

Article 10. Wastewater System Facility Charges

Sections:

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Sec. 14-10.1 Liability for payment of wastewater system facility charges.

- (a) New Applicants for Service.
 - (1) All applicants for structures to be completed after the effective date of this article shall be liable for the payment of wastewater system facility charges, provided, they will be served directly or indirectly by the city's wastewater system.
 - (2) Applicants for structures on any existing vacant, residential zoned property shall be exempt from paying a system facility charge for connecting one equivalent single-family dwelling unit to the city's wastewater system. In the event more than one equivalent single-family dwelling unit is connected to the system, system facility charges shall be assessed for each additional equivalent single-family dwelling unit connected.
 - (3) Applicants for structures on any vacant residential zoned property that is created in accordance with city subdivision rules and regulations after the effective date of this article shall be assessed system facility charges for each equivalent single-family dwelling unit connected to the system.
 - (4) Applicants for structures to be completed after the effective date of this article which will initially be served by either private individual wastewater disposal systems or private wastewater treatment plants shall be subject to a deferred wastewater system facility charge. Payment of the deferred charge shall not be required until such time as connection is actually made either directly or indirectly to the city's wastewater system.
 - (5) All other applicants for structures to be completed after the effective date of this article which will be served either directly or indirectly by the city's wastewater system shall be subject to the wastewater system facility charge, including federal, state, city, charitable, religious or other tax-exempt entities; except that the wastewater system facility charge shall be reduced for low-income housing projects in accordance with Section 14-10.6.
- (b) Existing Structures.
 - (1) All existing structures as of the effective date of this article which are currently served either directly or indirectly by the city's wastewater system or by private individual disposal systems or treatment plants, shall be exempt from the wastewater system facility charge with respect to their existing wastewater system capacity entitlement. Structures that are determined to be illegal by the city shall not be entitled to any wastewater system facility charge exemption.
 - (2) The existing wastewater system capacity entitlement for residential structures shall be based on the number and type of existing dwelling units.
 - (3) The existing wastewater system capacity entitlement for nonresidential structures shall be based on the size of the existing water meter serving the existing structures as determined from board of water supply water service records. For those structures served by a private water well, the water meter size shall be determined from the state department of land and natural resources records.
 - (4) The owner of an existing residential or nonresidential structure shall be liable for the wastewater system facility charge increment associated with any enlargement of the existing structures or for any increase in the owner's wastewater system capacity entitlement.

(Added by Ord. 90-80; Am. Ord. 04-12)

Sec. 14-10.2 Time of payment.

- (a) Residential Service.
 - (1) New Residential Applicants for Service.
 - (A) A wastewater system facility charge shall be paid by each new applicant for service as a precondition to the issuance of a building permit by the city, where the new applicant is subject to liability under Section 14-10.1(a); provided that the director of the department of planning and permitting may defer payment of the facility charge for low-income housing projects and city or city-sponsored, or state or state-sponsored housing projects, but in all instances no connection to the city's sewer system shall be allowed until the facility charge is paid. The required payment shall be based on the number and type of dwelling units to be constructed in accordance with Section 14-10.3.
 - (B) Wastewater system facility charges for subdivision or development projects shall be paid as a precondition to issuance of building permits for the subdivision by the city. The minimum required payment shall be based on one equivalent single-family dwelling unit per lot. In the event more than one equivalent single-family dwelling unit is constructed per lot, wastewater system facility charges for each additional unit shall be paid as a precondition to the issuance of a building permit by the city; provided that the director of the department of planning and permitting may defer payment of the facility charge for low-income housing projects and city or city-sponsored, or state or state-sponsored housing projects, but in all instances no connection to the city's sewer system shall be allowed until the facility charge is paid. Subdivision or development projects which have received

final subdivision approval prior to the effective date of this article shall be exempt from paying the minimum one equivalent single-family dwelling unit charge.

(2) Existing Residential Structures.

- (A) An existing residential structure is exempt from liability under Section 14-10.1 for its existing wastewater system capacity entitlement.
- (B) An applicant for a building permit to enlarge an existing residential structure shall be liable for the wastewater system facility charge increment associated with the enlargement project, based on the number and type of dwelling units to be constructed in accordance with Section 14-10.3. Payment of the charge shall be a precondition to the issuance of a building permit by the city.

For the purposes of this subsection, "city or city-sponsored housing project" shall mean a housing project that is city-owned, city-funded and/or developed pursuant to HRS Section 46-15 or 46-15.2 and/or under HRS Chapter 201G as applicable to the city through HRS Section 46 15.1, "state or state-sponsored housing project" shall mean a housing project that is state-owned, state-funded and/or developed under HRS Chapter 201G, and "low-income housing project" means the same as is defined in Section 14-10.6, provided that a "city or city-sponsored housing project" and a "state or state-sponsored housing project" may also be a "low-income housing project" for purposes of the reduction of the wastewater system facility charges pursuant to Section 14-10.6.

(b) Nonresidential Service.

- (1) New Nonresidential Applicants for Service. A wastewater system facility charge shall be paid by each new nonresidential applicant for service as a precondition to the issuance of a building permit by the city, where the new applicant is subject to liability under Section 14-10.1(a). The required payment shall be based on the procedures indicated in Section 14-10.4.
- (2) Existing Nonresidential Structures.
 - (A) An existing nonresidential structure is exempt from liability under Section 14-10.1(b) for its existing wastewater system capacity entitlement.
 - (B) An applicant for a building permit to enlarge an existing nonresidential structure shall be liable for the wastewater system facility charge increment associated with the enlargement project, based on the procedures set forth in Section 14-10.4. Payment of the charge shall be a precondition to the issuance of a building permit by the city.
 - (C) An applicant wishing to increase its wastewater system capacity entitlement when no increase in structure size is required, shall be liable for the wastewater system facility charge increment associated with the increase, based on the procedures set forth in Section 14-10.4. Payment of the charge shall be a precondition to the issuance of a building permit by the city.

(c) Mixed Residential and Nonresidential Service.

- (1) New Mixed Applicants for Service. A wastewater system facility charge shall be paid by each new applicant for service as a precondition to the issuance of a building permit by the city, where the applicant is subject to liability under Section 14-10.1(a); provided that the director of the department of planning and permitting may defer payment of the facility charge applicable to the residential portion of a city or city-sponsored or state or state-sponsored housing project upon consideration of the applicant's financial situation, but in all instances no connection to the city's sewer system shall be allowed until the charge is paid. The required payment shall be based on the procedures set forth in Section 14-10.5.
- (2) Existing Mixed Structures.
 - (A) An existing structure is exempt from liability under Section 14-10.1(b) for its existing wastewater system capacity entitlement.
 - (B) An applicant for a building permit to enlarge an existing structure shall be liable for the wastewater system facility charge increment associated with the enlargement project, based on the procedures set forth in Section 14-10.5. Payment of that charge shall be a precondition to the issuance of a building permit by the city.
 - (C) An applicant wishing to increase its wastewater system capacity entitlement to accommodate a change in use of the existing structure shall be liable for the wastewater system facility charge increment associated with the increase, based on the procedures set forth in Section 14-10.5. Payment of that charge shall be a precondition to the issuance of a building permit by the city.

For the purposes of this subsection, "city or city-sponsored housing project" shall mean a housing project that is city-owned, city-funded and/or developed pursuant to HRS Section 46-15 or 46-15.2 and/or under HRS Chapter 201E as applicable to the city through HRS Section 46-15.1, and "state or state-sponsored housing project" shall mean a housing project that is state-owned, state-funded and/or developed under HRS Chapter 201E.

(Added by Ord. 90-80; Am. Ord. 95-11, 04-12, 12-7)

Sec. 14-10.3 Residential wastewater system facility charges.

- (a) Each applicant for a residential building permit for a new structure, or for an enlargement of an existing structure, shall be required to pay a wastewater system facility charge based on the total number of equivalent single-family dwelling units in the project to be constructed, provided that the director shall reduce the amount of the facility charge upon consideration of the applicant's financial contribution for backup facilities constructed or to be constructed for the project and dedicated or to be dedicated to the city.
This requirement is applicable to those new applicants for service and to those existing structures which are subject to liability under Section 14-10.1.
- (b) The following weights shall be assigned to the various categories of residential developments for wastewater system facility charge purposes:

Description	Number of ESDUs Per Unit
Single-family dwellings, duplexes, triplexes and quadraplexes	1.0
Multiple family dwellings (five units or more), condominiums, townhouses, retirement homes, mobile homes and housing projects	0.7

(c) The applicable wastewater system facility charge per ESDU is set forth in Appendix 14-D of this chapter.
(Added by Ord. 90 80; Am. Ord. 01-52)

Sec. 14-10.4 Nonresidential wastewater system facility charges.

- (a) Each applicant for a nonresidential building permit for a new structure, or for an enlargement of an existing structure, or for an increase in the wastewater system entitlement shall be required to pay a wastewater system facility charge based on the imputed number of equivalent single-family dwelling units in the project to be constructed, provided that the director shall reduce the amount of the facility charge upon consideration of the applicant's financial contribution for backup facilities constructed or to be constructed for the project and dedicated or to be dedicated to the city.
This requirement is applicable to those new applicants for service and to those existing structures which are subject to liability under Section 14-10.1.
- (b) The new applicant for service, or an owner wishing to increase the owner's wastewater system capacity entitlement, shall be required to obtain from the board of water supply, or from the state department of land and natural resources in the case of private water wells, the size of water meter to be provided for the project to be constructed. The number of ESDUs shall be determined from the following table based on the water meter size:

Meter Size (in inches)	Number of ESDUs
5/8	1
3/4	1
1	2.4
1 1/2	5.8
2	13
3	33
4	57
6	87

- (c) The applicable wastewater system facility charge per ESDU for domestic strength wastewater is set forth in Appendix 14-D of this chapter.
- (d) With respect to wastewater strength, a reasonable estimate of the suspended solids loading shall be consistent with the estimates utilized by the department for strength surcharge purposes, in accordance with Section 14-6.6.
- (e) The applicable wastewater system facility charge for extrasstrength wastewater shall be based on the following formula:

$$\text{Wastewater System Facility Charge for extra-strength wastewater} = A + ((SSi/200) \times B);$$

where SSi = the imputed suspended solids loading, in mg/L.

- (f) The applicable values for terms "A" and "B" in the above formula are set forth in Appendix 14-D of this chapter.
- (f) All nonresidential applicants who are liable for payment under this article may install a sub-water meter to monitor their sewage discharge.
(Added by Ord. 90-80; Am. Ord. 01-52)

Sec. 14-10.5 Mixed residential and nonresidential wastewater system facility charges.

- (a) Each applicant for a building permit for a new structure, or the owner of an existing structure who wishes to increase the owner's wastewater system capacity entitlement, shall be required to pay a wastewater system facility charge based on the number of equivalent single-family dwelling units in the project to be constructed.
This requirement shall be applicable to those new applicants for service and to those existing structures which are subject to liability under Section 14-10.1.
- (b) The new applicant for service, or the owner of an existing structure who wishes to increase the owner's current wastewater system capacity entitlement, shall be required to install a sub-water meter to monitor the water flow to the nonresidential units. The number of ESDUs shall be determined in accordance with Section 14-10.3 for the residential units and Section 14-10.4 for the nonresidential units.
(Added by Ord. 90-80, 12-7)

Sec. 14-10.6 Reduction of wastewater system facility charges for low-income housing projects.

