MEMORANDUM

TO: Arthur Challacombe, Chair and Members of the Planning Commission
FROM: Kathy K. Sokugawa, Acting Director Department of Planning and Permitting

SUBJECT: Request for Amendments to Chapter 21, Revised Ordinances of Honolulu 1990 (The Land Use Ordinance), Relating to Detached Dwellings

The Department of Planning and Permitting (DPP) is pleased to submit for your review and recommendation three Bills, which would amend certain sections of the Land Use Ordinance (LUO) to regulate large detached dwellings. Two of the Bills are City Council-initiated and were transmitted to the DPP by Resolution No. 19-143, CD1, FD1 (attached to the staff report as Bill A) and Resolution 19-252 (attached to the staff report as Bill B). The third is an alternative version proposed by the DPP (attached to the staff report as Bill C) that combines elements of both Council-initiated Bills. The DPP recommends approval of Bill C.

Bill A, associated with Resolution No. 19-143, CD1, FD1, proposes to:

- Limit the number of bathrooms within each dwelling unit, rather than limiting the number of bathrooms based on the zoning lot;
- Increase the number of bathrooms allowed in each dwelling unit as the size of the zoning lot increases (i.e., dwellings on larger lots could have more bathrooms than dwellings on smaller lots); and
- Set the absolute maximum number of bathrooms at 7 and one 0.5 bathroom in a dwelling unit, rather than the existing limitation of 9 and one 0.5 bathrooms on a zoning lot.
Bill B, associated with Resolution No. 19-252, proposes to increase the period during which DPP inspectors may conduct post-construction inspections of large detached dwellings and duplexes from one year to two. Essentially, this change would extend the duration of the temporary Certificate of Occupancy from one to two years.

Bill C, DPP's recommendation, consolidates the intent of Bill A and Bill B, while incorporating slight changes to bathrooms, wet bars, and the inspection period as summarized below:

- Limit the number of bathrooms in each dwelling unit within the Residential Districts to seven;
- Modify the definition of bathroom to remove the .5 bathroom;
- Limit the maximum number of wet bars to one per dwelling;
- Clarify the wet bar definition to allow a refrigerator and prohibit a heating device, including a 220-volt outlet; and
- Increase the length of inspections for detached dwellings and duplexes exceeding a 0.6 floor area ratio from one year to two years.

We believe these recommendations will support the general intent of the Council-initiated Resolutions, addresses issues the Department has come across when reviewing and inspecting detached dwellings, and clarifies definitions for the benefit of the Department and the public.

Enclosed you will find our Staff Report, the Council-initiated Bills (Bill A and Bill B), and the DPP Bill (Bill C). We would be happy to answer any questions that you may have as part of your deliberations.

Enclosures
COUNCIL-INITIATED LAND USE ORDINANCE AMENDMENTS
RELATING TO DETACHED DWELLINGS
RESOLUTION NOS. 19-143, CD1, FD1 AND 19-252

Staff Report

JUNE 1, 2020

I. Introduction

On May 1, 2019, the City Council passed Ordinance 19-3, adopting new regulations to limit the proliferation of very large detached dwellings in Oahu’s neighborhoods and increase the ability of the Department of Planning and Permitting (DPP) to perform post-construction inspections. Among other things, Ordinance 19-3 limited the number of bathrooms and wet bars allowed on a zoning lot and allow inspectors to enter the new dwelling unit for up to one year after the dwelling construction was complete. This allowed inspectors to ensure that unlawful modifications are not made to the dwelling after the building permit process concludes.

The City Council has since adopted two Resolutions aimed at further modifying the large detached dwelling regulations in the Land Use Ordinance (LUO), Chapter 21, Revised Ordinances of Honolulu.

A. Resolution 19-143, CD1, FD1: On September 4, 2019, the City Council adopted Resolution 19-143, CD1, FD1 (attached as Bill A), urging the DPP to initiate an LUO amendment that would:
   - Limit the number of bathrooms within each dwelling unit, rather than limiting the number of bathrooms based on the zoning lot;
   - Increase the number of bathrooms allowed in each dwelling unit as the size of the zoning lot increases (i.e., dwellings on larger lots could have more bathrooms than dwellings on smaller lots); and
   - Set the absolute maximum number of bathrooms at 7 and one 0.5 bathroom in a dwelling unit, rather than the existing limitation of 9 and one 0.5 bathrooms on a zoning lot.

B. Resolution 19-252: On December 4, 2019, City Council adopted Resolution No. 19-252 (attached as Bill B), urging the DPP to initiate an LUO amendment that would increase the period during which DPP inspectors may conduct post-construction inspections of large detached dwellings and duplexes from one year to two. Essentially, this change would extend the duration of the temporary CO from one to two years.

