



A BILL FOR AN ORDINANCE

RELATING TO NONCONFORMING USES.

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 uses.

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

- "(c) Nonconforming Uses. Strict limits are placed on nonconforming uses to discourage the perpetuation of these uses, and ~~[thus]~~ to facilitate the timely conversion to conforming uses.
- (1) A nonconforming use ~~[shall]~~ may not extend to any part of ~~[the]~~ a structure or lot ~~[which]~~ that was not arranged or designed for such use at the time of adoption of the provisions of this chapter or subsequent amendment; nor ~~[shall]~~ may the nonconforming use be expanded in any manner, or the hours of operation increased~~[-Notwithstanding the foregoing,];~~ provided that a recreational use that is accessory to the nonconforming use may be expanded or extended if the following conditions are met:
- (A) The recreational accessory use will be expanded or extended to a structure in which a permitted use also is being conducted, whether that structure is on the same lot or on an adjacent lot; and
- (B) The recreational accessory use is accessory to both the permitted use and the nonconforming use.
- (2) Any nonconforming use that is discontinued for any reason for 12 consecutive months, or for 18 months during any three-year period, ~~[shall]~~ may not be resumed; ~~[however,];~~ provided that a temporary cessation of the nonconforming use for purposes of ordinary repairs for a period not exceeding 120 days during any 12-month period ~~[shall]~~ will not be considered a discontinuation.
- (3) Work may be done on any structure devoted in whole or in part to ~~[any]~~ a nonconforming use~~[-];~~ provided that work on the nonconforming use portion ~~[shall]~~ of the structure must be limited to ordinary repairs. For purposes of this subsection, the term "ordinary repairs" ~~[shall]~~ means only ~~[be construed to include]~~ the following:



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- (A) The repair or replacement of existing walls, floors, roofs, fixtures, wiring, or plumbing; ~~or~~
- (B) ~~[May include work]~~ Work required to comply with city, state, or federal mandates ~~[such as]~~, including but not limited to~~;~~ the Americans with Disabilities Act (ADA) or the National Environmental ~~[Protection]~~ Policy Act (NEPA); or
- (C) ~~[May include interior]~~ Interior and exterior alterations, provided that there is no physical expansion ~~[of the nonconforming use or]~~ nor intensification of the nonconforming use~~;~~;

~~[Further,]~~ provided that ordinary repairs [shall] must not exceed 10 percent of the current replacement cost of the structure within a 12-month period, and the floor area of the structure, as it existed on October 22, 1986, or on the date of any subsequent amendment to this chapter pursuant to which a lawful use became nonconforming, [shall] must not be increased; and further provided that the 10 percent of the current replacement cost limitation does not apply to work involving that portion of a structure devoted to nonconforming hotel use in the Diamond Head special district.

- (4) Any nonconforming use may be changed to another nonconforming use, subject to the prior approval of the director~~;~~; provided that:
 - (A) The change in use ~~[may be made]~~ is only permitted if any adverse effects on neighboring occupants and properties will not be greater than if the original nonconforming use were to be continued; and
 - (B) The director may impose conditions on the change in nonconforming use necessary or appropriate to minimize impact ~~[and/or]~~ or prevent greater adverse effects related to a proposed change in use. Other than as provided as "ordinary repairs" under subdivision (3), improvements intended to accommodate a change in nonconforming use or tenant ~~[shall]~~ are not ~~[be]~~ permitted.
- (5) Any action taken by an owner, lessee, or authorized operator ~~[which]~~ that reduces the negative effects associated with the operation of a nonconforming use ~~[—such as]~~, including but not limited to~~;~~ reducing hours of operation or exterior lighting intensity~~[—shall]~~, may not be reversed."



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ORDINANCE 21-30

BILL 32 (2021), CD1

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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.

SECTION 4. This ordinance takes effect upon its approval.

INTRODUCED BY:


Tommy Waters (br)

DATE OF INTRODUCTION:

June 1, 2021
Honolulu, Hawaii

_____ Councilmembers

APPROVED AS TO FORM AND LEGALITY:



Deputy Corporation Counsel
JACOB L. GARNER

APPROVED this 20th day of September, 2021.



RICK BLANGIARDI, Mayor
City and County of Honolulu

21-30

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII
CERTIFICATE

BILL 32 (2021), CD1

Introduced: 06/01/21 By: TOMMY WATERS - BY REQUEST Committee: ZONING AND PLANNING (ZP)

Title: RELATING TO NONCONFORMING USES.


Voting Legend: * = Aye w/Reservations

06/01/21	INTRO	Introduced.
06/30/21	CCL	Passed first reading. 9 AYES: CORDERO, ELEFANTE, FUKUNAGA, KIA'ĀINA, SAY, TSUNEYOSHI, TULBA, TUPOLA, WATERS
07/22/21	ZP	Reported out for passage on second reading and scheduling of a public hearing as amended in CD1 form. CR-224 4 AYES: CORDERO, ELEFANTE, KIA'ĀINA, SAY
07/30/21	PUBLISH	Public hearing notice published in the Honolulu Star-Advertiser.
08/11/21	CCL/PH	Committee report adopted. Bill passed second reading as amended, public hearing closed and referred to committee. 8 AYES: CORDERO, ELEFANTE, FUKUNAGA, SAY, TSUNEYOSHI, TULBA, TUPOLA, WATERS 1 ABSENT: KIA'ĀINA
08/18/21	PUBLISH	Second reading notice published in the Honolulu Star-Advertiser.
08/26/21	ZP	Reported out for passage on third reading. CR-258 4 AYES: CORDERO, ELEFANTE, KIA'ĀINA, SAY
09/08/21	CCL	Committee report adopted and Bill passed third reading. 9 AYES: CORDERO, ELEFANTE, FUKUNAGA, KIA'ĀINA, SAY, TSUNEYOSHI, TULBA, TUPOLA, WATERS

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



TOMMY WATERS, CHAIR AND PRESIDING OFFICER

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