- (a) A developer of low-income housing may apply for a reduction of wastewater system facility charges in accordance with this section.
- (b) An applicant for a reduction of wastewater system facility charges shall provide the city with information, as prescribed by the director, to demonstrate that the applicant is developing a low-income housing project and otherwise qualifies for a reduction of the city's wastewater system facility charges.

- (c) If the city determines that an applicant qualifies for a reduction of the wastewater system facility charges, the city shall reduce the charges only for those housing units in the applicant's housing project that are to be sold or rented to low-income households. The reduced charges shall be as provided in Appendix 14-D(2).
- (d) For the purposes of this section:
- (1) "Low-income" means the same as is defined in Section 8-10.20;
 - (2) "Low-income housing project" means a housing project in which at least 25 percent of the units are reserved for rent for low-income housing pursuant to an agreement with the county, state or federal government, or reserved for sale to low-income households;
 - (3) "Low-income housing unit" means a housing unit in the applicant's housing project that is sold or rented to a low-income household; and
 - (4) "Director" means the director of environmental services.
- (e) If a developer to whom a reduction has been granted under this section sells a low-income housing unit in a low-income housing project to other than a low-income household, or rents a low-income housing unit in a low-income housing project to other than a low-income household within any period in which the sale or rental of the unit is prohibited by any agreement with the county, state or federal government, the developer shall notify the director of environmental services within 30 days of such sale or rental and shall, within such 30-day period, pay to the city the difference between the wastewater system facility charge that would have been applicable under Appendix 14-D(1), and the reduced charge that was paid under Appendix 14-D(2), plus interest on the difference at eight percent per annum from the date of payment of the reduced wastewater system facility charge for the housing unit.
- (f) In accordance with HRS Chapter 91, the director may adopt rules having the force and effect of law for the implementation, administration and enforcement of this section.
- (Added by Ord. 04-12)

(Article 11. Penalty for Sewers. Repealed by Ord. 94-73)

Article 11. Use of Indigenous and Polynesian Introduced Plants in Public Landscaping

14-11.1 Definitions.

14-11.2 Implementation.

Sec. 14-11.1 Definitions.

As used in this article unless the context otherwise requires:

"City" means the City and County of Honolulu.

"Facility" means any physical improvement owned by the city or used for city purposes such as municipal buildings, police stations, fire stations, satellite city halls and recreation centers.

"Indigenous" means any land plant species growing or living naturally in Hawaii without having been brought to Hawaii by humans.

"Polynesian Introduced" means any plant species brought to Hawaii by Polynesians before European contact, such as kukui, noni, and coconut.

(Added by Ord. 14-6)

Sec. 14-11.2 Implementation.

Wherever and whenever feasible, all plans, designs, and specifications for new or renovated landscaping of any building, complex of buildings, facility, complex of facilities, park, or housing developed by the City with public moneys shall incorporate indigenous and Polynesian introduced plant species, provided that:

- (1) Suitable cultivated plants can be made available for this purpose without jeopardizing wild plants in their natural habitat; and
- (2) Wherever and whenever possible, plants indigenous to Oahu shall be used.

(Added by Ord. 14-6)

Article 12. Drainage, Flood and Pollution Control

Sections:

- 14-12.1 Legislative findings--Intent.**
- 14-12.2 Definitions.**
- 14-12.3 Adequacy of drainage.**
- 14-12.4 Considerations.**
- 14-12.5 Approval of drainage plans.**
- 14-12.6 Exceptions.**
- 14-12.7 Determination of boundary lines.**
- 14-12.8 Buildings adjacent to drainage facilities.**
- 14-12.9 Subdivision drainage facilities.**
- 14-12.10 Open drainways.**
- 14-12.11 Fences along improved channels.**
- 14-12.12 Connection to city-owned separate storm sewer system--Violation.**
- 14-12.13 Allocation of costs.**
- 14-12.14 Improvements under the improvement district assessment ordinance.**

14-12.15	Election by property owners to pay additional amounts.
14-12.16	Land requirements and maintenance of drainage facilities.
14-12.17	Exception.
14-12.18	Inequities.
14-12.19	Provisions subject to state statutes.
14-12.20	Federal aid projects.
14-12.21	Approval denied.
14-12.22	Discharge of effluent other than storm water runoff--Violation.
14-12.23	Environmental quality control--Violation.
14-12.24	Administrative enforcement.
14-12.25	Judicial enforcement of order.
14-12.26	Enforcement.
14-12.27	Appeals.
14-12.28	Violation provisions.
14-12.29	Injunctive relief.
14-12.30	Nonliability of department personnel.
14-12.31	Rule-making powers.
14-12.32	Decisions of the chief engineer.

Sec. 14-12.1 Legislative findings Intent.

- (a) The council of the City and County of Honolulu finds that:
- (1)
 - (A) Heavy rain storms have periodically created destructive floods in certain areas of the city threatening the lives of its inhabitants and causing heavy damage to property;
 - (B) The continued development of these areas without providing adequate drainage and appropriate flood control measures would only aggravate the conditions conducive to flooding; and
 - (C) Every effort should be made to minimize flood damage potential and to protect the lives and property of the inhabitants of the City and County of Honolulu.
 - (2) There is a growing need to protect our city's natural watercourses and other vital water resources from contamination and pollution.
 - (3) Natural methods of drainage and soil infiltration, which absorb and slowly release runoff, are preferred methods of storm water management.
- (b) Therefore, the council deems it necessary to enact the ordinance codified in this article for the sound, economic development of the City and County of Honolulu and in the interests of the health, safety and general welfare of the inhabitants of the City and County of Honolulu.

(Sec. 16-6.1, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 96-34)

Sec. 14-12.2 Definitions.

As used in this article, the following definitions shall apply unless the context indicates otherwise:

"Best management practices" or "BMPs" means pollution control measures, applied to nonpoint sources, on-site or off-site, to control erosion and the transport of sediments and other pollutants which have an adverse impact on waters of the state. BMPs may include a schedule of activities, the prohibition of practices, maintenance procedures, treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, or drainage from raw material storage.

"Chief engineer" means the director and chief engineer of the department of public works, or the director and chief engineer's authorized representative.

"City" means the City and County of Honolulu.

"City standards" means the storm drainage standards approved by the chief engineer, a copy of which shall be on file in the division of engineering, department of public works. These standards are intended to be minimum standards only and are not to be construed as a guarantee to property owners adjacent to a drainage facility against flood or drainage damage.

"Department" means the department of public works, City and County of Honolulu.

"Developer" means one who causes land to be developed.

"Development" means land which is being developed or developed lands.

"Discharge" means the deposit, disposal, injection, dumping, spilling, leaking or placing of any substance into a drainage facility or natural watercourse.

"Domestic wastewater" means the water carried wastes produced from noncommercial or nonindustrial activities and which result from normal human living processes.

"Drainage facility" means any city drainage structure or separate storm sewer system, including stream structures, constructed principally for the conveyance of storm and surface waters, street wash, or drainage.

"Drainage problem" means the discharge of effluent or a pollutant onto a public right of way and/or into a drainage facility which causes the hydraulic capacity of that drainage facility to be exceeded and results in flooding. This definition includes the discharge of a pollutant which reduces the hydraulic capacity of a drainage facility by the deposit of solids therein.

"Effluent" means any substance other than storm water runoff that is discharged onto a public right-of-way and/or into a drainage facility including nonstorm water discharges which are not sources of pollutants, and any NPDES-permitted discharges.

"Engineering control facility" means any drainage device such as a basin, well, pond, ditch, dam, or excavation used for the temporary or permanent storage of storm water by means of detention, retention, divergence, or infiltration for the purpose of reducing storm water volume and/or peak storm discharge flows, and which may provide gravity settling of particulate pollutants. It includes but is not limited to detention ponds, retention ponds, infiltration wells or ditches, holding tanks, diversion ditches or swales, drainpipes, check dams, and debris basins.

"Flood" or "flooding" means the inundation to a depth of three inches or more of any property not ordinarily covered by water. The terms shall not apply to inundation caused by tsunami wave action.

"Hazardous substance" means the same as that term is defined in HRS Section 342D-38.

"Industrial wastewater" means all water-carried wastes and wastewater, excluding domestic wastewater.

"Maximum extent practicable" or "MEP" means economically achievable measures for the control of the addition of pollutants from existing and new categories and classes of nonpoint sources of pollution, which reflect the greatest degree of pollutant reduction achievable through the application of the best available nonpoint source pollution control practices, technologies, processes, siting criteria, operating methods or other alternatives.

"National Pollutant Discharge Elimination System permit" or "NPDES permit" means the permit issued to the city pursuant to Title 40, Code of Federal Regulations, Part 122, Subpart B, Section 122.26(a)(1)(iii), for storm water discharge from the city's separate storm sewer systems; or the permit issued to a person or property owner for a storm water discharge associated with industrial activity pursuant to Title 40, Code of Federal Regulations, Part 122, Subpart B, Section 122.26(a)(1)(ii), or other applicable sections of Part 122; or the permit issued to a person or property owner for the discharge of any pollutant from a point source into state waters through the city's separate storm sewer system pursuant to Hawaii Administrative Rules, Chapter 11-55, "Water Pollution Control."

"Person" means and includes corporations, estates, associations, partnerships and trusts, as well as one or more individuals.

"Pollutant" means any waste, cooking or fuel oil, waste milk, waste juice, pesticide, paint, solvent, radioactive waste, hazardous substance, sewage, dredged spoils, chemical waste, rock, sand, biocide, toxic substance, construction waste and material, and soil sediment. The term also includes commercial FOG waste as defined under Section 14-5A.1.

"Pollution problem" means the discharge of any pollutant into state waters directly or by conveyance through a drainage facility which creates a nuisance or adversely affects the public health, safety or welfare, or causes a drainage facility to violate any provisions of the city National Pollutant Discharge Elimination System permit or violates any water quality standards of the State of Hawaii.

"Private storm drain connection" means any conveyance of storm water, including but not limited to any drainage pipe, ditch, or swale connected to any drainage facility or separate storm sewer system, including any curb or gutter.

"Property owner" means the fee simple owner of record, lessee of record, administrator, administratrix, executor, executrix, personal representative, receiver, trustee, property management agent, or any other individual, corporation, or unincorporated association who has the use, control or occupation of land with claim of ownership, whether the owner's interest be in absolute fee or a lesser estate.

"Redevelopment" means developed land, which is subsequently subdivided or redeveloped or renovated.

"Relief drain" means an additional drainage facility or an enlarged facility constructed in place of any existing drainage system.

"Remedial work" means the construction or installation of catch basins or other devices to resolve localized drainage problems.

"Separate storm sewer" means a conveyance or system of conveyance including city roads and streets with drainage systems, catch basins, curbs, gutters, ditches, man made channels, or storm drains owned by the city, and designated or used for collecting or conveying storm water.

"State waters" means the same as that term is defined in HRS Section 342D-1.

"Storm water" means storm water runoff, surface runoff, street wash, or drainage and may include discharges from fire fighting activities.

"Storm water runoff associated with industrial activity" means storm water discharge associated with industrial activity as defined in Title 40, Code of Federal Regulations, Part 122, Subpart B, Section 122.26(b)(14).

"Water quality standards" means the water quality standards adopted by the State of Hawaii pursuant to HRS Section 342D 5.

(Sec. 16-6.2, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 92-122, 96-34, 02-14)

Sec. 14-12.3 Adequacy of drainage.