C. DPP’s Recommendation: Generally, the DPP supports these proposed amendments, but recommends slight changes to the bathroom regulations and modifies the wet bar regulations. The DPP’s recommended draft bill is attached as Bill C.
II. Analysis

A. **Bathrooms:** Currently, the LUO regulates the number of bathrooms based on the size of the zoning lot in a tiered system where a larger lot may have more bathrooms, as shown in Table 1 below. Under the Council-proposed draft bill (Bill A), the lot size would be used to determine the total number of bathrooms allowed in each dwelling unit rather than on the zoning lot overall, as shown in Table 2 below.

<table>
<thead>
<tr>
<th>Zoning lot size (square feet)</th>
<th>Number of bathrooms per zoning lot:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to 5,999</td>
<td>4 and one 0.5 bathroom</td>
</tr>
<tr>
<td>6,000 to 6,999</td>
<td>5 and one 0.5 bathroom</td>
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<tr>
<td>7,000 to 7,999</td>
<td>6 and one 0.5 bathroom</td>
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<tr>
<td>8,000 to 8,999</td>
<td>7 and one 0.5 bathroom</td>
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<tr>
<td>9,000 to 9,999</td>
<td>8 and one 0.5 bathroom</td>
</tr>
<tr>
<td>10,000 and up</td>
<td>9 and one 0.5 bathroom</td>
</tr>
</tbody>
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<table>
<thead>
<tr>
<th>Zoning lot size (square feet)</th>
<th>Number of bathrooms per dwelling unit cannot exceed:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to 5,999</td>
<td>4 and one 0.5 bathroom</td>
</tr>
<tr>
<td>6,000 to 6,999</td>
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</tr>
<tr>
<td>8,000 and up</td>
<td>7 and one 0.5 bathroom</td>
</tr>
</tbody>
</table>

As stated within Resolution 19-143, CD1, FD1, the current bathroom regulation makes it difficult to develop multiple dwellings on larger lots.\(^1\) For example, under the current regulation, a 20,000-square-foot lot within the R-5 Residential District that can be developed with four single-family dwelling units would need to divvy up nine bathrooms and one 0.5 bathroom between the four units. Under the Council’s

\(^1\) LUO Section 21-8.20A allows up to eight dwelling units to be placed on a single zoning lot, provided, among other things, that the zoning lot has a lot area equal to or greater than the minimum lot size for the underlying residential zoning district multiplied by the number of dwelling units to be placed on the lot. Persons developing multiple detached dwelling units on a single zoning lot often place the lot under a condominium property regime (CPR) under Hawaii Revised Statutes Chapter 514B so that each dwelling unit and appurtenant underlying portion of the zoning lot is a separate condominium unit, often under separate ownership. However, a CPR lot is not equivalent to a zoning lot or related to a property’s zoning, allowable uses, or development potential, including the number of bathrooms allowed on a site.
proposed Bill A, the same 20,000-square-foot lot developed with four single-family dwellings could have seven bathrooms and one 0.5 bathroom per dwelling unit.

Development of large lots with multiple dwelling units is important to meet the housing needs of Oahu within the current urban growth boundary without changing the character of existing neighborhoods. Additionally, the existing bathroom limitation may negatively impact development of lots to support extended, multi-generational households and accessory dwelling units.

The DPP supports limiting the number of bathrooms in a dwelling unit rather than on a zoning lot. However, rather than having the number change with the size of the zoning lot, we recommend one bathroom limit for all detached dwelling units. Further, we recommend removing references to half bathrooms in the code.

**Based on our review of Building Permit Plans, we believe seven bathrooms is an appropriate maximum per dwelling unit.** The new regulations of Ordinance 19-3 collectively limit the development of overly large dwellings on smaller lots by imposing density limits, increasing yard requirements, limiting impervious surfaces, and requiring workable parking layouts. As such, we believe a modest increase in the number of bathrooms allowed on lots less than 7,000 square feet in size will not result in much larger dwellings or increase the likelihood that the dwelling will later be split into more housekeeping units.

Also, one simplified standard for bathrooms will allow more efficient plan checking and building permit processing. We find that simpler regulations that can be clearly communicated to the development community increase our speed in permit processing in part by reducing the number of times we need to communicate with Applicants, or return their plans for modifications.

Another reason more bathrooms are sometimes needed on smaller zoning lots is because a wide variety of dwelling types are provided these lots. For example, Adult Residential Care Homes are allowed in all Residential Districts, regardless of the lot size. In many cases, care homes have multiple bathrooms to service the care recipients, the resident manager, and the resident manager's family, who also may reside on site. Limiting a care home on a 5,000-square-foot lot to four and one half bathrooms may limit the level of care the operator would be able to provide.

