

Chapter 18

FEES AND PERMITS FOR BUILDING, ELECTRICAL, PLUMBING AND SIDEWALK CODES

Articles:

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Article 1. Purpose

Sections:

18-1.1 Purpose and intent.

Sec. 18-1.1 Purpose and intent.

- (a) The purpose of this chapter is to consolidate the building, electrical and plumbing permits, including permits for the construction of sidewalks, curbs and driveways, into a single permit and to assess fees based on the value of the work to be performed.
- (b) The foregoing consolidation is intended to expedite the issuance of a permit and for better administration of the building, electrical and plumbing codes by the building department, including the administration of the sidewalks, curbs and driveways codes by the public works and building departments.

(Sec. 18-1.1, R.O. 1978 (1983 Ed.); Am. Ord. 93-59)

Article 2. General Provisions

Sections:

18-2.1 Definitions.

Sec. 18-2.1 Definitions.

As used in this chapter, unless the context otherwise requires:

"Building official" means the director and building superintendent of the city or such person's authorized deputy.

"Building permit" and "permit" mean a consolidated permit governing work performed under the building, electrical, plumbing and sidewalk codes.

"This code" means the building (Chapter 16, ROH 1990, as amended), electrical (Chapter 17, ROH 1990, as amended), plumbing (Chapter 19, ROH 1990, as amended) and sidewalk (Article 18, Chapter 14, ROH 1990, as amended) codes. (Sec. 18-2.1, R.O. 1978 (1983 Ed.); Am. Ord. 93-59)

Article 3. Permits

Sections:

18-3.1 Required.

18-3.2 Separate building permit required.

18-3.3 Emergency work.

18-3.4 Temporary permit required.

Sec. 18-3.1 Required.

- (a) No person shall perform any of the following or cause any of the following to be performed without first obtaining a building permit therefor as prescribed in this section:
 - (1) Erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish any building or structure;
 - (2) Any electrical work;
 - (3) Install, remove, alter, repair or replace any plumbing, fire sprinkler, gas or drainage piping work or any fixture, gas appliance, or water heating or treating equipment; or
 - (4) Construct, reconstruct or improve any sidewalk, curb or driveway in any public street right-of-way.
- (b) Exceptions. A permit shall not be required for the types of work listed below. Exemption from the permit requirements of this code shall not be deemed to grant authorization for any work to be done in violation of the provisions of the technical codes or any other laws or ordinances of this jurisdiction.
 - (1) Work excepted from building code provisions under Chapter 16. Work on sidewalks, curbs or driveways regulated under the provisions of Chapter 14, Article 18, however, is not exempt from permit requirements.
 - (2) Temporary construction sheds and temporary construction fences.
 - (3) Reroofing work which will not adversely affect the structural components for Groups R-3 and U occupancies.
 - (4) Installation of siding to existing exterior walls which will not adversely affect the structural components of the walls of Groups R-3 and U occupancies.

- (5) Temporary tents or other coverings, for periods not to exceed 14 consecutive days, used for private family parties or for camping.
- (6) Retaining walls, fences and planter boxes which are not more than 30 inches in height, walkways, riprap walls, and outside paving within private property.
- (7) Individual residential television and radio antennas, excluding dish-type antennas.
- (8) Window awnings supported by the exterior walls of Groups R-3 or U occupancies, when projecting not more than four feet six inches.
- (9) Installation of wallpaper or wall covering which is exempted under the provisions of Chapter 16.
- (10) Repairs which involve only the replacement of component parts of existing work with similar materials for the purpose of maintenance, and which do not aggregate over \$1,000.00 in valuation in any 12-month period, and do not affect any electrical, plumbing, or mechanical installations.
- (11) Painting, installation of floor covering and cabinet work without limit as to valuation; provided, however, that the values thereof shall be included as part of the value of any new construction for which a permit is required by this code, for the purpose of determining the amount of the fee to be paid for such permit.
- (12) Work located on federal property.
- (13) Work performed for any state government agency, except where permits are specifically requested by the agency.
- (14) Playground equipment, monuments, statues, ornamental ponds less than 18 inches in depth, and golf course pedestrian and golf cart bridges.
- (15) Temporary motion picture, television, and theater stage sets and scenery.
- (16) One-story detached buildings:
 - (A) Accessory to Group R-3 occupancies and used as tool and storage sheds, playhouses and similar uses; or
 - (B) Accessory to crop production in AG-1 Restricted Agricultural or AG-2 General Agricultural zoning districts and used as storage sheds or for water catchment and not used as dwelling or lodging units; provided the aggregate floor area does not exceed 120 square feet.
- (17) Movable cases, counters, and partitions not over five feet nine inches high.
- (18) The following electrical work:
 - (A) Electrical work and installation to which the provisions of the electrical code are expressly declared to be not applicable;
 - (B) Installation of any portable motor or other portable appliance energized by means of a cord or cable having an attachment plug, if such cord or cable is permitted by the electrical code;
 - (C) Repair of any fixed motor or other appliance, or replacement of any fixed motor with another having the same horsepower rating and situated at the same location;
 - (D) Maintenance work for commercial and industrial processing equipment by a duly licensed electrician;
 - (E) Electronic equipment, sound public address systems, cable television and communication systems for a single-family or two-family dwelling;
 - (F) Radio and television receiving antenna systems other than master or community systems;
 - (G) Sound recording systems for a single-family or two-family dwelling;
 - (H) Interior telephone work subject to regulation by the public utilities commission of the State of Hawaii and wiring of interconnecting cable of data processing equipment; and
 - (I) Repair work performed by a licensed electrical contractor which does not aggregate over \$500.00 in valuation in any 12-month period and does not involve service entrance equipment.
- (19) The following work by a public utility supplying gas:
 - (A) Disconnecting defective gas piping or equipment when authorized under Chapter 19; and
 - (B) Disconnecting or reconnecting existing gas piping or equipment for repair, servicing, replacement or removal.
- (20) The following plumbing work:
 - (A) Repair work in plumbing systems when the work does not involve or require the replacement or rearrangement of valves, pipes or fixtures; and
 - (B) Repair work performed by a licensed plumbing contractor which does not aggregate over \$1,000.00 in valuation in any 12-month period and which involves or requires only the replacement of valves, pipes or fixtures.
- (21) All structures, other than buildings, which are constructed in conjunction with board of water supply and public works projects undertaken by or on behalf of the city.
- (22) All structures, other than buildings, which are constructed in conjunction with the subdivision of lands and in accordance with plans approved by the city under its subdivision rules and regulations.
- (23) Sidewalks, curbs and driveways in public street rights-of-way which are:
 - (A) Constructed in conjunction with public works projects undertaken by or on behalf of the city;
 - (B) Constructed in conjunction with the subdivision of land and in accordance with plans approved by the city under its subdivision rules and regulations; or
 - (C) Subject to compliance with Chapter 14, Article 18.
- (24) Minor repairs to sidewalks, curbs and driveways in public street rights-of-way. However, reconstruction and/or replacement of any portion of sidewalks, curbs and driveways shall not be construed as repair which is exempt under this subdivision.