No building permit shall be issued without the prior written approval of the chief engineer as to the adequacy of drainage within the areas designated by the shaded portions on the maps attached to the adopting ordinance and incorporated by reference as: Exhibit A--Waimanalo; Exhibit B 1--Kailua Kaneohe; Exhibit C--Kaneohe Heeia; Exhibit D 1--Heeia Kahaalu; Exhibit E 1--Kaalaea Kahaalu; Exhibit F--Waihole Kuloa; Exhibit G--Kaaawa Kahana; Exhibit I--Pupukea Paumalu; Exhibit J--Waianae Kai Makaha; Exhibit K--Lualualei Nanakuli; Exhibit L--Pearl City Waimalu; and Exhibit M--Niu Valley. (Sec. 16-6.3, R.O. 1978 (1983 Ed.))

Sec. 14-12.4 Considerations.

In making a determination as to the adequacy of drainage the chief engineer shall consider topographic conditions, rainfall, runoff, land use, depth and width of drainage channels, size of other drainage facilities, and past history of flooding, including the extent of flooding. (Sec. 16-6.4, R.O. 1978 (1983 Ed.))

Sec. 14-12.5 Approval of drainage plans.

Any applicant for a building permit for the construction of a structure within the areas indicated in Exhibits A through M, mentioned in Section 14 12.3, shall submit plans for the improvement or construction of drainage facilities to the chief engineer for approval. Upon approval of such plans the applicant shall be entitled to the issuance of the building permit, if all other requirements of law have been complied with. (Sec. 16-6.5, R.O. 1978 (1983 Ed.))

Sec. 14-12.6 Exceptions.

If the application for a building permit otherwise qualifies under Chapter 16 and under all other applicable laws, rules and regulations, the provisions of Section 14-12.3 shall not apply to the issuance of a building permit for the following work:

- (a) To perform work permitted under Section 301 of the Uniform Building Code on a building or structure dislocated or damaged by floods or rains. This exception shall not extend to the moving or relocation of a building or structure into another area within which the issuance of building permits is prohibited, as designated in Section 14-12.3.
- (b) To perform work permitted under Section 301 of the Uniform Building Code necessary or required to make an existing building or structure comply with applicable laws, rules and regulations.
- (c) To perform alterations or repairs to an existing structure or building which will not increase the number of inhabitants in said structure or building.

(d) To erect temporary structures, not for residential purposes, as permitted by Chapter 16.

The "Uniform Building Code" means the Building Code, as amended and adopted under Chapter 16, Article 1. (Sec. 16-6.6, R.O. 1978 (1983 Ed.); Am. Ord. 96-58)

Sec. 14-12.7 Determination of boundary lines.

In the event of a dispute as to whether the property or proposed work of an applicant for a building permit falls within any area indicated by Exhibits A through M mentioned in Section 14-12.3, the chief engineer shall determine from the plot plan submitted by the applicant the location of the property and the proposed work in relation to the reference points on the applicable exhibit. The decision of the chief engineer shall be final. (Sec. 16-6.7, R.O. 1978 (1983 Ed.))

Sec. 14-12.8 Buildings adjacent to drainage facilities.

All applications for a building permit for buildings or structures which will be located on property adjacent to any drainage facility shall be submitted to the chief engineer for review. (Sec. 16-6.8, R.O. 1978 (1983 Ed.))

Sec. 14-12.9 Subdivision drainage facilities.

(a) In the case of subdivisions, the owner shall dedicate and the city accept the land or any interest in land necessary for the drainage facilities which are constructed to city standards and which are to be maintained and repaired (and operated as the case may be) by the city pursuant to HRS Section 265A-1, by way of easements or in fee simple as determined by the chief engineer. The land document for stream improvements shall include the following covenant:

That the grantor shall include in all conveyances of its land in the vicinity of the stream improvement area a statement that the drainage structure was designed and constructed by the grantor or the grantor's authorized agent or developer to at least meet the minimum criteria set forth in the storm drainage standards of the city, dated _____, but that the city does not guarantee that the drainage structure is adequate to confine all flood waters to the stream improvement area.

(b) In the case of subdivisions, drainage facilities which only serve private properties shall have easements in favor of the affected property owners. This includes interceptor ditches.

(c) Before the subdivision of any land is approved by the chief engineer, the chief engineer shall check the subdivision plans against the areas of possible inundation in the watershed area as shown shaded on the maps incorporated by reference in Section 14-12.3. Such possible inundated areas are to be designated "possible flood areas." No subdivision shall be approved by the chief engineer unless all lots in a subdivision which are wholly or partially within the "possible flood area" designation have been subjected to the following encumbrance and noted as a legend on the subdivision map to the effect that:

This lot (Lots _____) is(are) in a "possible flood area." All existing drainage structures have been designed and have been or are being constructed to at least meet the minimum criteria set forth in the storm drainage standards of the city; however, the city does not guarantee that the drainage structures will confine all flood waters to the drainage facilities at all times.

(d) The developer shall pay the entire cost of the drainage facilities to satisfy the anticipated drainage requirements of all surface water which may flow through or over the proposed subdivision.

(e) Where city standards require drainage facilities of greater capacity than necessary to serve the land being subdivided or developed, in order to dispose of water diverted or concentrated by the city into such drainage system, the city may pay the difference in costs of materials and excavation, if any. The cost of materials to the city shall be based on the costs of the materials delivered at the site. Upon a determination by the chief engineer that such larger facilities are required, and if the provisions of HRS Chapter 103, or any amendatory act thereto, are applicable, the property owner shall deposit with the city an amount equal to the cost of construction of the drainage facilities allocable to the property owner's land, based upon current city cost data for comparable installations, but the amount paid by the property owner shall be adjusted, if necessary, on the basis of final costs.

(f) The chief engineer may require the construction of permanent detention or retention drainage structures or other engineering control facilities to contain or divert storm water runoff to satisfy the anticipated drainage requirement of all surface waters which may flow through or over the proposed subdivision, or to meet any conditions of the city's NPDES permit. When required, such facilities will be constructed to provide gravity settling of sediments, suspended solids, and other particulate pollutants.

(g) The chief engineer shall, pursuant to federal requirements, establish controls on the timing and rate of discharge of storm water runoff from any new development or redevelopment as may be appropriate to reduce storm water runoff pollution to the maximum extent practicable through the implementation of best management practices (BMPs) and engineering control facilities, designed to reduce the generation of pollutants. This may, where feasible and pursuant to city standards, include limiting peak storm water runoff rates for storms of higher frequencies to predevelopment levels.

(Sec. 16-6.9, R.O. 1978 (1983 Ed.); Am. Ord. 92-122, 96-34)

Sec. 14-12.10 Open drainways.

(a) Open drainways, such as streams, ravines, channels and ditches, shall not be covered or modified except when the chief engineer determines that such covering or modification of the open drainways will not be dangerous to the public health, safety and welfare.

(b) If a property owner desires, at the property owner's own cost, that an open drainway be covered or modified, the property owner shall submit all the pertinent data to substantiate the desirability of covering or modifying such a facility, including

data showing that the function of the facility will not be hampered. The construction plans for such covering or modification shall be approved by the chief engineer.

(Sec. 16-6.10, R.O. 1978 (1983 Ed.))

Sec. 14-12.11 Fences along improved channels.

- (a) The chief engineer may require that fences be constructed as part of any channel improvement based upon a consideration of the height of the wall or bank, or shape of the channel, or the land use of the adjoining properties, or the depth of normal flow in the channel, or the location of the channel improvement and/or the possibility of people injuring themselves because of the channel improvement.
- (b) Fences when required shall generally be erected on or immediately adjacent to the channel walls and they shall be maintained and repaired by the city.
- (c) The minimum height of such fences shall be 42 inches.

(Sec. 16-6.11, R.O. 1978 (1983 Ed.))

Sec. 14-12.12 Connection to city-owned separate storm sewer system--Violation.

- (a) Private Storm Drain Connection Licenses.
 - (1) All connections from nonmunicipal and private drainage systems to the city-owned separate storm sewer system shall require a storm drain connection license issued by the chief engineer.
 - (2) The license may require if applicable a description of the property owner activity and/or standard industrial classification code which best reflects the principal products or services, and a description and/or analysis of the effluent to be discharged from the private drainage system into the city-owned system. No license is transferrable without the prior written consent of the chief engineer.
 - (3) Nonstorm water discharge into the city-owned separate storm sewer system may be allowed if the discharge has been issued an NPDES permit from the department of health, State of Hawaii, or the United States Environmental Protection Agency, subject to requirements herein.
 - (4) The chief engineer, or the chief engineer's authorized representative, shall be authorized to enter any property, building or premises in the discharge of the chief engineer's official duties to inspect or investigate, measure or test any effluent that is discharged in a private drainage system connected, directly or indirectly, to the city-owned system.
 - (5) Effluent, including NPDES-permitted discharges and nonstorm water discharges, which are not sources of pollutants, may be allowed into a private drainage system, connected directly or indirectly to the city-owned system.
 - (6) All required analysis submitted by property owners on the characteristics of the constituents in the discharge shall be performed by qualified personnel in a laboratory acceptable to the chief engineer.
 - (7) The chief engineer may condition the granting of the license with requirements to prevent drainage and/or pollution problems or mitigative measures which will meet any conditions of the city NPDES permit.
 - (8) Where a private drainage system is common to one or more parcels and is owned by more than one property owner, each property owner is required to have a private drain connection license and be responsible for the maintenance of the common private drainage system.
 - (9) Failure of the property owner(s) to obtain a license shall be a violation of the provisions of Article 12.
- (b) Private Storm Drain Connection License Agreement. A property owner may be allowed to connect the property owner's private drainage system to the city-owned separate storm sewer system if the chief engineer determines that the existing system is adequate to accommodate the potential peak-designed flows of both systems, and if the property owner agrees to the following conditions:
 - (1) That the property owner shall bear the entire cost of engineering, construction and maintenance of the private drainage system.
 - (2) That the property owner shall indemnify and hold the city free and harmless from all suits and actions caused by the property owner's acts or failure to act in connection to the city-owned system.
 - (3) That the construction of the drain connection shall be made in accordance with plans and specifications approved by the chief engineer, and subject to compliance by the property owner with applicable provisions of this section including conditions if any and all applicable statutes, ordinances, and rules and regulations of federal, state or city agencies having the effect of law.
 - (4) That no additions or alterations to the private drainage system will be made without the prior written consent of the city.
 - (5) That the private drainage system shall remain the property owner's property.
 - (6) That in the event the private drainage system within the public right-of-way shall at any time interfere with any public use, the property owner shall relocate the private drainage system at the property owner's expense.
 - (7) That in the event any portion of the city-owned separate storm sewer system is damaged or destroyed during the construction of the private storm drain connection, the property owner shall bear the entire cost of engineering and construction, or replacement of the damaged facility.
 - (8) That in the event the discharge into the city-owned system includes storm water discharge associated with industrial activity, the property owner shall have an NPDES permit and provide data on the characteristics of the constituents, quantity of the effluent and discharge at the property owner's expense within one year after the date of connection, and annually thereafter or as the need may arise as determined by the chief engineer.
 - (9) That any time the property owner or anyone using the property owner's property, discharges pollutants or other objectionable material which exceeds applicable water quality standards into the city-owned system or otherwise misuses the system, or causes a violation of any provisions of the city NPDES permit, the discharge shall be deemed a violation of this section and the city by written notice may terminate this license.
- (c) Termination of License Agreement.