Under Ordinance 19-3, the City Council defined half bathrooms within the definition of bathroom. In implementing the new regulations, however, we have found there is little benefit in monitoring half bathrooms, which have been a source of confusion among Applicants. Limiting the overall number of bathrooms is likely to disincentivize splitting a house into multiple dwelling units, which can be a health and safety issue for Oahu's residents and neighborhoods. Anecdotally, there does not appear to be a strong correlation between *half bathrooms* and the proliferation of large detached dwelling units, because full bathrooms, not half bathrooms, are more likely to allow a person to convert a portion of a dwelling unit into an unlawful housekeeping unit. Also, there are dwellings designed with more than one 0.5 bathroom and we find no specific reason to impose such a limitation.
In short, we understand the necessity of regulating the number of bathrooms, and we believe the owner/occupant of the dwelling should be able to decide the composition of the bathrooms in order to better fit their needs. **Therefore, we suggest that the bathroom definition be modified to specify that it is a room, or combination of adjoining rooms that provide access to one another, that contain any two of the following items: bath/shower, sink, or toilet.**

B. **Wet bars:** Enclosed Bills A and B do not address wet bars. However, the DPP has identified certain, specific modifications that would help us implement the wet bar regulations more effectively.

The LUO defines a kitchen as having three elements: Fixtures, appliances, or devices for 1) heating or cooking food, 2) washing utensils used for dining and food preparation and/or for washing and preparing food, and 3) refrigeration of food. Historically, the DPP allowed two of those elements to be placed within a wet bar area without considering it a kitchen. However, Ordinance 19-3 added a specific wet bar definition. Now the LUO defines a wet bar as "a serving counter in a dwelling unit that is equipped with a small single compartment sink that is not part of a kitchen, bathroom, or laundry room."

This definition has helped reduce the frequency of wet bars being converted into full kitchens, but we believe further clarification is warranted. When interpreted strictly, a wet bar can only have a sink and no other elements of a kitchen. However, the Merriam-Webster Dictionary definition of a wet bar is “a bar for mixing drinks (as in a home) that contains a sink with running water.” As many beverages require refrigeration, we find it is not uncommon for a wet bar area to have a refrigerator. However, a heating element is not a common element of a wet bar and should be expressly prohibited.

Therefore we recommend that the wet bar definition be modified to allow a refrigerator, but prohibit any fixture, appliance, or device for heating and cooking food. To further prevent the wet bar from being turned into full kitchen at a later date, we recommend that the wet bar definition prohibit a 220-volt outlet, which is needed for a full-sized stove. Often building permit plans show the wet bar area with a single compartment sink, refrigerator, cabinets, countertops, and an empty space about the size of a standard stove. Plans sometimes show a 220-volt outlet but no stove. Other times building inspectors observe 220-volt outlets in the wet bar area when the house is finished. Clarifying the definition in this way makes the City Council’s intent clearer to the public, allows plan reviewers to address it during building permit review, and makes it easier for inspectors to enforce in the field.

**We also recommend that the number of wet bars within each dwelling be limited to one.** Under Ordinance 19-3, the number of wet bars allowed within a dwelling unit is based on the size of the zoning lot - a lot with less than 10,000 square feet could have one wet bar, and a lot bigger than that could have two. Similar to the bathroom limitation, the wet bar limitation is based on the size of the zoning lot. We believe that there is no rationale to allow a single dwelling unit on larger lot to have two wet bars while limiting a single dwelling unit on a smaller lot to
one wet bar, particularly since lots that are under or over 10,000 square feet could be developed with multiple dwelling units depending on the zoning district.

To revisit the example of a 20,000-square-foot lot in the R-5 Residential District, under today's regulations the four dwelling units could each have a kitchen but have to divvy up two wet bars. Wet bars are commonly used when entertaining guests. Therefore, those lots that are large enough to have more than two dwelling units would be negatively impacted.

Through our experience and review of building permit plans, we found that in a large number of cases, one wet bar within a dwelling unit was not an issue. Rather, health and safety problems arise when there are multiple wet bars in a dwelling or when wet bars are later converted into full kitchens, creating illegal housekeeping units. We believe that allowing one wet bar within each dwelling unit will not contribute to the development of a "monster home."

To revisit the example of a 20,000-square-foot lot in the R-5 Residential District, under today's regulations the four dwelling units could each have a kitchen and two wet bars, resulting in four kitchens and eight wet bars on the lot. Health and safety problems come when these wet bars are later converted into full kitchens, creating illegal housekeeping units. If those dwellings were successfully, albeit unlawfully, converted into three dwellings each, the 20,000-square-foot lot would be accommodating 12 multi-family dwelling units rather than four single-family dwellings. Again, limiting the kind of fixtures will help with enforcement.

This is problematic for a number of reasons, not least because multi-family dwellings are subject to different building code requirements, infrastructure may be inadequate, and traffic and parking are likely to become a serious issue with so many households on the lot. Therefore, we recommend allowing a maximum of one wet bar within each dwelling unit.2

C. **Inspections**: Currently, upon completion of construction, the DPP may issue a temporary CO for single-family dwellings and duplexes that exceed a floor area ratio (FAR) of 0.6. The temporary CO is valid for one year and during the one-year period, DPP inspectors may conduct periodic inspections to confirm that the dwelling is in the same structural form as shown on the approved building permit plans. At the end of the one-year period, upon final inspection, the DPP may issue a CO and close the building permit. The DPP has no issue with increasing the length of inspections from one to two-years. Increased length of inspections will help deter people from doing illegal dwelling alterations.