(Sec. 18-3.1, R.O. 1978 (1983 Ed.); Am. Ord. 93-59, 96-50, 96-58, 97-47, 00-39)

Sec. 18-3.2 Separate building permit required.

A separate building permit shall be required for each building or structure, provided that one permit may be obtained for:

- (a) A dwelling and its accessories, such as fence, wall, pool and garage without living quarters;
 - (b) For Electrical Work Only. Electrical work for main building and electrical work for a private garage, shed or accessory building located on the same premises as the main building, and supplied electrical power by a feeder or circuit from the main building;
 - (c) For Plumbing Work Only. Plumbing work for main building and plumbing work for a private garage, shed or accessory building located on the same premises as the main building and served by the same building water supply and building sewer as that serving the main building;
 - (d) Sidewalks, curbs and driveways in public street rights of way and any building or structure together with which they constitute all or part of a construction project.
- (Sec. 18-3.2, R.O. 1978 (1983 Ed.); Am. Ord. 93-59)

Sec. 18-3.3 Emergency work.

Emergency work may commence without a permit. However, an application for a permit for the work shall be submitted on the working day immediately following the day work is commenced. (Sec. 18-3.3, R.O. 1978 (1983 Ed.); Am. Ord. 93-59)

Sec. 18-3.4 Temporary permit required.

No person, firm or corporation shall erect any tent or similar structure which is to be used for commercial or religious purposes, such as rallies, festivals, amusements and sideshows, without first obtaining a temporary permit therefor from the building official. To secure such permit, approval may be required from the chief of the fire department. Such permits for tents and similar structures shall be limited to a period of not more than 30 consecutive days unless regulated by the fire code and may be cancelled for cause by the building official or the fire department at any time before expiration of the time stated in the permit. Upon such cancellation or upon the expiration of the time stated therein the structure or structures shall be promptly removed. Such tent of canvas, plastic or similar material shall not be used as residence. (Sec. 18-3.4, R.O. 1978 (1983 Ed.); Am. Ord. 93-59)

Article 4. Permit Application

Sections:

- 18-4.1 Application.**
- 18-4.2 Plans, specifications, and other data.**
- 18-4.3 Information on plans and specifications.**
- 18-4.4 Requirement for affidavit.**
- 18-4.5 Applications made prior to subsequent ordinances or regulations.**
- 18-4.6 Construction inspection.**

Sec. 18-4.1 Application.

To obtain a permit, the applicant shall first file an application therefor in writing on a form furnished for that purpose by the building official. Every such application shall:

- (a) Identify and describe the work to be covered by the permit for which application is made, including a list of each and every phase of electrical and plumbing work;
- (b) Describe the land on which the proposed work is to be done, by tax map key number, and house and street address, or similar description that will readily identify and definitely locate the proposed building or work;
- (c) Indicate the use or occupancy for which the proposed work is intended;
- (d) Be accompanied by plans, specifications, calculations, and construction inspection requirements as required in Section 18-4.2;
- (e) State the valuation of the proposed work;
- (f) Provide the name and license of all specialty contractors involved in the project, in compliance with the provisions of HRS Chapter 444;
- (g) State the following information for each contractor or subcontractor engaged to do electrical or plumbing work upon the building, structure or project:
 - (1) Name;
 - (2) Address;
 - (3) Contractor's license number; and
 - (4) Particular phase or phases of work to be performed;
- (h) Be signed by the responsible managing employee or authorized employee of each contractor designated in subsection (g);
- (i) For applications contemplating the demolition of any building constructed as a residential dwelling and occupied in any habitable unit thereof, be accompanied by a duly notarized affidavit stating that the applicant has a proprietary interest in the subject property or has the written authorization of a person or entity with a proprietary interest in the subject property to submit the application. If the interest of the applicant or of the person or entity authorizing the applicant to submit the application is not a fee simple interest in the property, the affidavit shall state the nature and the remaining term of the interest.

For purposes of this subsection, a person or entity has a "proprietary interest" if the person or entity has the right of control and dominion of the property being demolished, and a person or entity has "right of control and dominion" if the person or entity holds, possesses, and retains control of 51 percent or more of the property interest. If a person or entity holds, possesses and retains less than 51 percent of the property interest, other persons or entities with an interest in the property, (up to the 51 percent) must consent to the demolition of the building; and
- (j) Give such other information as reasonably may be required by the building official. If the application proposes excavation and backfill work that does not require a grading permit under Section 14-13.5(b), the building official, if deemed necessary to protect or promote public safety, may require the submittal of an engineering slope hazard report. Such a

report means the same as defined under Section 14-13.3. The report shall have the same information required for an engineering slope hazard report under Section 14-14.2(d)(2).
(Sec. 18-4.1, R.O. 1978 (1983 Ed.); Am. Ord. 92-107, 93-59, 96-50, 00-39, 04-27)

Sec. 18-4.2 Plans, specifications, and other data.

