

A BILL FOR AN ORDINANCE

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

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 revise existing provisions of Section 21-9.10, Revised Ordinances of Honolulu 1990, as amended, ("Flood hazard districts") to conform with current language in the National Flood Insurance Program (NFIP) regulations. The NFIP requires participating communities to adopt and maintain adequate floodplain management regulations consistent with the minimum standards of the NFIP in order to remain in the program.

SECTION 2. Section 21-9.10-2, Revised Ordinances of Honolulu 1990, as amended, ("Establishment of districts") is amended to read as follows:

"Sec. 21-9.10-2 Establishment of Districts.

- (a) Flood Hazard Districts. This section shall apply to all lands within the flood hazard districts and corresponding areas of special flood hazard delineated on the flood insurance rate maps, as prepared by the [Federal Insurance Administration,] Federal Emergency Management Agency. The following flood hazard districts are established:
 - (1) Floodway district (Floodway in Zone AE);
 - (2) Flood fringe district (Zones AE, AO, AH);
 - (3) Coastal high hazard district (Zone VE);
 - (4) General floodplain district (Zone A).
- (b) The flood hazard districts [are delineated on the flood insurance rate maps and any amendments by the Federal Emergency Management Agency, on file with the department, and which hereinafter are called flood maps] and corresponding areas of special flood hazard identified by the Federal Emergency Management Agency in the flood insurance rate maps and flood insurance study dated November 20, 2000, and any subsequent revisions and amendments (hereinafter called "flood maps") are hereby adopted and declared to be part of this section.



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The flood maps are on file at the City and County of Honolulu Department of Planning and Permitting, 650 S. King Street, Honolulu, Hawaii 96813 .

- (c) The flood boundary and regulatory flood elevations shall be determined by the flood maps. Where interpretation is needed as to whether or not a project lies within a certain flood district, or interpretation is needed on the regulatory flood elevation in the floodway, flood fringe or coastal high hazard districts, a request for interpretation shall be submitted to the director for determination. The request shall include the project site and location plan, property lines and dimensions and tax map key.

- (d) Where interpretation on the regulatory flood elevation or other data are needed, other than as stated in subsection (c), the director [with the recommendation of the chief engineer] shall make the determination. The request for interpretation under this section shall be submitted to the director and include three sets of documents, stamped and signed by a registered professional engineer, containing adequate information and substantiating data consistent with this part, such as flood study, flood data, project site and location plan, property lines and dimension, tax map key, and topographic data, contours or spot elevations based on reference marks on flood maps. Upon review by the director, other related information may be required to evaluate the request.”

SECTION 3. Section 21-9.10-4, Revised Ordinances of Honolulu 1990, as amended, (“Development standards”) is amended to read as follows:

“Sec. 21-9.10-4 Development standards.

- (a) For the purpose of the flood hazard district regulations of Sections 21-9.10 through 21-9.10-14 only, the following definitions shall apply:
 - (1) “Basement” means any area of the building having its floor subgrade (below ground level) on all sides.

 - (2) “Development” means any man-made change to improved or unimproved real estate, including but not limited to walls, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

 - (3) “Structure” means a walled and roofed building, including a gas or



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liquid storage tank, that is principally above ground.

(b) The flood hazard district regulations of Sections 21-9.10 through 21-9.10-14 shall not apply to:

- (1) Carnivals, circuses, luaus, fairs, and camping tents of a temporary nature which are not in a floodway.
- (2) Non-fenced, non-elevated outdoor swimming pools.
- (3) Signs.
- (4) Demolition.
- (5) Fences and retaining walls which are not in the floodway or coastal high hazard district.
- (6) Temporary structures and uses incidental to building construction or land development which are not in a floodway, provided the structures and uses are removed upon completion of the work, or as directed by the department.

(c) Developments within the flood hazard districts shall:

- [(a)] (1) Be designed and structures adequately anchored to resist flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads, including effects from buoyancy caused by the regulatory flood.
- [(b)] (2) Use construction materials and equipment that are resistant to flood damage caused by the regulatory flood elevation.
- [(c)] (3) Use construction methods and practices that will minimize damage caused by the regulatory flood.
- [(d)] (4) Be consistent with the need to minimize damage by the regulatory flood to the best available technological and practical design and construction.
- [(e)] (5) Provide utilities and facilities (including but not limited to sewers, water, electric, telephone and gas) to be designed, located and constructed to minimize or eliminate flood damage caused by the regulatory flood.