This is designed to combat the problem of people skirting the law by illegally reconfiguring detached dwellings or duplexes into multi-family dwellings. There have been cases where unauthorized internal alterations or partitions are constructed after a CO is issued for the dwelling. The two-year window will further discourage the illegal configuration of detached dwellings or duplexes after issuance of a

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2 This would not include utility sinks or outdoor sinks near laundry facilities and pools.
building permit. Therefore, the DPP supports the amendment proposed in Resolution 19-252.

III. **Summary of Recommendations**

The DPP concurs with the general intent of Council-initiated Resolution 19-143, CD1, FD1 to amend the LUO to better regulate the bathroom limitations of detached dwellings and Council-initiated Resolution 19-252 to lengthen the inspection period to discourage the illegal reconfiguration of detached dwellings after issuance of a CO. Rather than recommending the adoption of the two separate Council draft bills (Bill A and Bill B), the DPP has drafted Bill C to consolidate the intent of both Bill A and Bill B and incorporate the additional DPP recommendations. Bill C provides recommendations on bathrooms, wet bars, and inspection periods as summarized below:

- Limit the number of bathrooms for detached dwellings within the Residential Districts to seven;
- Modify the definition of bathroom to remove the 0.5 bathroom;
- Limit the maximum number of wet bars to one per dwelling;
- Clarify the wet bar definition to allow a refrigerator and prohibit a heating device, including a 220-volt outlet; and
- Increase the length of inspections for detached dwellings and duplexes exceeding a 0.6 FAR from one year to two years.

Bill C addresses issues that the Department has come across when reviewing and inspecting detached dwellings and clarifies definitions for the benefit of the Department and the public. We recommend adoption of Bill C.
COUNCIL-INITIATED RESOLUTION 19-143, CD1, FD1
(BILL A)
RESOLUTION

PROPOSING AN AMENDMENT TO CHAPTER 21, REVISED ORDINANCES OF HONOLULU 1990 (THE LAND USE ORDINANCE), AS AMENDED BY ORDINANCE 19-3, RELATING TO DETACHED DWELLINGS.

WHEREAS, on April 17, 2019, the City Council ("Council") passed, on Third Reading, Bill 79 (2018) CD2, FD1, to address the problem of the illegal use of large residential structures in the City's residential districts; and

WHEREAS, the bill subsequently took effect as Ordinance 19-3 on May 1, 2019; and

WHEREAS, ROH Section 21-8.20A allows up to eight dwelling units to be placed on a single zoning lot in a country or residential zoning district, provided, among other things, that the zoning lot has a lot area equal to or greater than the minimum lot size for the underlying country or residential zoning district multiplied by the number of dwelling units to be placed on the lot; and

WHEREAS, persons developing multiple detached dwelling units on a single zoning lot pursuant to this section often place the lot under a condominium property regime under HRS Chapter 514B so that each dwelling unit and appurtenant underlying portion of the zoning lot is a separate condominium unit; and

WHEREAS, the Council finds that the limitations on the number of bathrooms per zoning lot in Ordinance 19-3 are too restrictive when applied to this situation, and therefore desires to make amendments to remedy the problem; and

WHEREAS, Section 6-1513 of the Revised Charter of the City and County of Honolulu 1973 (2017 Edition) ("Charter"), provides that "[a]ny revision of or amendment to the zoning ordinances may be proposed by the council and shall be processed in the same manner as if proposed by the director [of planning and permitting]"); and

WHEREAS, the term "zoning ordinances," as used in Charter Section 6-1513 includes both amendments to the LUO and to ordinances designating particular parcels of property in terms of the LUO; and

OCS2019-0958/9/4/2019 12:20 PM 1
RESOLUTION

WHEREAS, Chapter 2, Article 24, Part A, Revised Ordinances of Honolulu 1990 ("ROH"), establishes procedures and deadlines for the processing of Council proposals to revise or amend the general plan, the development plans, the zoning ordinances, and the subdivision ordinance, and clarifies the responsibility of the Director of Planning and Permitting to assist the Council in adequately preparing its proposals for processing; now, therefore,

BE IT RESOLVED by the Council of the City and County of Honolulu that the Director of Planning and Permitting and the Planning Commission are directed, pursuant to Charter Section 6-1513, and ROH Chapter 2, Article 24, Part A, to process the proposed amendment to ROH Chapter 21 (the "Land Use Ordinance"), attached hereto as Exhibit A, in the same manner as if the proposal had been proposed by the Director; and

BE IT FURTHER RESOLVED that the Director of Planning and Permitting is directed to inform the Council upon the transmittal of the Director's report and the proposed Land Use Ordinance amendment to the Planning Commission; and
BE IT FINALLY RESOLVED that, pursuant to ROH Chapter 2, Article 24, Part A, the Clerk shall transmit copies of this resolution and the Exhibit attached hereto to the Director of Planning and Permitting and the Planning Commission of the City and County of Honolulu, and shall advise them in writing of the date by which the Director's report and accompanying proposed ordinance are required to be submitted to the Planning Commission.

