conformity with the provisions of this chapter.



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- (2) If a nonconforming structure is moved, it [~~shall~~] must conform to the provisions of this chapter.
- (3) Any nonconforming structure may be repaired, expanded or altered in any manner [~~which~~] that does not increase its nonconformity.
- (4) Improvements on private property, which become nonconforming through the exercise of the government's power of eminent domain, may obtain waivers from the provisions of this subsection, as provided by Section 21-2.130.
- (5) Nonconforming commercial use density [~~shall~~] will be regulated under the provisions of this subsection. For purposes of this section, "nonconforming commercial use density" means a structure [~~which~~] that is nonconforming by virtue of the previously lawful mixture of commercial uses on a zoning lot affected by commercial use density requirements in excess of:
  - (A) The maximum FAR permitted for commercial uses; or
  - (B) The maximum percentage of total floor area permitted for commercial uses."

SECTION 3. Ordinance material to be repealed is bracketed and stricken. 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.



**CITY COUNCIL**  
CITY AND COUNTY OF HONOLULU  
HONOLULU, HAWAII

ORDINANCE 17 - 59

BILL 53 (2017), CD1

**A BILL FOR AN ORDINANCE**

SECTION 4. This ordinance takes effect upon its approval.

INTRODUCED BY:

Ikaika Anderson

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DATE OF INTRODUCTION:

May 19, 2017  
Honolulu, Hawaii

\_\_\_\_\_ Councilmembers

APPROVED AS TO FORM AND LEGALITY:

*Duane W.H. Pang*  
Deputy Corporation Counsel **DUANE W.H. PANG**

APPROVED this 17<sup>th</sup> day of November, 20 17.

*Kirk Caldwell*

KIRK CALDWELL, Mayor  
City and County of Honolulu

CITY COUNCIL  
CITY AND COUNTY OF HONOLULU  
HONOLULU, HAWAII  
CERTIFICATE

ORDINANCE 17-59

BILL 53 (2017), CD1

Introduced: 05/19/17

By: IKAIKA ANDERSON

Committee: ZONING AND HOUSING

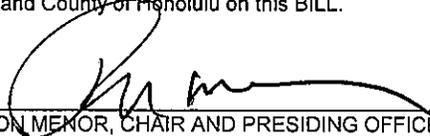
Title: A BILL FOR AN ORDINANCE RELATING TO NONCONFORMING STRUCTURES.

Voting Legend: \* = Aye w/Reservations

06/07/17	COUNCIL	BILL PASSED FIRST READING AND REFERRED TO COMMITTEE ON ZONING AND HOUSING. 8 AYES: ANDERSON, ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN, MENOR, OZAWA. 1 ABSENT: PINE.
06/29/17	ZONING AND HOUSING	CR-271 – BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON SECOND READING AND SCHEDULING OF A PUBLIC HEARING.
07/01/17	PUBLISH	PUBLIC HEARING NOTICE PUBLISHED IN THE HONOLULU STAR-ADVERTISER.
07/12/17	COUNCIL/PUBLIC HEARING	CR-271 ADOPTED. BILL PASSED SECOND READING, PUBLIC HEARING CLOSED AND REFERRED TO COMMITTEE ON ZONING AND HOUSING. 8 AYES: ANDERSON, ELEFANTE*, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN, OZAWA, PINE. 1 ABSENT: MENOR.
07/19/17	PUBLISH	SECOND READING NOTICE PUBLISHED IN THE HONOLULU STAR-ADVERTISER.
10/26/17	ZONING AND HOUSING	CR-404 – BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON THIRD READING AS AMENDED IN CD1 FORM.
11/01/17	COUNCIL	CR-404 ADOPTED AND BILL 53 (2017), CD1 PASSED THIRD READING AS AMENDED. 9 AYES: ANDERSON, ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN, MENOR, OZAWA, 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.

  
GLEN I. TAKAHASHI, CITY CLERK

  
RON MENOR, CHAIR AND PRESIDING OFFICER