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- [(f)] (6) Provide drainage to minimize damage by the regulatory flood in accordance with the storm drainage standards of the department.
- [(g)] (7) For new or replacement potable water system and facilities, be designed to minimize or eliminate infiltration of flood waters into the systems.
- [(h)] (8) For new or replacement sanitary sewer system and waste disposal system, be designed, located and constructed so as to minimize impairment to them or contamination from them during and subsequent to flooding by regulatory flood.”

SECTION 4. Section 21-9.10-5, Revised Ordinances of Honolulu 1990, as amended, (“Floodway district”) is amended to read as follows:

“Sec. 21-9.10-5 Floodway district.

The floodway identified on the flood maps and located within areas of special flood hazard is the watercourse reserved to discharge the regulatory flood. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which could carry debris, and erosion potential, the following provisions shall apply:

- (a) Within the floodway district, the following uses having a low flood damage potential and not obstructing the regulatory flood nor affecting the capacity of the floodway shall be permitted as under the underlying zoning district and which are not prohibited by any other laws or ordinances; and provided, they [do not affect the capacity of the floodway or any tributary or any other drainage facility or system] comply with the standards of subsection (b) and will not cause any increase in regulatory flood elevations:
 - (1) Public and private outdoor recreational facilities, lawn, garden and play areas;
 - (2) Agricultural uses including farming, grazing, pasture and outdoor plant nurseries;
 - (3) Drainage improvements, such as dams, levees, channels and bridges.
 - (4) Streets, roadways, off-street parking lots, including private driveways, bridges and walkways.



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- (b) [Temporary or permanent structures, fill, storage of material or equipment or other improvements which affect the capacity of the floodway or increase the regulatory flood elevations shall not be allowed. Construction and improvements shall be subject to documentation by studies and data by a registered professional engineer that, to the best available technical knowledge and information, encroachment shall not result in any increase in the regulatory flood elevations during occurrence of the regulatory flood.] Any temporary or permanent encroachment, including fill, structures, storage of material or equipment, or other development within the floodway, shall be prohibited unless certification and supporting data, including hydrologic and hydraulic analyses performed in accordance with standard engineering practice, are provided by a licensed engineer demonstrating that the proposed encroachment will not cause any increase in regulatory flood elevations during the occurrence of the regulatory flood.

SECTION 5. Section 21-9.10-7, Revised Ordinances of Honolulu 1990, as amended, ("Coastal high hazard district") is amended by amending subsection (b) to read as follows:

"(b) In addition to Section 21-9.10-4, the following standards shall be applicable in the coastal high hazard district:

- (1) (A) All construction and improvements shall have the lowest floor, including basements, elevated to or above the regulatory flood elevation and securely anchored to piles or columns to resist movement and flotation and such foundation is able to resist the impact and calculated forces of the regulatory flood. Maximum height in agricultural, country or residential districts may be exceeded by no more than five feet, provided such additional height shall not be greater than 25 feet above the regulatory flood elevation. This provision shall also apply to detached dwellings and duplex units in apartment and apartment mixed use districts.
- (B) Piles or column foundations and structures attached thereto shall be anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Wind and water loading values shall each have a one percent chance of being equaled or exceeded in any given year.



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- (C) A registered professional architect or engineer shall develop or review the design, specifications and plans and certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of Sections 21-9.10 through 21-9.10-14, and that any development in the coastal high hazard district, including structures and improvements, would not affect the regulatory flood nor aggravate existing flood-related erosion hazards.
- (2) (A) All construction and improvements shall have the space below the regulatory flood elevation reasonably free of obstruction or constructed with "breakaway walls," open wood latticework, or insect screening intended to collapse under wind and water loads without causing collapse, displacement or other structural damage to the elevated portion of the structure or supporting foundation.
- (B) A breakaway wall shall have a design-safe loading resistance of not less than 10 and not more than 20 pounds per square foot, or a registered professional architect or engineer certifies that the breakaway wall shall collapse from a water load less than that which would occur during the regulatory flood. Such enclosed space shall be usable solely for parking of vehicles, building access or storage.
- (3) The use of fill for structural support of buildings shall be prohibited.
- (4) All new development shall be constructed landward of the reach of the mean high tide.
- (5) Human alterations of sand dunes and mangrove stands which would increase potential flood damage shall be prohibited.
- (6) Within the coastal high hazard district, the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) shall be at or above the regulatory flood."