INTRODUCED BY:

Ann Kobayashi

DATE OF INTRODUCTION:

June 13, 2019

Honolulu, Hawaii  Councilmembers
A BILL FOR AN ORDINANCE

RELATING TO DETACHED DWELLINGS.

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

SECTION 1. Purpose. The purpose of this ordinance is to further address the regulations on large residential structures in residential districts.

SECTION 2. Section 21-3.70-1, Revised Ordinances Honolulu 1990 ("Residential uses and development standards"), as amended by Ordinance 19-3, is amended by amending subsection (c) to read as follows:

"(c) Additional Development Standards.

(1) Maximum Height. The maximum height of structures is determined by the building envelope created as the result of the intersection of two planes. The first plane is measured horizontally across the parcel at 25 feet above the high point of the buildable area boundary line. The second plane runs parallel to grade, as described in Section 21-4.60(b), measured at a height of 30 feet. If the two planes do not intersect, then the building envelope is determined by the first plane (see Figure 21-3.10).

(2) Height Setbacks.

(A) Any portion of a structure exceeding 15 feet must be set back from every side and rear buildable area boundary line one foot for each two feet of additional height over 15 feet (see Figure 21-3.10); and

(B) Any portion of a structure exceeding 20 feet must be set back from the front buildable area boundary line one foot for every two feet of additional height over 20 feet.

(3) Except for cluster housing and planned development housing developed pursuant to Section 21-8.50, for zoning lots with one-family or two-family detached dwellings or duplexes:

(A) The maximum density is a floor area ratio of 0.7.
(B) The number of wet bars on one zoning lot (the aggregate of the number of wet bars in each dwelling unit on the zoning lot) must not exceed the following:

<table>
<thead>
<tr>
<th>[Let] Zoning lot size (square feet)</th>
<th>Number of wet bars cannot exceed:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to 9,999</td>
<td>1</td>
</tr>
<tr>
<td>10,000 and up</td>
<td>2</td>
</tr>
</tbody>
</table>

(C) The number of laundry rooms in each dwelling unit must not exceed one.

(D) The number of bathrooms [on one zoning lot (the aggregate of the number of bathrooms) in each dwelling unit [on the zoning lot]] must not exceed the following:

<table>
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<th>Number of bathrooms cannot exceed:</th>
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<tbody>
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<td>Up to 5,999</td>
<td>4 and one 0.5 bathroom</td>
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<tr>
<td>6,000 to 6,999</td>
<td>5 and one 0.5 bathroom</td>
</tr>
<tr>
<td>7,000 to 7,999</td>
<td>6 and one 0.5 bathroom</td>
</tr>
<tr>
<td>8,000 [to 8,999] and up</td>
<td>7 and one 0.5 bathroom</td>
</tr>
<tr>
<td>[9,000 to 9,999]</td>
<td>8 and one 0.5 bathroom</td>
</tr>
<tr>
<td>10,000 and up</td>
<td>9 and one 0.5 bathroom</td>
</tr>
</tbody>
</table>

The number of bathrooms [on one zoning lot] in each dwelling unit must not under any circumstances exceed [9] 7 and one 0.5 bathroom.

(E) The conversion or alteration of a wet bar, laundry room, or bathroom is prohibited unless the conversion or alteration is specifically allowed under a valid building permit.
A BILL FOR AN ORDINANCE

(F) The conversion of a portion of a structure that is excluded from the calculation of floor area pursuant to Section 21-10.1 to a portion of the structure that is included in the calculation of floor area is prohibited unless the conversion is allowed under a valid building permit and complies with the applicable standards of this subdivision.

(G) For one-family or two-family detached dwellings or duplexes constructed pursuant to building permits applied for after the effective date of this ordinance, the impervious surface area of a zoning lot must not exceed 75 percent of the total zoning lot area.

(H) If the floor area ratio exceeds 0.6, the following additional standards apply:

(i) The side and rear yards must be at least eight feet.

(ii) Each dwelling unit in the detached dwelling or duplex must be owner-occupied, and the occupant shall deliver to the department evidence of a real property tax home exemption for the subject property.

(iii) Subsequent inspections.

