



FILED  
AUG 15 2009  
PURSUANT TO ROH Sec. 1-2.4

A BILL FOR AN ORDINANCE

RELATING TO FIRE PROTECTION.

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

SECTION 1. The purpose of this ordinance is to promote fire safety on and near agricultural land. It does so by establishing, subject to exceptions, a requirement that the owner of land zoned for agricultural use, which land adjoins land zoned for residential use, shall maintain the land free and clear of combustible agricultural waste for a distance from the residential property line prescribed by, and in a manner prescribed by, rules adopted by the fire chief.

SECTION 2. Chapter 20, Revised Ordinances of Honolulu 1990, is amended by adding a new article to be appropriately designated by the revisor of ordinances and to read as follows:

**“Article \_\_. Fire Hazard Areas**

**Sec. 20-\_\_1 Definitions.**

For purposes of this article, the following terms shall have the following meanings:

“City” includes any city officer or employee designated by the mayor to carry out the provisions of this article.

“Combustible agricultural waste” means vegetative and/or animal husbandry wastes which conform to one or more combustible fuel models established in the rules adopted by the fire chief pursuant to Section 20-\_\_2.

“Fire chief” means the fire chief of the City and County of Honolulu.

“Land zoned for agricultural use,” means land zoned under Chapter 21 in the AG-1 restricted agricultural or AG-2 general agricultural district.

“Land zoned for residential use,” means land zoned under Chapter 21 in the R-3.5, R-5, R-7.5, R-10, or R-20 residential district; the A-1 low-density, A-2 medium-density or A-3 high-density apartment district; or the AMX-1 low-density, AMX-2 medium density or AMX-3 high-density apartment mixed use district.



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**Sec. 20-\_\_2 Clearing of combustible agricultural waste.**

- (a) The owner of land zoned for agricultural use, which land adjoins land zoned for residential use, shall maintain the land free and clear of all combustible agricultural waste matter for a distance from the land zoned for residential use prescribed by, and in a manner prescribed by, rules adopted by the fire chief under HRS Chapter 91. A parcel of land shall be deemed to “adjoin” another parcel, even if the two parcels are separated by a right-of-way, provided the right-of-way is less than thirty feet in width.
  
- (b) If the city determines that a landowner is not in compliance with subsection (a), the city may have the landowner served, by mail or delivery, with a notice of noncompliance and order pursuant to this section.
  - (1) Contents of Notice of Noncompliance. The notice of noncompliance shall include at least the following information:
    - (A) Date of the notice;
    - (B) The name and address on the landowner noticed; and
    - (C) The nature, location and time of noncompliance, including, but not necessarily limited to, the zoning designation of the land upon which the combustible agricultural waste is found, the zoning designation of adjoining lands, and a description of the combustible agricultural waste observed and its location and distance from adjoining land zoned for residential use and rights-of-way.
  
  - (2) Contents of Order. The order may require that the noticed landowner do any or all of the following:
    - (A) Cease and desist from noncompliance with subsection (a);
    - (B) Correct the conditions of noncompliance at the landowner’s own expense before a date specified in the order.

The order shall advise the landowner that the order shall become final 30 days after the date of its mailing or delivery. The order shall also advise that the city’s action may be appealed to the city.



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- (3) Effect of Order—Right to Appeal. The provisions of the order issued by the city under this section shall become final 30 days after the mailing or delivery of the order. The landowner may appeal the order to the city. However, an appeal to the city shall not stay any provision of the order.
- (4) Judicial Enforcement of Order. The city may institute a civil action in any court of competent jurisdiction for the enforcement of any order issued pursuant to this section.
- (c) If an owner to whom an order is issued under subsection (b) fails to comply with or appeal the order within 14 days of receipt of a notice of noncompliance and order from the city, the city, or a private party contracted by the city, may enter upon the owner's land to the extent necessary to clear all combustible agricultural waste from the area required under subsection (a) to be clear of such waste. If the city or its contractor clears such waste, the city shall charge the landowner for any costs incurred by the city to clear out the combustible agricultural waste.

**Sec. 20-\_\_3 Exceptions.**

The fire chief may adopt rules pursuant to HRS Chapter 91 to establish reasonable exceptions to the requirements of Section 20-\_\_2 (a) and the rules adopted thereunder for situations in which:

- (a) There exists a minimal threat of fire to residential structures; or
- (b) Strict compliance with this article would pose a severe hardship to the owner of the land zoned for agricultural use, and the owner agrees to alternative measures proposed by the fire chief to mitigate the threat of fire to residential structures on the adjoining land zoned for residential use.”



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SECTION 3. This ordinance shall take effect upon its approval; provided that the owners of land zoned for agricultural use shall comply with the requirements of Section 2 of this ordinance and the rules of the fire chief adopted thereunder no later than 60 days following the fire chief's adoption of the rules required under Section 20-\_\_\_.2, Revised Ordinances of Honolulu 1990, as enacted by this ordinance.

INTRODUCED BY:

*[Handwritten signatures]*

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DATE OF INTRODUCTION:

AUG 15 2007

Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
Deputy Corporation Counsel

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
MUFI HANNEMANN, Mayor  
City and County of Honolulu

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