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SECTION 6. Section 21-9.10-8, Revised Ordinances of Honolulu 1990, as amended, ("General floodplain district") is amended by amending subsection (b) to read as follows:

"(b) The director, with the recommendation of the [chief engineer or other] appropriate [agency] agencies, shall evaluate and determine whether the proposed project is located within a floodway or flood fringe area and review the related flood data such as flood elevation, riverine flood velocities, boundaries, etc."

SECTION 7. Section 21-9.10-9, Revised Ordinances of Honolulu 1990, as amended, ("Developments adjacent to drainage facility outside the flood hazard district") is amended to read as follows:

"Sec. 21-9.10-9 Developments adjacent to drainage facility outside the flood hazard district.

- (a) Applications for building permits or development projects located on property encompassing or adjacent to a property with any stream, river or drainage facility shall be subject to review and approval of the [chief engineer] director. [Upon request by the chief engineer, the] The application shall include information signed and stamped by a registered professional engineer, in accordance with Section 21-9.10-10, to evaluate the potential flooding of the area.
- (b) If it is determined that the proposed project is within a floodway area, the project shall comply with the provisions and standards of the floodway district. If it is determined that the proposed project is within a flood fringe area, the project shall comply with the provisions and standards of the flood fringe district.
- (c) No drainage facility, river or stream shall be modified, constructed, lined or altered in any way unless approved by the [chief engineer] director."



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SECTION 8. Section 21-9.10-11, Revised Ordinances of Honolulu 1990, as amended, ("Flood hazard variance") is amended by amending subsection (a) to read as follows:

"(a) The following, as permitted by other ordinances and regulations, unless otherwise stated, may be permitted as a flood hazard variance from Sections 21-9.10 through 21-9.10-14 subject to review and approval of the director:

- (1) New structures, except in the floodway district, which are to be erected on a lot of one-half acre or less in area, contiguous to and surrounded by lots with existing structures constructed below the regulatory flood elevation;
- (2) Uses, structures and standards in the floodway district as permitted under the underlying zoning district, which do not result in any increase in the regulatory flood elevation;
- (3) Standards in the flood fringe and coastal high hazard districts, except for height standards.
- (4) Reconstruction or rehabilitation of historic structures upon a determination that the proposed reconstruction or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure;
- (5) Improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by a code enforcement official and which are the minimum necessary to assure safe living conditions;
- (6) Construction and improvement of bathhouses, comfort stations, canoe halau, boathouses and other similar structures;
- (7) Accessory parking structures (detached garages), except in the coastal high hazard district;
- (8) Certain agricultural structures such as farm storage buildings, grain bins, general purpose barns, etc. which are used exclusively in connection with the production, harvesting, storage, drying, or raising of agricultural commodities, including the raising of livestock;



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(9) Other minor accessory structures.

SECTION 9. Section 21-9.10-11, Revised Ordinances of Honolulu 1990, as amended, ("Flood hazard variance") is amended by amending subsection (c) to read as follows:

"(c) The director shall refer the request to the [chief engineer, building superintendent or other] appropriate [agency] agencies for their comments and recommendations. A flood hazard variance may be granted upon showing of good and sufficient cause, and determination that (1) failure to grant the variance would result in exceptional hardship to the applicant; (2) the variance will not result in increase to flood elevations, additional threat to public safety, extraordinary public expense or conflict with other laws or regulations, except as otherwise stated; and (3) a variance granted within a floodway district would not result in increase of the regulatory flood elevation.

The director may approve, approve with conditions or deny the application. Such conditions may include:

- (1) Modification of the project, including the sewer and water supply facilities.
- (2) Limitations on periods of use and operation.
- (3) Imposition of operational controls, sureties and deed restrictions.
- (4) Requirements for construction of channels, dikes, levees and other flood-protective measures.
- (5) Floodproofing measures designed consistent with the regulatory flood elevation, flood velocities, hydrostatic and hydrodynamic forces and other factors associated with the regulatory flood.
- (6) Other conditions as may be required by the director."



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SECTION 10. Section 21-9.10-13, Revised Ordinances of Honolulu 1990, as amended, ("Exemptions") is repealed in its entirety and replaced as follows:

"Sec. 21-9.10-13 Certification standards.

Pre-construction and post-construction certification of elevation and floodproofing of new construction, development and improvements within the flood hazard districts shall be submitted to the department and shall be maintained as a matter of public record.

(a) Pre-construction certification.

Requirements for approval of the building permit shall include the following items, as applicable, and any additional items as required by the director to promote public welfare and safety:

(1) Certification of building plans.