- (a) With each application for a building permit, three sets of plans, specifications, calculations, construction inspection requirements, and other data shall be submitted. One set of plans shall be submitted to and left with the department of health, State of Hawaii. Construction inspection requirements are as defined in Section 18-4.6.
Exception: The building official may waive the submission of plans, specifications, calculations, construction inspection requirements, etc., if the building official finds that the nature of the work applied for is such that reviewing of plans is not necessary to obtain compliance with this code.
- (b) No plans or specifications are required for repair or replacement work unless requested by the building official.
- (c) Plans for single- or two family dwellings are not required to show plumbing piping plans or diagrams unless requested by the building official.
- (d) All plans and specifications relating to work which affects the public safety or health and for which a building permit is required shall be prepared by or under the supervision of a duly licensed professional engineer or architect as required by HRS Chapter 464.
- (e) All plans for retaining walls five feet or more in height shall be prepared, designed or approved by a duly licensed architect or engineer in the structural or civil branches.
- (f) Electrical plans and specifications shall bear the approval of either a duly licensed electrical engineer, or a duly licensed architect or engineer qualified in such work by experience; provided, that if the demand load of the proposed installation is less than 30 kilovolt-amperes, the approval of an engineer or architect shall be required only if the building official so directs.

(Sec. 18-4.2, R.O. 1978 (1983 Ed.); Am. Ord. 93-59, 96-50)

Sec. 18-4.3 Information on plans and specifications.

- (a) Plans and specifications shall be drawn to scale upon substantial paper or cloth and shall be of sufficient clarity to indicate the nature and extent of the work proposed and show in detail that it will conform to the provisions of this code and all relevant laws, ordinances, rules and regulations. The first sheet of each set of plans shall give the house and street address of the work and the name and address of the owner and person who prepared them. Plans shall include a plot plan showing the location of the proposed building and of every existing building on the property. In lieu of detailed specifications, the building official may approve references on the plans to a specific section or part of this code or other ordinances or laws.
- (b) For projects which include construction of driveways in public street rights of way, plans shall show the entire lot and improvements thereon, the location of the new and existing driveways, street trees, utility poles, fire hydrants, catch basins, parking stalls and any other features in the sidewalk area which may affect the construction and/or use of the driveway. For reconstruction of a driveway, the applicant may submit a sketch with dimensions showing the location of the driveway.
- (c) Where the building permit application is for the erection, construction, enlargement, alteration, movement, improvement or conversion of any building or structure, the building official shall also require, on behalf of the real property tax assessment division, department of finance, a plot plan with a sketch of the proposed building, to be submitted on such forms as shall be prescribed by the department of finance and shall be prepared and certified to by the applicant. In lieu of the sketch, an additional set of plans may be submitted. The completed forms or plans shall be submitted to the building official for transmittal to the department of finance, real property tax assessment division.

(Sec. 18-4.3, R.O. 1978 (1983 Ed.); Am. Ord. 88-20, 93-59)

Sec. 18-4.4 Requirement for affidavit.

- (a) Where, in the opinion of the building official, the layout or proposed use of a building can readily be converted to some other layout or use which, upon conversion, would constitute a violation of the land use ordinance and/or the building code, the building official may require the building owner or owners to file with the bureau of conveyances or in the case of land court parcels with the building department, a sworn affidavit:
 - (1) That the layout or use of the building will not be converted at a future date to some other layout or use which is illegal; and
 - (2) That this restriction shall also be binding upon any tenant or lessee or any subsequent owners of the building for as long as the building is in use, or unless otherwise released by authority of the building official.
- (b) A certified copy of the document as issued by the bureau of conveyances shall be presented to the building department as evidence of recordation, prior to the issuance of building permit.
- (c) Any person who makes a false statement in such person's sworn affidavit or files a false affidavit shall be deemed to have committed perjury and thereby subject to the provisions of HRS Section 710 1060 (Penal Code), and be punished as provided in said section.

(Sec. 18 4.4, R.O. 1978 (1983 Ed.); Am. Ord. 93-59)

Sec. 18-4.5 Applications made prior to subsequent ordinances or regulations.

An applicant for a building permit who has filed an application with the building department prior to the effective date of a subsequent ordinance or regulation shall be required to obtain the permit no later than 12 months after the effective date of such ordinance or regulation. If the permit has not been obtained within 12 months after the effective date of the subsequent ordinance or regulation, the application and plans shall comply with the requirements set forth in the subsequent ordinance or regulation. Where the subsequent ordinance or regulation specifies a time period for obtaining a building permit other than the 12-month period stated above, the time period specified in the subsequent ordinance or regulation shall govern.

(Sec. 18-4.5, R.O. 1978 (1983 Ed.); Am. Ord. 93-59)

Sec. 18-4.6 Construction inspection.

The engineer or architect in responsible charge of the structural design work shall include in the construction documents the special inspections required in Chapter 16. (Added by Ord. 93-59; Am. Ord. 96-50)

Article 5. Permit Issuance

Sections:

- 18-5.1 Issuance—Posting—Transfer.**
- 18-5.2 Retention of plans.**
- 18-5.3 Validity.**
- 18-5.4 Suspension or revocation of building permits—Notice—Hearing--Appeal.**
- 18-5.5 Compliance with state statutes.**
- 18-5.6 Transferability of building permit.**
- 18-5.7 Nonliability of city for damages.**

Sec. 18-5.1 Issuance—Posting—Transfer.

- (a) The application, plans, specifications, computations, and other data filed by an applicant for a permit shall be reviewed by the building official. The building official shall cause such plans to be reviewed by any other appropriate department of the city and the state to review compliance with laws and ordinances under their jurisdiction. If the work described in an application for permit and the plans filed therewith conform to the requirements of this code and other pertinent laws and ordinances, and the fee specified in Section 18 6.1 has been paid, the building official shall issue a permit therefor to the applicant; provided, however, that no permit shall be granted for the moving of any building or structure or portion thereof which has deteriorated or been damaged to an extent greater than 50 percent of the cost of replacement (new) of such building or structure.
- (b) When the building official issues the permit, the building official shall affix an official stamp of approval to the specifications and each sheet of the job site copy of the plans. Such approved plans and specifications shall not be changed, modified or altered without authorization from the building official, and all work regulated by this code shall be done in accordance with the approved plans.
- (c) The building official may issue a permit for the construction of part of a building or structure before the entire plans and specifications for the whole building or structure have been submitted or approved provided adequate information and detailed statements have been filed complying with all pertinent requirements of this code. The holder of such permit shall proceed at such person's own risk without assurance that the permit for the entire building or structure will be granted.
- (d) The building permit shall be posted in a conspicuous place on the site during the progress of work.
- (e) No permit issued shall authorize any person or contractor to do work upon any phase of the building, structure or project unless specifically identified in the permit application, including any attachments or amendments thereto, as the contractor or subcontractor designated to do that particular phase of work.
- (f) If there is a change in the designation of any contractor for any phase of work subsequent to the issuance of a permit and prior to the commencement of work, the permittee shall submit the change in writing to the building department and request approval of the change.