(aa) Upon the completion of construction and the determination by the department that the detached dwelling or duplex complies with all applicable codes and other laws, conforms to the plans and requirements of the applicable building permit, and is in a condition that is safe and suitable for occupancy, the department may issue a temporary certificate of occupancy that is effective for a period of one year after issuance;

(bb) During the one-year period that a temporary certificate of occupancy is in effect, the department may, with reasonable notice to the holder of the building permit, conduct periodic inspections of the detached dwelling or duplex to confirm that it is in the same structural form as when the temporary certificate of occupancy was issued; and
A BILL FOR AN ORDINANCE

(cc) At the end of the one-year period that a temporary certificate of occupancy is in effect, the department may, upon final inspection, issue a certificate of occupancy for the detached dwelling or duplex and close the building permit."

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:

DATE OF INTRODUCTION:

Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Deputy Corporation Counsel

APPROVED this _____ day of ______________, 20__.

Mayor
City and County of Honolulu
COUNCIL-INITIATED RESOLUTION 19-252
(BILL B)
PROPOSING AN AMENDMENT TO CHAPTER 21, REVISED ORDINANCES OF HONOLULU 1990 (THE LAND USE ORDINANCE), RELATING TO DETACHED DWELLINGS.

WHEREAS, on April 17, 2019, the City Council ("Council") passed, on Third Reading, Bill 79 (2018) CD2, FD1, to address the problem of the illegal use of large residential structures in the City’s residential districts; and

WHEREAS, the bill subsequently took effect as Ordinance 19-3 on May 1, 2019; and

WHEREAS, ROH Section 21-3.70-1(c)(3)(H)(iii), enacted by Ordinance 19-3, allows the Department of Planning and Permitting ("DPP") to conduct periodic inspections for up to a year after the completion of construction of a detached dwelling or duplex exceeding 0.6 floor area ratio; and

WHEREAS, at the end of the one-year period, the DPP may, upon final inspection, issue a certificate of occupancy for the detached dwelling or duplex and close the building permit; and

WHEREAS, the purpose of these provisions is to combat the problem of scofflaws who illegally reconfigure detached dwellings or duplexes into multi-family dwellings after issuance of a certificate of occupancy by the DPP; and

WHEREAS, the Council finds that to further discourage the illegal reconfiguration of large detached dwellings or duplexes after issuance of a certificate of occupancy and closure of the building permit, the period during which the DPP may conduct periodic inspections pursuant to a temporary certificate of occupancy should be lengthened; and

WHEREAS, Section 6-1513 of the Revised Charter of the City and County of Honolulu 1973 (2017 Edition) ("Charter"), provides that "[a]ny revision of or amendment to the zoning ordinances may be proposed by the council and shall be processed in the same manner as if proposed by the director [of planning and permitting];" and

WHEREAS, the term "zoning ordinances," as used in Charter Section 6-1513 includes both amendments to the LUO and to ordinances designating particular parcels of property in terms of the LUO; and

WHEREAS, Chapter 2, Article 24, Part A, Revised Ordinances of Honolulu 1990 ("ROH"), establishes procedures and deadlines for the processing of Council proposals
RESOLUTION

to revise or amend the general plan, the development plans, the zoning ordinances, and
the subdivision ordinance, and clarifies the responsibility of the Director of Planning and
Permitting to assist the Council in adequately preparing its proposals for processing;
now, therefore,

BE IT RESOLVED by the Council of the City and County of Honolulu that the
Director of Planning and Permitting and the Planning Commission are directed,
pursuant to Charter Section 6-1513, and ROH Chapter 2, Article 24, Part A, to process
the proposed amendment to ROH Chapter 21 (the "Land Use Ordinance"), attached
hereto as Exhibit A, in the same manner as if the proposal had been proposed by the
Director; and

BE IT FURTHER RESOLVED that the Director of Planning and Permitting is
directed to inform the Council upon the transmittal of the Director's report and the
proposed Land Use Ordinance amendment to the Planning Commission; and
RESOLUTION

BE IT FINALLY RESOLVED that, pursuant to ROH Chapter 2, Article 24, Part A, the Clerk shall transmit copies of this resolution and the Exhibit attached hereto to the Director of Planning and Permitting and the Planning Commission of the City and County of Honolulu, and shall advise them in writing of the date by which the Director's report and accompanying proposed ordinance are required to be submitted to the Planning Commission.

INTRODUCED BY:

DATE OF INTRODUCTION:

OCT 2 2019
Honolulu, Hawaii

Councilmembers
RELATING TO DETACHED DWELLINGS.

BE IT ORDEIGNED by the People of the City and County of Honolulu.

SECTION 1. The purpose of this ordinance is to further address the problem of the illegal use of large residential structures in residential districts.

SECTION 2. Section 21-3.70-1, Revised Ordinances Honolulu 1990 ("Residential uses and development standards"), as enacted in SECTION 2 of Ordinance 19-3, is amended by amending subsection (c) to read as follows:

"(c) Additional Development Standards.