- (1) The chief engineer may order a license to be terminated upon finding that the property owner has violated a provision of the agreement or any provisions of this section.
 - (2) A property owner whose license has been terminated shall immediately stop the discharge of any pollutant if applicable covered by the license into the city-owned separate storm sewer system. The chief engineer may disconnect or permanently block from the city-owned separate storm sewer system, the private storm drain connection from any property owner whose license has been terminated if such action is necessary to insure compliance with the order of termination.
 - (3) A property owner whose license has been terminated may apply for a new license and pay all delinquent charges, penalties, and such other sums as may be due to the city. Any cost that might be incurred by the city in terminating the prior license and disconnecting the private storm drain connection shall be paid by the property owner before issuance of a new license.
- (d) Private Storm Drain Connections.
- (1) All licenses for private storm drain connections to the city-owned separate storm sewer system issued to the property owner of record shall remain in force. The city may reissue new license agreements for those connections which are discharging nonstorm waters or any effluent which requires an NPDES permit into the city-owned separate storm sewer system.
 - (2) Any private storm drain system that is connected to the city-owned separate storm sewer system without a license issued to the property owner of record shall be considered an illegal storm drain connection.
 - (3) Whenever a property owner is cited for an illegal private storm drain connection to the city-owned separate storm sewer system, the property owner shall be given 90 days after the date of the citation to obtain a connection license. The city will issue a connection license to the property owner without penalty within the 90-day period provided, however, no nonstorm water is being discharged into the city-owned separate storm sewer system. After the 90-day period, the property owner shall be in violation of the provisions of Article 12 of this chapter.
 - (4) Whenever a property owner caused or is causing a discharge of storm water runoff associated with industrial activity or polluted industrial process water or other objectionable material into the city-owned separate storm sewer system, the property owner within 10 days after being notified by the city of such violation shall cease such discharges. If an NPDES permit is obtained by the property owner for such discharge, said discharge may be resumed.
- (e) Any other storm drain connections to the city-owned separate storm sewer system requires approval by the chief engineer in writing.
- (f) Private Storm Drain Connection Fee.
- (1) A license fee of \$200.00 shall be collected prior to the issuance of a private storm drain connection license. All license fees collected shall not be refundable.
 - (2) When the license is issued on behalf of the city, state or federal government, the chief engineer shall waive the collection of the license fee.
 - (3) All license fees shall be deposited into the highway fund.
- (Sec. 16-6.12, R.O. 1978 (1983 Ed.); Am. Ord. 92-122, 96-34, 03-12, 14-4)

Sec. 14-12.13 Allocation of costs.

- (a) Except as otherwise provided, the city may pay the entire cost for the following types of drainage facilities:
- (1) Public stream improvements;
 - (2) Bridge to replace an existing bridge;
 - (3) Relief drains which will take care of the drainage requirements of the existing land use; provided, that if a property owner desires the construction of a larger facility to meet the drainage requirements attributable to a proposed higher land use of such person's property, the city may construct such larger facility provided that the property owner bears the additional cost of such enlarged facility; and
 - (4) Remedial work for the disposal of water collected or accumulated on public streets and/or remedial work necessitated by the disposal of such water over land not heretofore subject to such disposal.
- (b) Except as otherwise provided, the city may participate in remedial work to existing private drainage facilities, situated in or abutting on private properties, for the resolution of localized drainage problems to the extent of the cost of engineering and 50 percent of the cost of construction. Examples of such drainage facilities are:
- (1) Stream walls to minimize erosion or to prevent flooding where such walls will show some public benefit; and
 - (2) Drainage facilities to resolve seepage problem in the sidewalk area.
- (Sec. 16-6.13, R.O. 1978 (1983 Ed.))

Sec. 14-12.14 Improvements under the improvement district assessment ordinance.

Nothing contained in this article shall be deemed to affect the initiation and construction of drainage improvements under the improvement district assessment ordinance. (Sec. 16-6.14, R.O. 1978 (1983 Ed.))

Sec. 14-12.15 Election by property owners to pay additional amounts.

Notwithstanding any provision above mentioned as to apportionment of costs, owners of properties may pay more than the amounts required by such provisions relating to apportionment of costs. (Sec. 16-6.15, R.O. 1978 (1983 Ed.))

Sec. 14-12.16 Land requirements and maintenance of drainage facilities.

- (a) Except as otherwise provided, the city shall acquire the land or any interest in land necessary for the construction, maintenance and repair (and operation as the case may be) of drainage facilities which are to be constructed by the city by way of easements or in fee simple. Nothing herein shall prevent the city from acquiring easements for other improvements or for utilities or other uses through the same land.

- (b) The city shall maintain and repair (and operate as the case may be) only structures in improved drainage facilities which have been constructed to city standards and have been accepted or constructed by the city.
- (c) The cleaning of debris from public or private drainways may be performed as part of any general cleanup or beautification program of the city but shall not be performed as a part of maintenance and repair of drainage facilities; however, the chief engineer may cause to be removed any potential obstruction to the operation of any culvert, gate, bridge or drain opening, or similar drainage structure which has been accepted or constructed by the city.

(Sec. 16-6.16, R.O. 1978 (1983 Ed.))

Sec. 14-12.17 Exception.

This article shall not apply to the construction of any drainage facility for subdivisions, the final subdivision map of which has been approved by the city planning department within 30 days of the approval date of this article, nor to any drainage improvement where participation by the city has been approved by the chief engineer prior to the approval date. (Sec. 16-6.17, R.O. 1978 (1983 Ed.))

Sec. 14-12.18 Inequities.

Whenever the chief engineer finds that the apportionment of costs, as proposed in this article, would result in inequities, the chief engineer is authorized and directed to submit his or her recommendations to the council as to how such inequities may be corrected. (Sec. 16-6.18, R.O. 1978 (1983 Ed.))

Sec. 14-12.19 Provisions subject to state statutes.

- (a) Any drainage facility, open drainway or other similar facility which extends to the shoreline may be subject to the provisions of HRS Chapter 205A, Part III.
- (b) In such case, approval of the appropriate agency is required before approval of any construction plans may be granted by the chief engineer.

(Sec. 16-6.19, R.O. 1978 (1983 Ed.); Am. Ord. 96-58)

Sec. 14-12.20 Federal aid projects.

- (a) The contents of this article may be adjusted, modified or deleted to meet federal requirements under a federal aid project.
- (b) In the case of federal projects, the city may obtain the necessary channel right of way in such form as required by federal regulations.

(Sec. 16-6.20, R.O. 1978 (1983 Ed.))

Sec. 14-12.21 Approval denied.

The chief engineer shall disapprove any drainage facilities, open drainways and other similar facilities which do not conform with the provisions of this article. (Sec. 16-6.21, R.O. 1978 (1983 Ed.))

Sec. 14-12.22 Discharge of effluent other than storm water runoff--Violation.

- (a) No person shall discharge any effluent other than storm water runoff onto any public right of way and/or into any drainage facility without first obtaining a permit from the chief engineer. The chief engineer will only issue a permit upon application when the chief engineer determines that such discharge will not create a drainage or pollution problem or cause a violation of any provisions of the city NPDES permit. The chief engineer may condition the granting of the permit with requirements to prevent drainage and/or pollution problems or mitigative measures which will meet any conditions of the city NPDES permit. Except for those nonstorm water discharges authorized by the city NPDES permit, no discharge shall commence unless an NPDES permit is first obtained from the department of health, State of Hawaii, for the discharge of any pollutant into state waters through the municipal separate storm sewer system.
- (b) Any person desiring the permit required under this section shall apply to the chief engineer on form(s) prescribed by the chief engineer.
- (c) Any permit issued under this section shall be for the duration of the effluent discharge but shall not extend beyond the term of the city's NPDES permit. The permit shall meet any conditions of the city's NPDES permit.
- (d) A fee of \$200.00 shall be required for each permit application. All application fees collected shall not be refundable. When the discharge is performed by or on behalf of the city, state or federal government, the collection of the permit fee shall be waived. All permit fees shall be deposited into the highway fund.
- (e) Any discharge which violates any condition of the permit or the state water quality standards in Chapter 11 54, Hawaii Administrative Rules (HAR), shall also be a violation of Article 12 of this chapter and may result in a cease and desist order. In addition, the city by written notice may terminate the permit for any discharge which violates any condition of the permit or the state water quality standards in Chapter 11-54, HAR.
- (f) Failure to obtain a permit required under this section shall be a violation of Article 12.

(Sec. 16-6.22, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 92-122, 96-34, 03-12, 14-4)

Sec. 14-12.23 Environmental quality control--Violation.

- (a) It shall be unlawful for any person to discharge or cause to be discharged any pollutant into any drainage facility which causes a pollution problem in state waters, or causes a violation of any provision of the city NPDES permit or the water quality standards of the State of Hawaii.
- (b) It shall be unlawful for any person to discharge or cause to be discharged any storm water runoff associated with industrial activity into any drainage facility which causes a violation of any provision of the city NPDES permit.
- (c) It shall be unlawful to discharge domestic wastewater and industrial wastewater into any drainage facility or any separate storm sewer system.
It also shall be unlawful to discharge commercial cooking oil waste and commercial FOG waste, as defined under Section 14-5A.1, into any drainage facility or any separate storm sewer system.

- (d) It shall be unlawful to discharge any storm water on any public right-of-way which creates a drainage problem or causes a nuisance.
- (e) The provisions of this section are not applicable to employees of the city who, during the performance of their duties or in cases of emergency or a hazardous substance spill, may discharge sewage, other pollutants or wash water from cleanup operation of a hazardous substance spill into any drainage facility.
- (f) Upon presentation of proper credentials, the chief engineer or the chief engineer's duly authorized representatives may enter at reasonable times any building or premises in the City and County of Honolulu in the discharge of the chief engineer's official duties, to inspect or investigate the discharge of any pollutant or effluent into or onto a drainage facility; provided, that such entry shall be made in such manner as to cause the least possible inconvenience to the persons in possession; and provided further, that an order of a court authorizing such entry shall be obtained in the event such entry is denied or resisted.

(Sec. 16-6.23, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 92-122, 96-34, 02-14)

Sec. 14-12.24 Administrative enforcement.

If the chief engineer determines that any person is violating any provision of Article 12 of this chapter, any rule adopted thereunder, or any permit or license issued pursuant thereto, the chief engineer may have the person served, by mail or delivery, with a notice of violation and order. Whenever a corporation violates any of the provisions of Article 12 of this chapter, the violation shall be deemed to be also that of the individual directors, officers or agents of such corporation who, in their capacity as directors, officers or agents of such corporation, have authorized, ordered or done any of the acts constituting in whole or in part such violation.

- (a) Contents of the Notice of Violation. The notice shall include at least the following information:
 - (1) Date of the notice;
 - (2) The name and address of the person served with the notice and the location of the violation;
 - (3) The section number of the ordinance or rule, or other law which has been violated;
 - (4) The nature of the violation(s); and
 - (5) The deadline for compliance with the notice.
- (b) Contents of the Order. The order may require the person to do any or all of the following:
 - (1) Cease and desist from the violation;
 - (2) Correct the violation at the person's own expense before a date specified in the order;
 - (3) Payment of an administrative fine; or
 - (4) Appear before the chief engineer or a person designated by the chief engineer at a time and place specified in the order and answer the charges specified in the notice of violation.

(Added by Ord. 92-122)

Sec. 14-12.25 Judicial enforcement of order.