(Sec. 18-5.1, R.O. 1978 (1983 Ed.); Am. Ord. 93-59)

Sec. 18-5.2 Retention of plans.

One set of approved plans, specifications, and computations shall be retained by the building official for a period of not less than 90 days from date of completion of the work covered therein, and one set of approved plans shall be returned to the applicant, and said set shall be kept on the site of the building or work at all times during which the work authorized thereby is in progress. (Sec. 18-5.2, R.O. 1978 (1983 Ed.); Am. Ord. 93-59)

Sec. 18-5.3 Validity.

- (a) The issuance hereunder of any permit or approval of plans, specifications, and other data shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this code or of any other law.
- (b) The issuance of a permit shall not prevent the building official from thereafter requiring the correction of errors in the plans and specifications or from halting building operations when in violation of the provisions of said chapters and this chapter or of any other law; nor shall it prevent the institution of criminal action and the imposition of penalty as prescribed under Section 18-7.1 hereof for violation of any of the provisions of said chapters and this chapter.
- (c) Every permit shall be valid for a period of three years from the date of its issuance, subject to satisfactory work progress as contained in Section 18-5.4; provided, that wherever time limit and appeal provisions are specified by other ordinances or regulations, such ordinances or regulations shall govern. Any building or structure that is not completed within the period of validity shall fall within the purview of unfinished buildings or structures.

(Sec. 18-5.3, R.O. 1978 (1983 Ed.); Am. Ord. 93-59, 96-50, 09-8)

Sec. 18-5.4 Suspension or revocation of building permits—Notice—Hearing—Appeal.

- (a) Definitions.
 - "Causes beyond the control of the building contractor or owner" includes, but is not limited to:
 - (A) Pending litigation where the validity of the building permit is itself at issue.
 - (B) Public insurrection or devastating physical calamity such as tsunami or earthquake.
 - (C) Unavailability of materials or equipment necessary for work to progress, where all reasonable efforts have been made to secure said materials or equipment.
 - (D) Unusually severe weather or muddy ground conditions requiring cessation of all work on the building or structure. However, no extension of time shall be granted unless a written application therefor stating in detail the causes, the effect on the performance of work, the time during which the

performance of work was actually suspended, and the portion or portions of the project affected, is filed by the contractor or owner with the building official within seven calendar days after the commencement of the delay.

- (E) "Lack of financing" shall qualify under this definition only where an existing agreement for financing is unilaterally revoked by the lender because of the lending agency's financial insolvency. Where said lack of financing prevents accomplishment of work, the building official may extend the permit deadline for a period not to exceed six months.

"Nonwork" means and includes:

- (A) Clearing and grubbing after the initial clearing, or movement of equipment where nothing of substance is added to the building or structure.
- (B) Excavation and backfilling without putting any parts or components of the intended structure into place.
- (C) Financing activities of any kind.
- (D) Soil or other testing which does not meet the requirements of paragraph (H) under the definition of "work."
- (E) Preparation of environmental impact statements, applications for other permits and reports submitted thereto.

"Suspension" or "abandonment" means a slowdown or cessation of the activity of putting construction into place to the extent that construction of the building or structure cannot be completed within the time specified in Section 18 5.3.

"Work" means:

- (A) Demolition of buildings and structures and the removal of material from the area where the building or structure authorized by the building permit is to be located.
- (B) Initial clearing and grubbing.
- (C) Fencing job site.
- (D) Construction of pedestrian protection.
- (E) Surveying to locate construction.
- (F) Surcharging and load testing of foundations.
- (G) Construction, installation or fabrication of parts or components which are or will become part of the completed structure, such as driving piles or pouring concrete. This subparagraph shall also include off site activity such as prefabrication of building components where the product of said activity will constitute at least one percent of the total cost of the contemplated project, or \$10,000.00, whichever is less.
- (H) Soil or other testing, where: (i) ordered in writing by any agency of the government of the United States, the State of Hawaii or the City and County of Honolulu, subsequent to the issuance of the building permit; or (ii) unforeseen geological or physical conditions require additional testing in order to assure compliance with existing safety requirements.
- (I) Any other substantial overt act which has taken place on the premises material to the effectuation of the project and which clearly indicates upon inspection that said project is going forward.

(b) Deadlines for Construction.

- (1) After a building permit has been issued under this chapter, work thereof shall commence within 180 days after the date of issuance of the building permit.
- (2) After the building or work authorized by a building permit has commenced, such building or work shall not be suspended or abandoned for a period of 120 days.
- (3) Foundation. At the end of two years after a building permit is issued, all foundation and structural work for the building or structure up to the ground floor level shall be completed.
- (4) In any case, all work shall be completed within three years, as prescribed in Section 18 5.3, subject to the exceptions mentioned therein.

(c) Extension of Time. When there is a strike or other causes beyond the control of the contractor or the owner, the building official may in writing extend the deadlines for construction specified in subsection (b) of this section for such periods of time as the building official deems necessary, subject to the following conditions:

- (1) Under no circumstances shall an extension of time exceed the amount of time work has been halted by strikes or other causes beyond the control of the owner or contractor. The building official shall maintain accurate records of all requests for extension and their subsequent disposition. Said records shall contain the name of the applicant, location of the project and a detailed explanation of the reasons for granting or denying the request for extension. Any denial of extension may be appealed to the building board of appeals.
- (2) The findings of the building official shall be conclusive with any facts which were the basis of the extension of time granted or denied by the building official, except where the building official's findings are determined by the building board of appeals to be clearly erroneous and not supported by the evidence of facts, arbitrary or capricious.
- (3) No extension of time may be granted by the building official or the building board of appeals unless application for extension has been made to the building official prior to the deadlines specified in subsection (b) of this section or of any such deadlines previously extended in accordance with the provisions of this section.
- (4) Any extension of time granted on the 180 day or 120 day period by the building official or the building board of appeals shall also effect a corresponding extension of deadlines imposed by Section 18 5.3 and subsection (b)(3) of this section.