Each set of building plans shall be signed and stamped by an engineer or architect licensed in the State of Hawaii certifying the accuracy of the flood boundary and elevation information.

(2) Flood Hazard District Certification.

The City and County of Honolulu applicable flood hazard district certification form, as amended, shall be completed and signed and stamped by a engineer or architect licensed in the State of Hawaii

(3) Floodproofing Certification.

The Federal Emergency Management Agency "Floodproofing Certificate" form, as amended, shall be completed and signed and stamped by a engineer or architect licensed in the State of Hawaii.



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(4) Certification of No-rise Determination.

For all construction and improvements in the floodway, the Federal Emergency Management Agency "No-rise Certification" form, as amended, shall be completed and signed and stamped by an engineer licensed in the State of Hawaii.

(b) Post-construction certification.

As a condition for the closing of the building permit or issuance of a certificate of occupancy for a new or substantially improved structure in the flood hazard district, the Federal Emergency Management Agency "Elevation Certificate", as amended, shall be completed and signed and stamped by a land surveyor, engineer or architect licensed in the State of Hawaii."

SECTION 11. Ordinance material to be repealed is bracketed and 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.



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SECTION 12. This ordinance shall take effect upon its approval.

INTRODUCED BY:

Donald D. Ogden

DATE OF INTRODUCTION:

JAN 27 2004

Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Don S. Kato

Deputy Corporation Counsel

APPROVED this 7th day of April, 2004.

Benjamin B. Lee

BENJAMIN B. LEE, ACTING MAYOR
City and County of Honolulu

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII
CERTIFICATE

ORDINANCE 04-09

BILL 5 (2004)

Introduced: 1/27/04 By: DONOVAN DELA CRUZ (BY REQUEST)

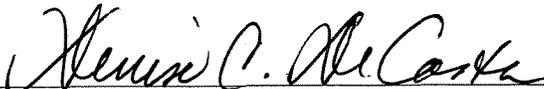
Committee: ZONING

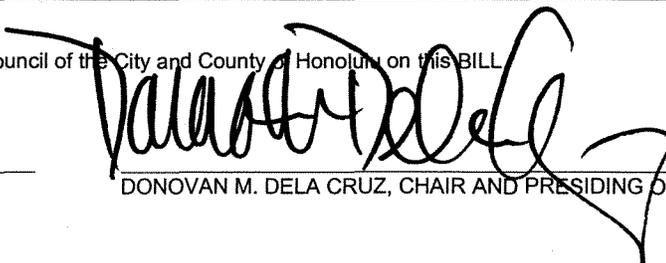
Title: A BILL FOR AN ORDINANCE TO AMEND CHAPTER 21, REVISED ORDINANCES OF HONOLULU 1990, AS AMENDED (THE LAND USE ORDINANCE), RELATING TO THE LAND USE ORDINANCE.

Links: Bill 5 (2004)
CR-41
CR-81
Related Communications
Ordinance 04-09

Council	1/28/04	Passed first reading and referred to Committee on Zoning Cachola Y Dela Cruz.... Y Djou..... Y Gabbard..... Y Garcia ... Y Kobayashi.... Y Marshall Y Okino..... Y Tam Y
Zoning	2/3/04	CR-41 (2004) – Reported out of committee for passage on second reading and scheduling of a public hearing.
Publish	2/7/04	Public Hearing Notice published in Honolulu Star-Bulletin
Council/ Public Hearing	2/18/04	Passed second reading, CR-41 adopted, public hearing closed and referred to Zoning Committee. Cachola Y Dela Cruz.... Y Djou..... Y Gabbard..... Y Garcia ... Y Kobayashi.... Y Marshall Y Okino..... Y Tam Y
Publish	3/2/04	Second Reading Notice published in the Honolulu Star-Bulletin.
Zoning	3/9/04	CR-81 – Reported out of committee for passage on third reading.
Council	3/24/04	Passed third reading and CR-81 adopted. Cachola Y Dela Cruz.... Y Djou..... Y Gabbard..... Y Garcia ... Y Kobayashi.... Y Marshall Y Okino..... Y Tam Y
Mayor	3/25/04	Transmitted to the Mayor for approval and deadline for Mayor to return bill is 4/12/04.
Mayor	4/7/04	Returned bill approved.
Published	4/19/04	A Bill for an Ordinance title published in the Honolulu Star-Bulletin

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.


DENISE C. DE COSTA, CITY CLERK


DONOVAN M. DELA CRUZ, CHAIR AND PRESIDING OFFICER