The chief engineer may institute a civil action in any court of competent jurisdiction for the enforcement of any order issued. Where the civil action has been instituted to enforce the civil fine imposed by said order, the chief engineer need only show that the notice of violation and order was served, a hearing was held or the time granted for requesting a hearing had expired without such a request, the civil fine imposed, and that the fine imposed had not been paid. (Added by Ord. 92-122)

Sec. 14-12.26 Enforcement.

- (a) Show Cause Order. Whenever the chief engineer finds that a discharge of storm water or effluent or any pollutant is taking place or threatening to take place in violation of any requirement imposed by ordinance, regulation or other law, the chief engineer may issue a notice of violation and show cause order requesting the property owner or permit holder or discharger to meet with someone designated by the chief engineer to show why there should be no formal enforcement action. This meeting is not a prerequisite to taking formal enforcement action against the property owner or permit holder or discharger, and neither does this preclude in any way informal meetings of discussions with the property owner or permit holder or discharger.
- (b) Cease and Desist Order. Whenever the chief engineer finds that a discharge of storm water or effluent or any pollutant is taking place or threatening to take place in violation of any ordinance, order, regulation or other law, the chief engineer may issue an order directing the property owner or permit holder or discharger to cease and desist such discharges and directing the property owner or permit holder or discharger to achieve compliance in accordance with a detailed time schedule of specific actions the property owner or permit holder or discharger must take in order to correct or prevent violations of this ordinance, regulation, order or any other law. The chief engineer may order the revocation or suspension of any permit or license. Any order issued by the chief engineer may require the property owner or permit holder or discharger to provide information as the chief engineer deems necessary to explain the nature of the discharge. The chief engineer may require in any cease and desist order that the property owner or permit holder or discharger pay to the city the costs of any extraordinary inspection or monitoring which in the discretion of the chief engineer was necessary as a result of the violation together with civil penalties.
- (c) Cleanup and Abatement Orders.
 - (1) Any person who is in violation of this ordinance, regulation, order or any other law, shall upon the chief engineer's order and at the total expense of the property owner or permit holder or discharger clean up the discharge and do whatever is necessary or required by the chief engineer to abate the effects of the violation.
 - (2) The chief engineer may initiate any cleanup, abatement or remedial work required that the chief engineer deems necessary as a result of the magnitude of the violation or when necessary to prevent harm to public health or the environment. The chief engineer may take this action, notwithstanding that injunctive relief and this action may be in addition to any action taken by the property owner or permit holder or discharger or other persons.
 - (3) Any property owner or permit holder or discharger violating the ordinance, regulations, order or any other law shall be liable to the city for costs incurred in the cleanup, abatement or remedial actions undertaken by the chief engineer, including but not limited to administrative costs, inspection costs, attorney's fees and penalties

or other liability imposed upon the city by other agencies, persons or organizations whether by way of court action, administrative action or settlement.

- (d) Termination of Discharge. In addition to other remedies available and as provided in Article 12 of this chapter or by law, when in the discretion of the chief engineer the property owner or permit holder or discharger has not or cannot demonstrate satisfactory progress toward compliance with the requirements of this ordinance, regulation, order or other laws, the chief engineer, after providing written notice to the property owner or permit holder or discharger by certified mail 30 days in advance of any action, may sever or plug the connection from the property owner's or permit holder's or discharger's system to the city-owned separate storm sewer system or otherwise prevent the discharge of storm water or effluent or any pollutant from the property owner's or permit holder's or discharger's system to the city-owned separate storm sewer system.
- (e) Administration Fines. In addition to other remedies available and as provided in Article 12 of this chapter or by law, the chief engineer may impose administrative penalties.

(Added by Ord. 92-122)

Sec. 14-12.27 Appeals.

- (a) The property owner, permit holder or discharger may petition to appeal the terms of a permit or license issued herein by the city, its modification, revocation, suspension, or denial, or the chief engineer's order, including but not limited to enforcement within 30 days of the chief engineer's final action on the matter in accordance with the rules and regulations of the department.
- (b) Failure to submit a timely petition for appeal shall be deemed to be a waiver of the administrative appeal.
- (c) In its petition, the appealing party must indicate the permit or license provisions objected to, the reasons for this objection, and alternative condition, if any, it seeks to place in the permit or license, or the specific basis for its objections to the permit or license modification, suspension, revocation or denial and alternatives, if any, it suggests; its specific grounds for its objection to the chief engineer's order.
- (d) The effectiveness of the permit or license issued herein or the chief engineer's final action regarding the permit or license modification, suspension, revocation or denial; or regarding the chief engineer's order, including but not limited to enforcement, shall not be stayed pending the appeal.
- (e) If the petition for appeal is not acted upon within 30 days by the chief engineer, the petition shall be deemed to be denied and the property owner or permit holder or discharger shall comply with the terms of the permit, license or the chief engineer's final action regarding the permit or license modification, suspension or revocation; or the terms of the chief engineer's order.
- (f) The chief engineer shall take final action on a permit or license denial, issuance, modification, or renewal, or the order, including but not limited to enforcement, by sending the permit, license or the chief engineer's order to the applicant by certified mail.

(Added by Ord. 92-122)

Sec. 14-12.28 Violation provisions.

- (a) Administrative and Civil Penalties. Any person violating any provisions of Article 12 of this chapter, any order, permit or license issued hereunder, or any other standard or requirement shall be liable for an administrative or civil penalty of not less than \$1,000.00 nor more than \$25,000.00 per violation per day, except that in cases where such offense shall continue after due notice, each day's continuance of the same shall constitute a separate offense. In determining the amount of the fine, the chief engineer shall consider the seriousness of the violation or violations, any history of such violations, any good-faith efforts to comply with the applicable requirements, the economic impact of the fine on the violator, and such other considerations that have a bearing on the amount of the fine. In addition to the penalties provided herein, the city may recover reasonable attorney's fees, court costs, court reporter's fees and other expenses of litigation by appropriate suit at law against the person found to have violated this ordinance or the orders, rules, regulations, permits and licenses hereunder.
- (b) Criminal Penalties. Any person:
 - (1) Who willfully, intentionally, recklessly or negligently violates any provision of Article 12 of this chapter, order, permit or license issued hereunder, or any other requirement, shall upon conviction be punished by a fine not less than \$1,000.00 nor more than \$25,000.00 or by imprisonment not exceeding 90 days, or both, except that in cases where such offense shall continue after due notice, each day's continuance of the same shall constitute a separate offense; or
 - (2) Who knowingly makes any false statement or misrepresentation in any record, report plan, or other document filed with the chief engineer, or tampers with or knowingly renders inaccurate any monitoring device or sampling and analysis method required under Article 12 of this chapter or by other law, shall be punished by a fine of not more than \$25,000.00 or by imprisonment for not more than six months, or both.Unless otherwise provided, this section shall be controlled by the provisions of HRS, Hawaii Penal Code.

(Added by Ord. 92-122)

Sec. 14-12.29 Injunctive relief.

Whenever a property owner or permit holder or discharger has violated a requirement or continues to violate the provisions of Article 12 of this chapter, permits, licenses or orders issued hereunder, the city may petition the Circuit Court of the First Circuit, State of Hawaii, or the United States District Court, State of Hawaii, through the city's attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the permit, license or order, or other requirement imposed by this article on activities of the property owner or permit holder or discharger. Such other action as appropriate for legal and/or equitable relief may also be sought by the city. A petition for injunctive relief need not be filed as a prerequisite to taking any other action against a property owner or permit holder or discharger. (Added by Ord. 92-122)

Sec. 14-12.30 Nonliability of department personnel.

Notwithstanding any other law to the contrary, no member, employee, or officer of the department of public works shall be civilly or criminally liable or responsible under this ordinance for any acts done by the member, officer, or employee in their performance of the member's officer's, or employee's duties. (Added by Ord. 92-122)

Sec. 14-12.31 Rule-making powers.

The chief engineer shall be empowered to promulgate rules and regulations pursuant to HRS Chapter 91, for the implementation of the provisions of Article 12 of this chapter. (Added by Ord. 92-122)

Sec. 14-12.32 Decisions of the chief engineer.

Decisions of the chief engineer made in accordance with the provisions of this article, and/or decisions involving variations from the standards referred to herein shall be made a matter of record in the permit or license file. (Added by Ord. 92-122)

Article 13. General Provisions for Grading, Soil Erosion and Sediment Control

Sections:

- 14-13.1 Purposes.**
- 14-13.2 Scope.**
- 14-13.3 Definitions.**
- 14-13.4 Hazardous conditions--Stop work order.**
- 14-13.5 Exclusions.**

Sec. 14-13.1 Purposes.

The purposes of Articles 13 through 16 of this chapter are to provide standards to protect property and to promote the public health, safety and welfare by regulating and controlling grading, grubbing, stockpiling, soil erosion and sedimentation within the city. The public health, safety and welfare require that environmental considerations contribute to the determination of these standards insofar as they relate to protecting against erosion and sediment production. (Sec. 23-1.1, R.O. 1978 (1983 Ed.))

Sec. 14-13.2 Scope.

Articles 13 through 16 of this chapter set forth the rules and regulations for the control of grading, grubbing, stockpiling, soil erosion and sedimentation; establish the administrative procedure and minimum requirements for issuance of permits and provides for the enforcement of such rules and regulations. (Sec. 23-1.2, R.O. 1978 (1983 Ed.))

Sec. 14-13.3 Definitions.

Wherever used in Articles 13 through 16 of this chapter, the following words shall have the meaning indicated:

"Best management practices" or "BMPs" means structural devices or nonstructural practices employed at construction sites that are designed to contain storm water on-site and prevent the discharge of pollutants from entering any drainage facility or any state waters or to redirect storm runoff flow. BMPs may include a schedule of activities, the prohibition of practices, maintenance procedures and other management practices to accomplish the same.

"Chief engineer" means the director and chief engineer, department of public works, City and County of Honolulu, or such person's duly authorized representative.

"Conservation program" means a document submitted by a land user containing information for the conservation of soil, water, vegetation and other applicable natural resources for an area of land currently being implemented and maintained.

"Director" means the director of the department of land utilization of the City and County of Honolulu or such person's duly authorized representative.

"Earth material" means any rock, coral, sand, gravel, soil or fill and/or any combination thereof.

"Engineer" means a person duly registered as a professional engineer in the State of Hawaii.

"Engineer's soils report" means a report on soils conditions prepared by an engineer qualified in the practice of soils mechanics and foundations engineering.

"Engineering slope hazard report" means a report that utilizes the application of engineering and geologic knowledge and principles in the investigation, evaluation and mitigation of hazards posed by potential rock, soil or other slope movement.

"Erosion" means wearing away of the ground surface as a result of action by wind and/or water.

"Excavation" or "cut" means any act by which earth material is cut into, dug or moved, and shall include the conditions resulting therefrom.

"Fill" means any act by which earth materials are placed or deposited by artificial means, and shall include the resulting deposit of earth material.

"Grading" means any excavation or fill or any combination thereof.

"Grubbing" means any act by which vegetation, including tree, timber, shrubbery and plant, is dislodged or uprooted from the surface of the ground.

"Maximum extent practicable" or "MEP" means economically achievable measures for the control of the addition of pollutants from existing and new categories and classes of nonpoint sources of pollution, which reflect the greatest degree of pollutant reduction achievable through the application of the best available nonpoint pollution control practices, technologies, processes, siting criteria, operating methods or other alternatives.