(d) Suspension or Revocation for Noncompliance.

- (1) The building official may issue a notice to suspend or revoke a permit pursuant to the requirements of Section 18-5.4(e) whenever the permit is issued under the provisions of this chapter:
- (A) In error;
- (B) On the basis of incorrect information supplied; or

- (C) In violation of any provision of the building, electrical or plumbing codes or any other code, ordinance or regulation.
- (2) No suspension imposed pursuant to the provisions of this section shall constitute a cause beyond the control of the building contractor or owner, as defined in this section, for which extensions may be received under Section 18-5.4(c) unless the suspension is found by the appellate authority to be arbitrary, capricious, characterized by an abuse of discretion, or based upon a clearly erroneous finding of a material fact.
- (3) The building official may issue a notice to revoke a permit pursuant to the requirements of Section 18-5.4(e) if the building or work authorized by the permit is not commenced within 180 days from the date of such permit, or if the building or work authorized by such permit is suspended, or abandoned at any time after the work is commenced for a period of 120 days.
- (4) The building official may issue a notice to revoke a permit pursuant to the requirements of Section 18-5.4(e) when a building or structure is not completed within the time specified in Sections 18-5.4(b)(3) and 18-5.4(b)(4) of this section.
- (e) Notice of Suspension or Revocation of Permit.
 - (1) The building official shall issue to the permittee a written notice to show cause why the building permit should not be suspended or revoked and set forth specific grounds for the suspension or revocation of the permit. The notice shall state that the permittee may apply in writing for a hearing before the building board of appeals; that such application shall be submitted within 10 working days of receipt of the notice.
 - (2) Service of such notice may be made by:
 - (A) Personal delivery to the permittee, which shall mean:
 - (i) Showing the original notice to the permittee and leaving a copy thereof with the permittee;
 - (ii) Leaving a copy of the notice at permittee's place of business with an employee, partner or agent of the permittee, all of whom shall be mentally competent to understand the contents of the notice; or
 - (iii) Leaving a copy of the notice at the permittee's usual place of abode with the permittee's spouse or an adult child, parent or other blood relative of the permittee or of the permittee's spouse, all of whom shall be residing with the permittee and be mentally competent to understand the contents of the notice; or
 - (B) Certified or registered mail.
 - (3) To signify that personal service has been made upon the permittee as prescribed in this subsection, the original of any notice shall have the signature of the permittee or other individual prescribed in paragraph (2)(A) affixed to the original.
 - (4) In computing the 10 working days specified in paragraph (1) in which the permittee shall indicate whether or not the permittee desires a hearing, the day on which the permittee receives the building official's notice shall be omitted and the 10 working days shall be calculated from the next working day. The last day of the period so computed shall be included unless it is a Saturday, a Sunday or a holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday or a holiday. As used in this subsection, "holiday" includes any day designated as such pursuant to HRS Section 8 1.
- (f) Hearing by the Building Board of Appeals.
 - (1) Upon receipt of a written notice indicating that the permittee desires a hearing before the building board of appeals, the building official shall notify the permittee in writing of the date of such hearing.
 - (2) Upon service of the notice by the building official as prescribed herein, any work in progress shall be suspended and be stayed until a favorable written decision of the building board of appeals is served upon the permittee. If an unfavorable written decision is served upon the permittee, any work under the permit shall be stayed until the judge of the court in which an appeal has been filed pursuant to HRS Chapter 91 rules otherwise.
 - (3) Every hearing held pursuant to this section shall be conducted in conformity with the applicable provisions of HRS Chapter 91.
- (g) Waiver. If the permittee indicates that such person does not desire a hearing before the building board of appeals or fails to apply for a hearing within the time specified in subsection (e)(1) of this section, the suspension or the revocation shall become effective from the date of service of such notice or the date noted on the return receipt for the certified or registered mail.
- (h) Permit Revocation Not Appealed—Compliance.
 - (1) Where a permit has been revoked in accordance with the provisions of this section and the permittee does not appeal the revocation to the circuit court as provided in HRS Section 91-14, the permittee shall:
 - (A) Remove or demolish the building or structure within 180 days from the date of such written notice; or
 - (B) Obtain a new building permit to complete the required work in compliance with current laws and regulations and diligently pursue the work to completion. The fee for the new permit to complete construction of a project after revocation of a permit under the provisions of this subsection shall be as provided in Section 18-6.2(c).
 - (2) Where changes in applicable laws and regulations preclude obtaining a new permit under subsection (h)(1)(B), the owner may:
 - (A) Finish the building up to the highest point of construction having a completed roof or floor slab. All structural walls, frames and exterior walls below such roof or floor slab level shall be completed. Elevator machinery rooms, mechanical equipment rooms, other similar rooms and stairshafts located above the roof in the original plans and specifications may be installed above such completed roof or floor slab and finished together with the building. Other portions of the structure above the completed roof or floor slab shall be removed; or

- (B) Continue work according to approved plans and specifications upon payment of a "deadline extension" fee to the city which shall be 0.0005 times the original building valuation for each day of work estimated beyond the project completion deadline, up to a maximum of \$1,000.00 per day to complete the structural walls and frames, exterior walls and slabs. Where the structural walls, frames, exterior walls and slabs are not completed within the estimated number of days covered by the deadline extension fee, an additional deadline extension fee shall be paid to the city based on an estimate of additional number of days to complete such work before work can again proceed. No refund shall be made where such work is completed in less than the number of days for which a deadline extension fee has been paid.

The provisions of paragraphs (A) and (B) shall not apply to foundation and structural work for a building or structure up to the ground floor level.