(1) Maximum Height. The maximum height of structures is determined by the building envelope created as the result of the intersection of two planes. The first plane is measured horizontally across the parcel at 25 feet above the high point of the buildable area boundary line. The second plane runs parallel to grade, as described in Section 21-4.60(b), measured at a height of 30 feet. If the two planes do not intersect, then the building envelope is determined by the first plane (see Figure 21-3.10).

(2) Height Setbacks.

(A) Any portion of a structure exceeding 15 feet must be set back from every side and rear buildable area boundary line one foot for each two feet of additional height over 15 feet (see Figure 21-3.10); and

(B) Any portion of a structure exceeding 20 feet must be set back from the front buildable area boundary line one foot for every two feet of additional height over 20 feet.

(3) Except for cluster housing and planned development housing developed pursuant to Section 21-8.50, for zoning lots with one-family or two-family detached dwellings or duplexes:

(A) The maximum density is a floor area ratio of 0.7.

(B) The number of wet bars on one zoning lot (the aggregate of the number of wet bars in each dwelling unit on the zoning lot) must not exceed the following:
A BILL FOR AN ORDINANCE

<table>
<thead>
<tr>
<th>Lot size (square feet)</th>
<th>Number of wet bars cannot exceed:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to 9,999</td>
<td>1</td>
</tr>
<tr>
<td>10,000 and up</td>
<td>2</td>
</tr>
</tbody>
</table>

(C) The number of laundry rooms in each dwelling unit must not exceed one.

(D) The number of bathrooms on one zoning lot (the aggregate of the number of bathrooms in each dwelling unit on the zoning lot) must not exceed the following:

<table>
<thead>
<tr>
<th>Lot size (square feet)</th>
<th>Number of bathrooms cannot exceed:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to 5,999</td>
<td>4 and one 0.5 bathroom</td>
</tr>
<tr>
<td>6,000 to 6,999</td>
<td>5 and one 0.5 bathroom</td>
</tr>
<tr>
<td>7,000 to 7,999</td>
<td>6 and one 0.5 bathroom</td>
</tr>
<tr>
<td>8,000 to 8,999</td>
<td>7 and one 0.5 bathroom</td>
</tr>
<tr>
<td>9,000 to 9,999</td>
<td>8 and one 0.5 bathroom</td>
</tr>
<tr>
<td>10,000 and up</td>
<td>9 and one 0.5 bathroom</td>
</tr>
</tbody>
</table>

The number of bathrooms on one zoning lot must not under any circumstances exceed 9 and one 0.5 bathroom.

(E) The conversion or alteration of a wet bar, laundry room, or bathroom is prohibited unless the conversion or alteration is specifically allowed under a valid building permit.

(F) The conversion of a portion of a structure that is excluded from the calculation of floor area pursuant to Section 21-10.1 to a portion of the structure that is included in the calculation of floor area is prohibited unless the conversion is allowed under a valid building
permit and complies with the applicable standards of this subdivision.

(G) For one-family or two-family detached dwellings or duplexes constructed pursuant to building permits applied for after the effective date of this ordinance, the impervious surface area of a zoning lot must not exceed 75 percent of the total zoning lot area.

(H) If the floor area ratio exceeds 0.6, the following additional standards apply:

(i) The side and rear yards must be at least eight feet.

(ii) Each dwelling unit in the detached dwelling or duplex must be owner-occupied, and the occupant shall deliver to the department evidence of a real property tax home exemption for the subject property.

(iii) Subsequent inspections.

(aa) Upon the completion of construction and the determination by the department that the detached dwelling or duplex complies with all applicable codes and other laws, conforms to the plans and requirements of the applicable building permit, and is in a condition that is safe and suitable for occupancy, the department may issue a temporary certificate of occupancy that is effective for a period of [one-year] two years after issuance;

(bb) During the [one-year] two-year period that a temporary certificate of occupancy is in effect, the department may, with reasonable notice to the holder of the building permit, conduct periodic inspections of the detached dwelling or duplex to confirm that it is in the same structural form as when the temporary certificate of occupancy was issued; and

(cc) At the end of the [one-year] two-year period that a temporary certificate of occupancy is in effect, the department may, upon final inspection, issue a
certificate of occupancy for the detached dwelling or duplex and close the building permit."

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:

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
DEPARTMENT OF PLANNING AND PERMITTING
PROPOSED BILL
(BILL C)
RELATING TO DETACHED DWELLINGS.

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

SECTION 1. Purpose. The purpose of this ordinance is to further address the regulations on large residential structures in residential districts.

SECTION 2. Section 21-3.70-1, Revised Ordinances Honolulu 1990 ("Residential uses and development standards"), as amended by Ordinance 19-3, is amended by amending subsection (c) to read as follows:

"(c) Additional Development Standards.