"National Pollutant Discharge Elimination System permit" or "NPDES permit" means the permit issued to a permittee pursuant to Title 40, Code of Federal Regulations, Part 122, Subpart B, Section 122.26(a)(1)(ii), for construction activity including clearing, grading and excavation activities; or a permit issued to a permittee pursuant to Hawaii Administrative Rules, Chapter 11-55, "Water Pollution Control" for construction dewatering activity; or a permit issued to the city pursuant to Title 40, Code of Federal Regulations, Part 122, Subpart B, Section 122.26(a)(1)(iii), for storm water discharges from the city's separate storm sewer systems.

"Permittee" means the person or party to whom the permit is issued and shall be the owner or developer of the property whether it is a person, firm, corporation, partnership or other legal entity responsible for the work.

"Soil and water conservation districts" means the legal subdivisions of the State of Hawaii authorized under HRS Chapter 180.

"State waters" means the same as that term is defined in HRS Section 342D-1.

"Stockpiling" means the temporary open storage of earth materials in excess of 100 cubic yards upon any premises except the premises upon which a grading permit has been issued for the purpose of using the material as fill material at some other premises at a future time.

"Surveyor" means a person duly registered as a professional land surveyor in the State of Hawaii.

"Wetland" means the same as that term is defined in Chapter 25.

(Sec. 23-1.3, R.O. 1978 (1983 Ed.); Am. Ord. 92-122, 96-34, 04-27)

Sec. 14-13.4 Hazardous conditions--Stop work order.

- (a) Whenever the chief engineer determines that any existing grading, grubbing or stockpiling is or will become a hazard to life and limb, endangers property, or adversely affects the safety, use or stability of a public way or drainage channel, the owner of the property upon which the excavation or fill is located, or other person or agent in control of the property, upon receipt of notice in writing from the chief engineer shall abate the hazard and shall conform with the requirements of Articles 13 through 16 of this chapter. When there are reasonable grounds to believe that hazardous conditions may exist, the chief engineer or an authorized representative may obtain a warrant and shall enter upon the property to investigate or to enforce the provisions stated of this section, or both.
- (b) If the chief engineer determines that work must stop due to hazardous conditions, the chief engineer 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.

(Sec. 23-1.4, R.O. 1978 (1983 Ed.); Am. Ord. 91-07)

Sec. 14-13.5 Exclusions.

This chapter shall not apply to the following:

- (a) Mining or quarrying operations regulated by other city ordinances;
- (b) Excavation and backfill for the construction of basements and footings of a building, retaining wall or other structure authorized by a valid building permit. This shall not exempt any fill made outside the building lines or the placing of fill material obtained from said excavations on other premises;
- (c) Grading and grubbing individual cemetery plots;
- (d) Land which is being managed in accordance with soil conservation practices acceptable to the applicable soil and water conservation district directors, and that a comprehensive conservation program is being actively pursued for the entire area in the program and that the conservation program with appropriate modification is reviewed and accepted by the soil and water conservation district directors periodically but not less than once every five years and shall be made available to the city and county; provided, however, that no grading which, in the opinion of the chief engineer, endangers abutting properties or which alters the general drainage pattern with respect to abutting properties shall be commenced or performed without a grading permit;
- (e) Excavation which does not alter the general drainage pattern with respect to abutting properties, which does not exceed 50 cubic yards of material on any one site, and does not exceed three feet in vertical height at its deepest point; provided, that the cut meets the cut slopes and the distance from property lines requirements in Section 14-15.1;
- (f) Fill which does not alter the general drainage pattern with respect to abutting properties, which does not exceed 50 cubic yards of material on any one site and does not exceed three feet in vertical depth at its deepest point; provided, that the fill meets the fill slopes and distance from property lines requirements in Section 14-15.1;
- (g) Grubbing which does not alter the general drainage pattern with respect to abutting properties and does not exceed a total area of 15,000 square feet;
- (h) Exploratory excavations not to exceed 50 cubic yards under the direction of an engineer for the purpose of subsurface investigation; provided, that these excavations will be filled in if required by the chief engineer and provided that the chief engineer has been advised in writing prior to the start of such excavations.

(Sec. 23-1.5, R.O. 1978 (1983 Ed.))

Article 14. Permits, Bonds and Inspection for Grading, Soil Erosion and Sediment Control

Sections:

14-14.1	Permit.
14-14.1A	Application for permit.
14-14.2	Application for a grading permit.
14-14.2A	Application for a grubbing permit.
14-14.2B	Application for a stockpiling permit.
14-14.3	Grading permit limitations.
14-14.4	Permit fees.
14-14.4A	Grading without a permit.
14-14.5	Expiration of permit.
14-14.6	Denial of permit.
14-14.7	Suspension or revocation of permit.
14-14.8	Bond.
14-14.9	Inspection.

Sec. 14-14.1 Permit.

Except as excluded in Section 14-13.5 of this chapter:

- (a) No person shall commence or perform any grading without a grading permit;
 - (b) No person shall commence or perform any grubbing without a grubbing permit except where grubbing concerns land for which a grading permit has been issued; and
 - (c) No person shall commence or perform any stockpiling without a stockpiling permit.
- (Sec. 23-2.1, R.O. 1978 (1983 Ed.))

Sec. 14-14.1A Application for permit.

- (a) Prior to commencing or performing any grading, grubbing or stockpiling, a person shall file an application for a permit with the chief engineer on form(s) prescribed by the chief engineer.
 - (b) The chief engineer may adopt rules pursuant to HRS Chapter 91 for expediting processing of a permit application.
- (Added by Ord. 96-34)

Sec. 14-14.2 Application for a grading permit.

- (a) An applicant for a grading permit shall file a written application which shall:
 - (1) Describe, by tax map key number or street address, the land on which the proposed work is to be done;
 - (2) State the estimated dates for the starting and completion of the proposed work;
 - (3) Show the names and addresses of the owner or owners of the property;
 - (4) Show the names of the permittee, the person who shall be responsible for the work to be performed and that person's contractors and/or employees, and any person responsible for requesting the inspection required herein. A person signing the application for the permittee shall present evidence that the person is authorized to act for the permittee;
 - (5) Include a vicinity sketch map or plan adequately indicating the site location; property lines, easements and setbacks of the property on which the work is to be performed; location of any buildings, structures and improvements on the property where the work is to be performed and location of any building or structure on adjacent property which is within 15 feet of the property to be graded when the grading may affect the building or structure; elevations, dimensions, location, extent and the slopes of all proposed grading shown by contours and/or other means; the area in square feet of the land to be graded; the quantities of excavation and fill involved; and the locations of any streams, waterways and wetlands;
 - (6) State the current development plan land use map designation and zoning designation of any property that will be subject to the permit;
 - (7) Include a copy of any environmental impact statement or environmental assessment required by the United States or by any state or city agency;
 - (8) State the purpose of the grading work in terms of a use or structure permitted on the zoning lot under Chapter 21;
 - (9) If the use or structure for which the grading work is being done requires a conditional use permit, plan review use resolution, planned development approval, site plan review permit, special district permit, special management area use permit or special management area minor permit, the applicant shall include a copy of the applicable permits, approvals and resolutions; and
 - (10) If the use or structure for which the grading work is being done requires an amendment to any permit, resolution or approval referred to in subdivision (9), the applicant shall include a copy of the amendment.
- (b) In the event the area of the zoning lot or portion thereof subject to the permit is 15,000 square feet or more for single-family or two-family dwelling uses or 7,500 square feet or more for other uses, or in the event the total area to be developed is more than 15,000 square feet for single-family or two-family dwelling uses or 7,500 square feet for other uses and grading is being done in increments of less than that square footage, the applicant shall:
 - (1) Include a contour map, prepared by a surveyor or an engineer, which shall show the location and type of existing trees with a trunk diameter larger than 12 inches, prominent visible rock outcroppings, utility lines, structures, dimensions and azimuths of property lines, easements and setbacks, and the name and location of streets, roadways and rights of way; and
 - (2) Include a grading plan and specifications prepared by an engineer, which plan shall show the contours of the land before grading and the finished conditions to be achieved by the proposed grading, to be shown by contours, cross sections, spot elevations or other means. The grading plan shall provide information regarding the location and source of imported fill material and the location where excess excavation material is to be disposed of when the application is made. The borrow and/or disposal site(s) must also fulfill the requirements of Articles 13 to 16. Where the area is proposed to be graded in increments, the grading plan shall also include the plan for the future development of the area and the proposed grading work for the future increments. The chief engineer may also require submittal of a plan showing the location of proposed structures, buildings, streets, utilities, easements, permanent engineering measures to control soil erosion and storm runoff, and other improvements where the grading work is to be performed. One of the purposes of the grading plan is to show that only the minimum grading necessary to develop the area in conformity with zoning will be performed, and hence the natural contours and topography will be retained wherever feasible, and exposed or finished cuts or fills will be rounded off in a natural manner and sharp angles will be avoided. The grading plan shall provide that exposed finished soil surfaces shall be covered with vegetation or matting immediately to control soil erosion.
- (c) (1) In the event the total area including any areas developed incrementally that is to be graded is 15,000 square feet or more for single-family or two-family dwelling uses or 7,500 square feet or more for other uses, or in the event a proposed cut or fill is greater than 15 feet in height for single-family or two-family dwelling uses or 7.5

feet in height for other uses, in addition to the foregoing, a drainage and erosion control plan shall be included in the application. The objective of the drainage and erosion control plan is to employ best management practices to the maximum extent practicable at the construction site. BMPs shall be specified on all erosion control plans.

The drainage and erosion control plan shall:

- (A) Be prepared by an engineer in accordance with the soil erosion standards and guidelines approved by the chief engineer, a copy of which shall be on file in the division of engineering, department of public works, City and County of Honolulu, which is incorporated herein by reference and made a part of this article;
 - (B) Show the general scheme for controlling soil erosion and disposal of storm water runoff including, but not limited to, structural best management practices (BMPs) such as terraces, berms, ditches, culverts, subsurface drains, dams, sediment traps, dikes, detention/retention ponds, and nonstructural BMPs such as seeding and planting, mulching, sprigging, sodding, or temporary covering; and
 - (C) Show the acreage of the areas served by each drain and drainage structure.
- (2) The permittee shall submit temporary erosion control plans and procedures for the chief engineer's approval prior to grading, which shall include a statement of the schedules and sequence of construction operations. The limits of the area to be graded shall be delineated by flagging before the commencement of the grading work. Where construction equipment will make frequent crossings of a natural drainage course, plans shall provide for temporary culverts or bridge structures to be installed. Where any operations are delayed for any reason, a revised schedule shall be submitted to the chief engineer together with such modifications of the temporary drainage and erosion control plan as the chief engineer may require. Plans shall provide that the area of bare soil exposed at any one time by construction operations shall be held to a minimum. No drainage structure shall discharge onto a fill slope in such a manner as to cause erosion or gullyng. Temporary erosion controls shall not be removed before permanent erosion controls are in place and established;
- (3) The permittee and the permittee's contractor shall be responsible for construction, installation and maintenance of structural and nonstructural BMPs at construction sites in accordance with the approved drainage and erosion control plan. The adequacy of any BMPs employed or any corrective action that needs to be taken at the construction site is the responsibility of the permittee, the permittee's engineer, and the permittee's contractor, and the cost of any corrective action or work shall be borne by the permittee;
- (4) In addition to temporary erosion control plan(s) for construction activities, the chief engineer may require the permittee to prepare and submit permanent erosion control BMPs for the control of storm runoff pollutants and erosion after construction has been completed.
- (d) (1) In the event that a proposed cut or fill is greater than 15 feet in height for single-family or two-family dwelling uses or 7.5 feet in height for other uses; the proposed grading is on land with slopes exceeding 15 percent; any fill is to be placed over a gully, or a swamp, pond, lake, waterway or wetland; the fill material will be a highly plastic clay; or the fill is to be used to support foundations for residential or other buildings, an engineer's soils report shall be submitted. The soils report shall include data regarding the nature, distribution and engineering characteristics of existing soils, the surface and subsurface conditions at the site or the presence of groundwater when detected, and shall recommend the limits for the proposed grading, the fill material to be used and the manner of placing it, including the height and slopes of cut and fill sections.
- (2) If the proposed grading includes modification to an existing slope with a cut greater than 15 feet in height and a grade steeper than 40 percent, an evaluation of slope hazards is required and the findings of the evaluation shall be included in a report. The slope hazard evaluation shall, at a minimum, include an evaluation of hazards posed by potential rock, soil or other slope movement to the proposed development, and an evaluation of the hazard posed to adjacent existing properties or buildings by the proposed grading. The engineering slope hazard report and construction plans shall include mitigative measures to minimize the hazards posed by potential rock, soil and other slope movement as well as the threat the development poses to properties adjacent to the proposed grading.