- (i) The provisions of this section shall not be construed to affect in any manner whatsoever the authority of the building official to issue a stop work order pursuant to Chapter 16.
(Sec. 18-5.4, R.O. 1978 (1983 Ed.); Am. Ord. 91-28, 93-59, 96-50, 96-58)

Sec. 18-5.5 Compliance with state statutes.

It is unlawful for any permittee to perform, or allow to be performed, any work covered by the permit issued under this chapter in violation of those provisions of HRS Chapter 444 relating to the licensing of contractors and HRS Chapter 448E relating to licensing of electricians and plumbers.

(Sec. 18-5.5, R.O. 1978 (1983 Ed.); Am. Ord. 93-59)

Sec. 18-5.6 Transferability of building permit.

- (a) Any assignment and/or transfer of a valid building permit for which construction has not started shall be subject to the approval and consent of the city council. Such approval and consent shall not be unreasonably withheld, provided that the assignee and/or transferee agrees in writing to the following:

- (1) To comply with the plans and specifications upon which the building permit was issued in the absence of any subsequent amendments to any applicable existing laws and ordinances as indicated in subdivision (2); or
(2) To comply with the terms and provisions of any subsequent amendments to the land use ordinance, building code, as well as all other relevant laws, ordinances, and rules and regulations which would affect either the development's height, floor area, lot coverage, fire safety and/or land use.

- (b) The stricter requirements prescribed in subdivision (a)(2) shall not be applicable in situations in which the permit holder can offer documented evidence to the council that the permit holder has made, in good faith, a substantial and material change in position in reliance upon the issuance of the building permit.

- (c) This section shall not apply to:

- (1) One- and two-family dwellings which are not part of a larger development; or
(2) Projects that do not exceed \$500,000.00 in valuation.

(Sec. 18-5.6, R.O. 1978 (1983 Ed.); Am. Ord. 93-59, 96-50, 00-39)

Sec. 18-5.7 Nonliability of city for damages.

Any permit issued under this chapter shall not be construed to relieve any person doing any work authorized under any permit issued under this chapter from liability for damages for any injury or death to anyone caused by any defect in such work or performing such work; nor shall the city, including its officers and employees or any other agents of the city, be held liable for such injury or death by reason of the issuance of any permit under this chapter, or the performance of any inspection by the city or the issuance of a certificate certifying that such work has been inspected and approved by the city. (Sec. 18-5.7, R.O. 1978 (1983 Ed.); Am. Ord. 93-59)

Article 6. Fees

Sections:

- 18-6.1 Plan review fees.**
18-6.2 Building permit fees.
18-6.3 Refund.
18-6.4 Expiration of plan review.
18-6.5 Exemptions.

Sec. 18-6.1 Plan review fees.

- (a) When a plan or other data is required to be submitted by Section 18-4.2 a plan review fee shall be paid at the time of submitting plans and specifications for review. Such plan review fee shall be 20 percent of a tentative building permit fee establish from Table No. 18-A, set out at the end of this chapter, based upon a preliminary estimated valuation of work, but not greater than \$25,000.00. Plan review fees shall be in addition to the building permit fee.
(b) Exception. Plan review fees shall not be required for building permit applications for fences, retaining walls, swimming pools, driveways, or for any similar work performed for any city agency.

(Sec. 18-6.1, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 93-59, 96-50, 13-16)

Sec. 18-6.2 Building permit fees.

- (a) (1) A fee for each building permit and other fees associated with the administration of the building codes shall be paid to the building official as set forth in Table No. 18-A, set out at the end of this chapter.
(2) Where a plan review fee has been paid prior to June 17, 2013 as set forth in Section 18-6.1, the plan review fee payment shall be credited toward payment of the building permit fee.

- (b) The determination of value or valuation under any of the provisions of this code or this chapter shall be made by the building official. The valuation to be used in computing the permit fees shall be the total value of all construction work for which the permit is issued, as well as all finish work, painting, roofing, electrical, plumbing, heating, air conditioning, elevators, fire extinguishing systems and any other permanent work or permanent equipment.
- (c) Where a new permit is obtained to complete construction of a project after revocation of permit under provisions of Section 18-5.4(h), the fee therefor shall be based on the valuation of one-half the amount of work remaining to be done, provided:
 - (1) No change has been made or will be made in the original plans and specifications for such work;
 - (2) That immediately prior to applying for this permit the work on the property has not been abandoned or suspended for a period of more than one year; and
 - (3) No refund has been made under provisions of Section 18-6.3(b).
- (d) Where work for which a permit is required by this chapter is started or proceeded with prior to obtaining such permit, the fees specified shall be doubled, but the payment of such double fee shall not relieve any persons from fully complying with the requirements of this code or this chapter in the execution of the work nor from any other penalties prescribed in this code or in this chapter.

(Sec. 18-6.2, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 93-59, 96-50, 14-4)

Sec. 18-6.3 Refund.

- (a) The building official shall refund 75 percent of the plan review fee when it is found, after the plan review fee has been paid but before a building permit for which the plan review fee has been paid is issued, that:
 - (1) The application for a permit is withdrawn or cancelled before any plan reviewing is done; or
 - (2) The construction of the project will be prevented by a material change in circumstances or financial difficulties which include but are not limited to:
 - (A) Pending litigation where the validity of the project is at issue.
 - (B) Public insurrection or devastating physical calamity such as tsunami or earthquake.
 - (C) Unavailability of materials or equipment necessary for construction of project within the coming six month period.
 - (D) Lack of financing shall qualify under this paragraph only where an existing agreement for financing is unilaterally revoked by the lender because of lending agency's financial insolvency.
- (b) (1) The building official shall refund an amount equal to 50 percent of the permit fee paid under the provisions of this chapter where a permittee, due to a material change in circumstances or financial difficulties, is unable to commence work authorized by the permit issued therefor; provided, that a written application for a refund shall be made on forms furnished by the building official not later than 15 days after the revocation date of such permit.
- (2) Notwithstanding the foregoing provisions, no refund shall be made in any case where a new permit has been obtained under the provisions of Section 18-5.4, for the purpose of recommencing the same work, or where the amount to be refunded is less than \$10.00.
- (3) All permits upon which refunds have been made in accordance with the foregoing provisions shall thereafter be null and void.
- (c) Where more than one permit has been erroneously procured by the permittee and/or the permittee's agent for the same construction or work, the building official shall approve one permit and refund the total amount of fees paid for the other permits upon the surrender thereof; provided, that no refund shall be made on any permit which has been surrendered after 90 days from the date of issuance of such permit, or where the amount to be refunded is less than \$10.00.