(1) Maximum Height. The maximum height of structures is determined by the building envelope created as the result of the intersection of two planes. The first plane is measured horizontally across the parcel at 25 feet above the high point of the buildable area boundary line. The second plane runs parallel to grade, as described in Section 21-4.60(b), measured at a height of 30 feet. If the two planes do not intersect, then the building envelope is determined by the first plane (see Figure 21-3.10).

(2) Height Setbacks.

(A) Any portion of a structure exceeding 15 feet must be set back from every side and rear buildable area boundary line one foot for each two feet of additional height over 15 feet (see Figure 21-3.10); and

(B) Any portion of a structure exceeding 20 feet must be set back from the front buildable area boundary line one foot for every two feet of additional height over 20 feet.

(3) Except for cluster housing and planned development housing developed pursuant to Section 21-8.50, for zoning lots with one-family or two-family detached dwellings or duplexes:

(A) The maximum density is a floor area ratio of 0.7

(B) The number of wet bars [on one zoning lot (the aggregate of the number of wet bars) in each dwelling unit [on the zoning lot]] must not exceed [the following:] one.
A BILL FOR AN ORDINANCE

<table>
<thead>
<tr>
<th>Zoning lot size (square feet)</th>
<th>Number of wet-bars cannot exceed:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to 9,999</td>
<td>1</td>
</tr>
<tr>
<td>10,000 and up</td>
<td>2</td>
</tr>
</tbody>
</table>

(C) The number of laundry rooms in each dwelling unit must not exceed one.

(D) The number of bathrooms on one zoning lot (the aggregate of the number of bathrooms in each dwelling unit on the zoning lot) must not exceed seven. [the following]

<table>
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<tr>
<th>Lot size (square-feet)</th>
<th>Number of bathrooms cannot exceed:</th>
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</thead>
<tbody>
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<td>4 and one 0.5-bathroom</td>
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<td>7,000 to 7,999</td>
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<td>9,000 to 9,999</td>
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</tr>
<tr>
<td>10,000 and up</td>
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</tr>
</tbody>
</table>

[The number of bathrooms on one zoning lot must not under any circumstances exceed 9 and one 0.5-bathroom].
(E) The conversion or alteration of a wet bar, laundry room, or bathroom is prohibited unless the conversion or alteration is specifically allowed under a valid building permit.

(F) The conversion of a portion of a structure that is excluded from the calculation of floor area pursuant to Section 21-10.1 to a portion of the structure that is included in the calculation of floor area is prohibited unless the conversion is allowed under a valid building permit and complies with the applicable standards of this subdivision.

(G) If the floor area ratio exceeds 0.6, the following additional standards apply:

(i) The side and rear yards must be at least eight feet.

(ii) Each dwelling unit in the detached dwelling or duplex must be owner-occupied, and the occupant shall deliver to the department evidence of a real property tax home exemption for the subject property prior to issuance of a temporary certificate of occupancy.

(iii) Subsequent inspections.

(aa) Upon the completion of construction and the determination by the Department that the detached dwelling or duplex complies with all applicable codes and other laws, conforms to the plans and requirements of the applicable building permit, and is in a condition that is safe and suitable for occupancy, the Department may issue a temporary Certificate of Occupancy that is effective for a period of [one-year] two years after issuance;

(bb) During the [one-year] two-year period that a temporary Certificate of Occupancy is in effect, the Department may, with reasonable notice to the holder of the building permit, conduct periodic inspections of the detached dwelling or duplex to confirm that it is in the same structural form as when the temporary Certificate of Occupancy was issued; and
At the end of the [one-year] two-year period that a temporary Certificate of Occupancy is in effect, the Department may, upon final inspection, issue a Certificate of Occupancy for the detached dwelling or duplex and close the building permit."

SECTION 3. Section 21-10.1 Revised Ordinances Honolulu 1990 ("Definitions"), as amended by Ordinance 19-3, is amended by revising definitions of "bathroom" and "wet bar" to read as follows:

"Bathroom" means a room, or combination of adjoining rooms that provide access to one another, that contains two of the following items:

(1) Bath or Shower;
(2) Sink;
(3) Toilet.

is equipped for taking a bath or shower, and that includes either a sink or toilet, or both. A 0.5 bathroom means any room, or combination of adjoining rooms that provide access to one another, that is equipped with a sink or toilet, or both, but is not equipped with a bath or shower.)

"Wet bar" means a serving counter in a dwelling or lodging unit that is equipped with a small single compartment sink that is not part of a kitchen, bathroom, or laundry room. A wet bar may contain a refrigerator, but may not contain any fixture, appliance, or device for heating or cooking food, or a 220-volt outlet, which is necessary for a full sized stove.

SECTION 4. Ordinance material to be repealed is bracketed and stricken. New ordinance 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. The Revisor of Ordinances shall insert the actual effective date of this ordinance in place of the phrase "the effective date of this ordinance" wherever the phrase appears in Section 2 of this ordinance.
SECTION 5. This ordinance takes 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