(Sec. 23-2.2, R.O. 1978 (1983 Ed.); Am. Ord. 91-08, 96-34, 04-27)

Sec. 14-14.2A Application for a grubbing permit.

- (a) An applicant for a grubbing permit shall file a written application, which shall:
- (1) Describe, by tax map key number or street address, the land on which the proposed work is to be done;
 - (2) State the estimated dates for starting and completion of the proposed work;
 - (3) Show the name and addresses of the owner or owners of the property;
 - (4) Show the names of the permittee, and the person who shall be responsible for the work to be performed and of that person's contractors and/or employees and of any person responsible for requesting the inspections required herein. A person signing the application for the permittee shall present evidence that the person is authorized to act for the permittee; and
 - (5) Contain a statement of the purpose for which the grubbing is required; a plot plan showing the location and property boundaries, easements and setbacks; a soil erosion and sediment control plan; and other pertinent information as may be required by the chief engineer.
- (b) Grubbing of land for the purpose of making topographic surveys shall not be permitted. This does not prohibit the cutting of trails for survey lines and access for soil exploration equipment.

(Added by Ord. 96-34)

Sec. 14-14.2B Application for a stockpiling permit.

- (a) An applicant for a stockpiling permit shall file a written application, which shall:
- (1) Describe, by tax map key number or street address, the land on which the proposed work is to be done;
 - (2) State the estimated dates for the starting and completion of the proposed work;
 - (3) Show the names and addresses of the owner or owners of the property;

- (4) Show the names of the permittee, and the person who shall be responsible for the work to be performed and of that person's contractors and/or employees and of any person responsible for requesting the inspection required herein. A person signing the application for the permittee shall present evidence that the person is authorized to act for the permittee; and
 - (5) Furnish a plot plan showing the property lines, easements and setbacks, topography, and the location of the proposed stockpile, quantities, height of stockpile, life of stockpile and source of the material to be stockpiled and furnish any other information as may be required by the chief engineer to control the emission of air-borne dust, drainage runoff or erosion problems. The plot plan for stockpiling shall be approved by the chief engineer.
- (b) Where stockpiling is for the purpose of surcharging to stabilize or consolidate an area, the chief engineer shall require the permittee to submit an engineer's soils report which shall include data on the effect such surcharging will have on adjacent buildings or structures.
 - (c) Where stockpiling is to occur on lands within the AG-1 Restricted Agricultural or AG-2 General Agricultural zoning districts, the stockpiling and the materials generated, used, or stored on the land must comply with all other requirements established by federal, state, or city law, ordinance, or regulation, and any applicable permits issued thereunder.
- (Added by Ord. 96-34; Am. Ord. 14-34)

Sec. 14-14.3 Grading permit limitations.

- (a) In the event the plan for the development of the area to be graded or the stated purpose of the grading work requires a conditional use permit, special district permit, planned development approval, a site plan review permit, a plan review use approval or a rezoning under Chapter 21, or requires a special management area use or special management area minor permit under Chapter 25, approval of any such permit or rezoning for the development, or any necessary amendment to any such approval, permit, or rezoning, shall be obtained prior to approval of the grading permit application, and the grading permit application shall conform to the conditions of the approval, the approved permit or the rezoning.
- (b) In the event the plan for the development of the area to be graded is to be subdivided, tentative approval of the subdivision pursuant to the subdivision rules and regulations shall be obtained prior to the approval of the grading permit application.
- (c) In the event the area to be graded requires an NPDES permit, approval of the NPDES permit may be obtained after the approval of the grading application; however, the grading application, including any drainage and erosion control plans, shall conform to the conditions of the approved NPDES permit. In case of conflicting requirements, the most restrictive shall apply.
- (d) In the event the grading work involves contaminated soil, then all grading work shall be done in conformance with applicable state and federal requirements.
- (e) The chief engineer may attach such conditions as may be reasonably necessary to ensure that any grading work is for a use or structure permitted in the zoning district and to prevent creation of a nuisance or hazard to public or private property, health or welfare. Such conditions may include, but shall not be limited to:
 - (1) Improvement of any existing grading to bring it up to the standards under Articles 13 through 16 of this chapter;
 - (2) Requirements for fencing of excavation or fills which otherwise would be hazardous;
 - (3) The requirement of retaining walls adequate to prevent loss of support to, erosion of and interference with natural drainage patterns on adjacent properties;
 - (4) Cleaning up the area;
 - (5) Limitations on the days and hours of operation; and
 - (6) Increasing the effectiveness of the erosion control plan as required.
- (f) The issuance of a grading permit shall constitute an authorization to do only that work which is described on the permit and in the plans and specifications approved by the chief engineer.
- (g) Permits issued under the requirements of Articles 13 through 16 of this chapter shall not relieve the permittee of responsibility for securing required permits or approvals for work to be done which is regulated by any other federal, state and city codes or regulations, department or division of the governing agency.

(Sec. 23-2.3, R.O. 1978 (1983 Ed.); Am. Ord. 91-08, 92-122, 96-34)

Sec. 14-14.4 Permit fees.

- (a) Prior to issuance of a grading permit, a permit fee for grading on the same site based on the volume of excavation or fill measured in place, whichever is greater, shall be collected according to the following schedule:

Volume of Material	Permit Fee
1,000 cubic yards or less	\$55.00 for each 100 cubic yards or fraction thereof
More than 1,000 to less than 10,000 cubic yards	\$550.00 for the first 1,000 cubic yards plus \$55.00 for each additional 1,000 cubic yards or fraction thereof
10,000 cubic yards or more	\$1,030.00 for the first 10,000 cubic yards plus \$35.00 per 1,000 cubic yards or fraction thereof

- The fee for a permit authorizing work additional to that under a valid permit shall be the difference between the fee paid for the original permit and the fee computed for the entire project.
- (b) Prior to issuance of a grubbing permit, a permit fee of \$110.00 for grubbing areas up to 15,000 square feet plus \$15.00 for each additional 1,000 square feet or fraction thereof shall be collected.
 - (c) Prior to issuance of a stockpiling permit, a permit fee of \$55.00 for stockpiling in excess of the first 100 cubic yards plus \$15.00 for each additional 1,000 cubic yards or fraction thereof shall be collected.
 - (d) When grading, grubbing or stockpiling is performed by or on behalf of the city, state or federal government, the chief engineer shall waive the collection of any permit fee required in subsections (a), (b) and (c) of this section.
 - (e) When a business is certified as a qualified business pursuant to Section 35-1.3, the chief engineer shall waive the collection of any permit fee required in subsections (a), (b) and (c) of this section for the qualified business for a period of three years.

- (f) All permit fees shall be deposited into the highway fund.
(Sec. 23-2.4, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 96-34, 98-54, 03-12, 14-4)

Sec. 14-14.4A Grading without a permit.

- (a) Where work for which a grading permit is required by Articles 13 through 16 of this chapter has been commenced or has been accomplished without a permit, a permit shall be obtained, and double the fees specified in Section 14-14.4 shall be assessed, provided that such work complies with or may be made to comply with the provisions of Articles 13 through 16 of this chapter.
- (1) If the grading work accomplished or commenced cannot be made to comply with the provisions of Articles 13 through 16 of this chapter, the owner and developer of the property or person or persons responsible for the initiation or accomplishment of such grading work shall restore the land to its original condition and shall obtain a certificate of completion therefor from the director.
 - (2) Any filling performed without a permit will not be deemed a structural fill.
 - (3) Any owner and developer of the property or person or persons responsible for the initiation or accomplishment of grading work in violation of Section 14-14.1 may, at the discretion of the director, not be issued a grading permit, and the director may issue an order requiring the owner and developer of the property or person or persons responsible for the initiation or accomplishment of the grading work to restore the land to its original condition. This prohibition and requirement applies whether or not such person is able to make the grading compliant with the provisions of Articles 13 through 16 of this chapter.
 - (4) Exception – At the discretion of the director, the owner and developer of the property or person or persons responsible for such grading shall be deemed to have not violated the provisions of Article 13 through 16 of this chapter by grading without a permit in cases of natural or man-made disasters. For the purposes of this section, a “natural disaster” includes disasters caused by fire, flood, tidal waves, hurricanes, tsunamis, volcanic eruptions, earthquakes, or other natural causes; and a “man-made disaster” includes disasters caused by enemy attacks, sabotage, other hostile actions, or disasters to individual homes, or other disasters manufactured, created or constructed by mankind.
 - (5) Notwithstanding the above, the owner and developer of the property or person or persons responsible for such grading shall be deemed to have violated the provisions of Articles 13 through 16 of this chapter by grading without a permit.
- (b) The owner and developer of the property or the person or persons responsible for the initiation of grading shall be responsible for correcting any damages done by the grading on-site or off-site.
- (1) Off-site correction(s) and restoration shall include but not be limited to damages to improvements within the public right of way, any portions of the city-owned separate storm sewer systems, or private drain systems and the removal of any sediment and debris from the public right-of-way and any drainage facility.
 - (2) On-site correction(s) and restoration shall include covering of exposed soil surfaces with planting, correction of improper excavation or fills, and drainage.
- (c) Where the grading work accomplished or commenced cannot be made to comply with the provisions of Articles 13 through 16 of this chapter, the person or persons responsible shall post a performance bond in an amount sufficient, as determined by the director, to ensure payment of all costs of restoring the land to its original condition, and any damages which have occurred to any improvement(s) in the public right-of-way in the event that the person or persons responsible do not satisfactorily perform said restoration. Such performance bond shall be maintained in force for a period of one year after the restoration work has been completed, and no certificate of completion for said work shall be issued by the director until one year has elapsed after the physical work of restoration has been completed.

(Added by Ord. 96-34; Am. Ord. 14-31)

Sec. 14-14.5 Expiration of permit.

- (a) Every grading or grubbing permit shall expire and become null and void by limitation unless the work permitted therein is started within 90 days after the date of issuance; if the work is suspended or abandoned at any time after the work is commenced for a period of 60 days; or one year after the date of issuance of the permit. Before such work can be recommenced, a new permit shall first be obtained to do so and the fee therefor shall be the fee as specified in Section 14-14.4. Permit fees for an expired permit even if no work has commenced shall not be refunded.
- (b) Every stockpiling permit shall expire and become null and void one year after the date of issuance and all stockpiled material temporarily stored on the premises shall be removed from the premises or used on the premises as fill material under a grading permit for fill prior to the expiration date. Upon written application the chief engineer may grant extension or renewal for an expired stockpiling permit. In granting such extension or renewal the chief engineer may attach such conditions as deemed appropriate to prevent the creation and maintenance of a nuisance or hazard to individuals and property. Permit fee for extension or renewal shall be the fee as specified above.