(Sec. 18-6.3, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 93-59, 96-50)

Sec. 18-6.4 Expiration of plan review.

Applications for which plan review fees have been paid and for which no permit is issued within 365 days following the date of application shall expire, unless extended by the building official, and plans and other data submitted for review may thereafter be returned to the applicant or destroyed by the building official. In order to renew action on an application after its expiration, the applicant shall resubmit plans and pay a new plan review fee. (Sec. 18-6.4, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 93-59, 96-50)

Sec. 18-6.5 Exemptions.

- (a) The city, all agencies thereof and contractors therewith shall be exempt from the requirement of paying plan review and permit fees.
- (b) The building official may grant an exemption from the requirement of paying plan review and permit fees for any person seeking to restore or reconstruct a structure damaged or destroyed as a result of a major disaster. For the purposes of this section:
 - (1) "Major Disaster" means any hurricane, tornado, storm, flood, high water, tsunami, earthquake, volcanic eruption, landslide, mud slide, fire, explosion or other catastrophe occurring in any part of the City and County of Honolulu that causes damage, suffering and loss to such a degree that:
 - (A) The President of the United States has declared, pursuant to the Disaster Relief Act of 1974, P.L. 93-288, that a major disaster exists such that the City and County of Honolulu or any part thereof is eligible for federal disaster assistance programs;
 - (B) The governor of the State of Hawaii has declared pursuant to HRS Chapter 209 that a major disaster has occurred;
 - (C) The mayor has issued a proclamation declaring the existence of a major disaster; or
 - (D) The council has adopted a resolution declaring the existence of a major disaster.
 - (2) "Restore and reconstruct" means any repair or other work performed to return a structure to its former condition that does not increase the floor area of the structure beyond that of the structure prior to the major disaster, is in

conformance with the building code, flood hazard regulations, land use ordinance, and other applicable laws, and is started within two years of the major disaster.

- (3) The burden of proof that work to be performed qualifies for an exemption from the payment of building permit fees due to a major disaster shall be on the owner of the structure. An applicant filing for such exemption shall certify in writing that the work to be performed shall be in conformance with the requirements of this section.
 - (c) All owners and their contractors shall be exempt from paying that portion of any building permit fee for permits issued after September 15, 1994 attributable to the installation of ultra-low flush toilets that they install on their properties to replace existing nonultra-low flush toilets.
 - (d) The building official shall waive the collection of any building permit fee for a period of three years where the business has been certified to be a qualified business pursuant to Section 35-1.3.
 - (e) The building official shall waive the collection of any building permit fee for any person seeking to replace a dilapidated dwelling unit located on homestead land leased under the Hawaiian Homes Commission Act of 1920. For the purposes of this section:
 - (1) "Dilapidated dwelling unit" means any residential home that has significantly deteriorated because of age, termites or other causes, which make the home unsafe, uninhabitable or unhealthy.
 - (2) The burden of proof that a dwelling unit is dilapidated which qualifies for an exemption from the payment of building permit fees shall be on the owner of the unit. An applicant filing for such exemption shall attach acceptable proof that the dwelling unit is dilapidated to the building permit application.
 - (3) The replacement home may increase the floor area of the originally demolished or removed structure.
- (Sec. 18-6.5, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 88-41, 93-59, 94-28, 94-67, 96-58, 98-54, 06-16, 08-1, 13-1)

Article 7. Violation and Penalty

Sections:

- 18-7.1 Generally.**
- 18-7.2 Notice of violation--Contents.**
- 18-7.3 Criminal prosecution.**
- 18-7.4 Administrative enforcement.**
- 18-7.5 Stop work order.**

Sec. 18-7.1 Generally.

No person shall erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain any building or structure, or perform any electrical work, or install, remove, alter, repair or replace or cause to be installed, removed, altered, repair or replaced any plumbing, gas or drainage piping work or any fixture, gas appliance or water heating or treating equipment, or construct, reconstruct or improve any sidewalk, curb or driveway in public street rights of way, or cause the same to be done, contrary to or in violation of any of the provisions of this chapter. (Sec. 18-7.1, R.O. 1978 (1983 Ed.); Am. Ord. 89-135, 93-59)

Sec. 18-7.2 Notice of violation--Contents.

- (a) Whenever any person, firm or corporation violates any provision of this chapter, the building official shall serve a notice of violation to the party responsible for the violation to make the building or structure or portion thereof comply with the requirements of this chapter. A notice of violation must be served upon responsible persons either personally or by certified mail. However, if the whereabouts of such persons are unknown and the same cannot be ascertained by the building official in the exercise of reasonable diligence and the building official provides an affidavit to that effect, then a notice of violation may be served by publishing the same once each week for two consecutive weeks in a daily or weekly publication in the city pursuant to HRS Section 1-28.5.
- (b) The notice of violation shall include at least the following information:
 - (1) Date of the notice;
 - (2) The name and address of the person noticed, and the location of the violation;
 - (3) The section number of the ordinance, code or rule which has been violated;
 - (4) The nature of the violation; and
 - (5) The deadline for compliance with the notice.

(Added by Ord. 89-135; Am. Ord. 93-59, 15-18)

Sec. 18-7.3 Criminal prosecution.

- (a) General. Any person, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and each such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of the provisions of this chapter is committed, continued or permitted, and upon conviction of any such violation such person shall be punishable by a fine of not more than \$2,000 or by imprisonment for not more than one year, or by both fine and imprisonment.
- (b) Procedure on Arrest -- Summons or Citation.
 - (1) Any officer or inspector designated by the building official, who has been deputized by the chief of police as a special officer for the purpose of enforcing the provisions of the building, plumbing, electrical or housing codes (hereinafter referred to as "authorized personnel"), may arrest without warrant alleged violators by issuing a summons or citation in accordance with the procedure specified in this section. Nothing in this section shall be construed as barring such authorized personnel from initiating prosecution by warrant or such other judicial process as is permitted by statute or rule of court.
 - (2) Procedure on Arrest. Any authorized personnel designated by the building official, upon making an arrest for a violation of the building, plumbing, electrical or housing codes, may take the name and address of the alleged

violator and shall issue to such person in writing a summons or citation hereinafter described, notifying such person to answer the complaint to be entered against him or her at a place and at a time provided in said summons or citation.

- (c) **Summons or Citation.**
 - (1) There shall be provided for use by authorized personnel a form of summons or citation for use in citing violators of the building, plumbing, electrical or housing codes which does not mandate the physical arrest of such violators. The form and content of such summons or citation shall be as adopted or prescribed by the administrative judge of the district court and shall be printed on a form commensurate with the form of other summonses or citations used in modern methods of arrest, so designed to include all necessary information to make the same valid within the laws and regulations of the State of Hawaii and the City and County of Honolulu.
 - (2) In every case when a citation is issued, the original of the same shall be given to the violator; provided, that the administrative judge of the district court may prescribe the giving to the violator of a carbon copy of the citation and provide for the disposition of the original and any other copies.
 - (3) Every citation shall be consecutively numbered and each carbon copy shall bear the number of its respective original.

(Sec. 18-7.2, R.O. 1978 (1983 Ed.); Am. Ord. 89-135, 93-59, 96-58, 10-6)

Sec. 18-7.4 Administrative enforcement.

In lieu of or in addition to enforcement pursuant to Section 18-7.3, if the building official determines that any person, firm or corporation is not complying with a notice of violation, the building official may have the party responsible for the violation served, by mail or delivery, with an order pursuant to this section.

- (a) **Contents of the Order.**
 - (1) The order may require the party responsible for the violation to do any or all of the following:
 - (A) Correct the violation within the time specified in the order;
 - (B) Pay a civil fine not to exceed \$2,000 in the manner, at the place and before the date specified in the order;
 - (C) Pay a civil fine not to exceed \$2,000 per day for each day in which the violation persists, in the manner and at the time and place specified in the order.
 - (2) The order shall advise the party responsible for the violation that the order shall become final 30 calendar days after the date of its delivery. The order shall also advise that the building official's action may be appealed to the building board of appeals.
- (b) **Service of Notice of Order.** A notice of order must be served upon responsible persons either personally or by certified mail. However, if the whereabouts of such persons are unknown and the same cannot be ascertained by the building official in the exercise of reasonable diligence and the building official provides an affidavit to that effect, then a notice of order may be served by publishing the same once each week for two consecutive weeks in a daily or weekly publication in the city pursuant to HRS Section 1-28.5.
- (c) **Effect of Order--Right to Appeal.** The provisions of the order issued by the building official under this section shall become final 30 calendar days after the date of the delivery of the order. The party responsible for the violation may appeal the order to the building board of appeals as provided in Chapter 16. The appeal must be received in writing on or before the date on which the order becomes final. However, an appeal to the building board of appeals shall not stay any provision of the order.
- (d) **Judicial Enforcement of Order.** The building official may institute a civil action in any court of competent jurisdiction for the enforcement of any order issued pursuant to this section. Where the civil action has been instituted to enforce the civil fine imposed by said order, the building official need only show that the notice of violation and order were served, that a civil fine was imposed, the amount of the civil fine imposed and that the fine imposed has not been paid.

(Added by Ord. 89-135; Am. Ord. 93-59, 96-50, 10-6, 15-18)

Sec. 18-7.5 Stop work order.

If the building official determines that work must stop, whether pursuant to violation of requirements of any permit issued under this chapter, or for failure to obtain a required permit, the building official shall issue a stop work order to the owner of the property and shall concurrently notify and transmit a copy of the order to the chief of police who shall have the power to enforce the stop work order pursuant to Section 6-1604, Revised Charter of Honolulu 1973, as amended. (Added by Ord. 91-28; Am. Ord. 93-59)

Table No. 18-A

Fees for Permits

The fees for the issuance of building permits shall be computed in accordance with the following schedule:

TOTAL ESTIMATED VALUATION OF WORK	FEE TO BE CHARGED
From \$0.01 to \$500.00	\$18.00
From \$500.01 to \$1,000.00	\$6.00 + \$2.50 per \$100.00 or fraction thereof of the total estimated valuation of work
From \$1,000.01 to \$20,000.00	\$11.00 + \$2.00 per \$100.00 or fraction thereof of the total estimated valuation of work
From \$20,000.01 to \$50,000.00	\$60.00 + \$17.00 per \$1,000.00 or fraction thereof of the total estimated valuation of work

From \$50,000.01 to \$100,000.00	\$260.00 + \$13.00 per \$1,000.00 or fraction thereof of the total estimated valuation of work
From \$100,000.01 to \$500,000.00	\$660.00 + \$9.00 per \$1,000.00 or fraction thereof of the total estimated valuation of work
From \$500,000.01 to \$2,000,000.00	\$2,915.00 + \$4.50 per \$1,000.00 or fraction thereof of the total estimated valuation of work
From \$2,000,000.01 and above	\$3,915.00 + \$4.00 per \$1,000.00 or fraction thereof of the total estimated valuation of work

Other Fees: Inspection fees outside of normal business hours shall be in accordance with Chapter 41, Article 20.

(1)	Renewal of Applications for Material Methods of Approvals	\$100.00
(2)	Review of Master Tract Model	\$500.00
(3)	Change of contractor designation	\$50.00
(4)	Applications for Material Methods of Approvals	\$300.00
(5)	Special assignment inspection fee	\$200.00
(6)	Plan review of revisions	\$200.00 or 10 percent of the original building permit fee, whichever is greater
(7)	Temporary certificate of occupancy	\$200.00

(Table 18-A, R.O. 1978 (1983 Ed.); Am. Ord. 92-74, 93-59, 95-28, 99-30, 03-12, 14-4)