(Sec. 23-2.5, R.O. 1978 (1983 Ed.))

Sec. 14-14.6 Denial of permit.

If the chief engineer finds that the work as proposed by the applicant is likely to endanger any property or public way or structure or endanger the public health or welfare through environmental damage, the chief engineer shall deny the grading, grubbing or stockpiling permit. Factors to be considered in determining probability of hazardous conditions shall include, but not be limited to, possible saturation of the ground by rains, earth movements, dangerous geological conditions or flood hazards, undesirable surface water run-off, subsurface conditions such as the stratification and faulting of rock, nature and type of soil or rock. Failure of the chief engineer to observe or recognize hazardous conditions or the chief engineer's failure to deny the grading, grubbing or stockpiling permit shall not relieve the permittee or the permittee's agent from being responsible, nor cause the city, its officers or agents, to be held responsible for the conditions or damages resulting therefrom. (Sec. 23-2.6, R.O. 1978 (1983 Ed.))

Sec. 14-14.7 Suspension or revocation of permit.

- (a) All permittees shall be required to comply with provisions of the NPDES permit if applicable including measures to control pollutants in storm water discharges during construction, and with all applicable laws, ordinances, rules or regulations of the State of Hawaii or of the City and County of Honolulu. The chief engineer shall, in writing, suspend or revoke a permit issued under the provisions of Articles 13 through 16 of this chapter whenever the permit has been issued on the basis of incorrect information supplied by the permittee; whenever the grading, grubbing or stockpiling is not being performed in accordance with the terms and provisions of the permit; whenever it is determined that the permittee has not complied with any provision of the NPDES permit if applicable and any other applicable law, ordinance, rule or regulation of the State of Hawaii or the City and County of Honolulu; or whenever the grading, grubbing or stockpiling discloses conditions that are objectionable or unsafe. Where a permit is revoked for any reason, there shall be no refund of any permit fees.
 - (b) When a permit has been suspended the permittee may submit detailed plans and proposals for compliance with the provisions of Articles 13 through 16 of this chapter, and the NPDES permit if applicable and any other applicable laws, ordinances, rules or regulations of the State of Hawaii or the City and County of Honolulu, and for correcting the objectionable or unsafe conditions. Upon approval of such plans and proposals by the chief engineer, the chief engineer may authorize the permittee, in writing, to proceed with the work.
 - (c) When a permit has been suspended and the permittee fails to take corrective action specified above within 30 days following the suspension, the chief engineer may correct the objectionable or unsafe conditions and the permittee shall be liable for the cost thereof, or, where a bond required by Section 14-14.8 has been filed with the city, from the surety executing such bond, or shall be deducted from the cash which has been deposited with the city in lieu of filing a bond.
- (Sec. 23-2.7, R.O. 1978 (1983 Ed.); Am. Ord. 92-122)

Sec. 14-14.8 Bond.

- (a) **Bond Required.** A grading permit or stockpiling permit shall not be issued for any cut, fill or stockpiling involving quantities more than 500 cubic yards or for excavations or fills over 15 feet in vertical height, or for work being done in increments of 500 cubic yards or less, which is part of a larger development unless the permittee shall first file a bond for the benefit of the City and County of Honolulu; provided, that if the proposed grading or stockpiling is to be performed under an approved subdivision final map and a subdivision agreement, or bond or other security has been approved and accepted by the city under the subdivision rules and regulations of the City and County of Honolulu, or a contractor's performance bond accepted by the city, then the chief engineer shall not require a bond for grading or stockpiling. A copy of the approved and accepted subdivision bond or other security shall be presented as evidence by the applicant for a grading or stockpiling permit. At the option of the applicant, the applicant may either file a bond guaranteed by a surety company duly authorized to transact business within the State of Hawaii, or the applicant may deposit cash or letter of credit in lieu of a bond. No interest shall be paid by the city on such cash deposit. The provisions herein relating to a surety bond shall be equally applicable to a cash deposit pledged as a bond.
- (b) **Amount of Bond.** The amount of the bond shall be based upon the number of cubic yards of material in either excavation, fill or stockpiling, whichever is the greatest volume. The amount of the bond shall be computed as set forth in the following schedule:

Volume of Material	Permit Bond
10,000 cubic yards or less	\$8.00 per cubic yard
over 10,000 to 100,000 cubic yards	\$80,000.00 plus \$3.00 per cubic yard for each additional cubic yard in excess of 10,000
over 100,000 cubic yards	\$350,000.00 plus \$1.00 per cubic yard in excess of 100,000.

- (c) **Conditions.** The bond shall be conditioned to be payable to the chief engineer, and upon failure of the permittee to complete all of the required work within the specified time, the chief engineer shall collect the moneys from the bond and complete the necessary work to control soil erosion and sedimentation or all unfinished work required by the permit. The parties executing the bond shall be firmly bound to pay for this entire cost.
- (d) **Additional Conditions.** Each bond shall provide that the surety shall be held and firmly bound unto the City and County of Honolulu for so long as the following conditions have not been met:
 - (1) The permittee shall comply with all of the terms and conditions of the permit to the satisfaction of the chief engineer;
 - (2) The permittee shall complete all of the work authorized under the permit within the time limit specified in the permit;
 - (3) The surety company shall not terminate or cancel said bond until notified in writing by the chief engineer of any termination or cancellation.
- (e) **Period and Termination of Bond.** The term of each bond shall begin upon the date of issuance of the permit and shall remain in effect for a period of one year after the date of completion of the work to the satisfaction of the chief engineer. Such completion shall be evidenced by a certificate signed by the chief engineer. In the event of failure to complete the work or failure to comply with all of the conditions and terms of the permit, the chief engineer may order the work to be completed as required by the permit and to the satisfaction of the chief engineer. The surety executing such bond or the cash depositor, shall continue to be firmly bound under a continuing obligation for the payment of all necessary costs and expenses that may be incurred or expended by the City and County of Honolulu, in causing any and all of such required work to be done, and said surety and the permittee assents to the completion of the work even though it is performed after the time allowed in the permit. Upon completion of such work by the city, the bond shall be terminated. In the case of a

cash deposit, such a deposit or any unused portion thereof not required to complete the work authorized by the permit shall be refunded to the permittee.

(Sec. 23-2.8, R.O. 1978 (1983 Ed.); Am. Ord. 96-34)

Sec. 14-14.9 Inspection.

- (a) Each permit issued under the provisions of Articles 13 through 16 of this chapter shall be deemed to include the right to the chief engineer or the chief engineer's authorized representatives to enter upon and to inspect the grading, grubbing, or stockpiling operations and if applicable the erosion control plan and provisions and measures to control pollutants in storm water discharges during construction.
- (b) The permittee shall notify the chief engineer at least two days before the permittee or the permittee's agent begins any grading, grubbing or stockpiling. Where applicable and feasible the measures to control erosion and other pollutants shall be in place before any earth moving phase of the grading is initiated. A copy of the permit, the erosion control plans and the NPDES permit where applicable, plans and specifications for grading, grubbing or stockpiling shall be maintained at the site during the progress of any work.
- (c) If the chief engineer or the chief engineer's representative finds that the work is not being done in conformance with Articles 13 through 16 of this chapter; or the plans; or the erosion control plans; or in accordance with accepted practices, the chief engineer shall immediately notify the person in charge of the grading work of the nonconformity and of the corrective measures to be taken. Grading operations shall cease until corrective measures satisfactory to the chief engineer have been taken. In addition, whenever the work is not being done in conformance with a NPDES permit, the state department of health will be notified.

(Sec. 23-2.9, R.O. 1978 (1983 Ed.); Am. Ord. 92-122)

Article 15. Grading, Grubbing and Stockpiling

Sections:

14-15.1 Conditions of permit.

14-15.2 Special requirements.

Sec. 14-15.1 Conditions of permit.

The requirements of subsections (a), (b) and (c) may be modified by the director of planning and permitting based on the engineer's soils report and engineering slope hazard report.

- (a) **Height.** Where a cut or fill is greater than 15 feet in height, terraces or benches shall be constructed at vertical intervals of 15 feet except that where only one bench is required, it shall be at the midpoint. The minimum width of such terraces or benches shall be at least eight feet and provided with drainage provisions to control erosion on the slope face and bench surface.
- (b) **Cut Slopes.** Under the following soil conditions, no cut may be steeper in slope than the ratio of its horizontal to its vertical distance as shown below:
 - (1) One-half horizontal to one vertical in unweathered rock or mudrock;
 - (2) One horizontal to one vertical in decomposed rock;
 - (3) One and one-half horizontal to one vertical in soils of low plasticity, cuts of any height in highly plastic soils shall be as recommended in the applicable report.
- (c) **Fill Slopes.** Fills shall not be steeper than a ratio of two horizontal to one vertical except that fill using highly plastic clays shall have slopes as recommended in the applicable report.
- (d) **Distance from property line.** The horizontal distance from the top of a cut slope or the bottom of a fill slope to the adjoining property line shall not be less than as follows:

Height of Cut or Fill	Distance from Property Line (in feet)
Zero feet to 4 feet	2
More than 4 feet to 8 feet	4
More than 8 feet to 15 feet	6
More than 15 feet	8

These requirements may be modified by the director of planning and permitting when cuts or fills are supported by retaining walls or when the permittee submits an engineer's soils report or engineering slope hazard report stating that the soil conditions will permit a lesser horizontal distance without causing damage or danger to the adjoining property.

- (e) **Area Opened.** The maximum-sized parcel of land that may be opened for grading or grubbing is 15 acres. Noncontiguous increments may be worked concurrently provided no single parcel exceeds 15 acres, provided the work is in conformance with the NPDES permit. The area of land that may be opened may be reduced by the director of planning and permitting to control pollution and minimize storm damage. However, if soils, hydrologic, climatic and construction conditions warrant, and adequate erosion prevention measures have been taken, the director of planning and permitting may authorize additional area to be opened. Additional area may not be opened for grading or grubbing until measures to prevent dust or erosion problems in the area already graded or grubbed have been undertaken to the satisfaction of the director.
- (f) **Fills.** The requirements of subdivisions (1), (2) and (3) may be modified by the director of planning and permitting if the permittee submits an engineer's soils report recommending criteria for the proposed fill for its intended use.
 - (1) Fill material shall be selected to meet the requirements and conditions of the particular fill for which it is to be used. The fill material shall not contain vegetation or organic matter. Where rocks, concrete, or similar materials of greater than eight inches in diameter are incorporated into the fill, they shall be placed in accordance with the recommendation of a soils engineer.

- (2) Preparation of Ground Surface. Before placing or stockpiling, the natural ground surface shall be prepared by removing the vegetation and, if required by the director of planning and permitting, shall be notched by a series of benches and/or subsurface drains installed. No fill shall be placed over any water spring, marsh, refuse dump, nor upon a soft, soggy or springy foundation; provided, that this requirement may be waived by the director of planning and permitting if the permittee submits an engineer's soils report recommending criteria for the fill.
- (3) Placement and Compaction. Fill materials shall be spread and compacted in a series of eight-inch to 10-inch layers when compacted, unless otherwise recommended by the soils engineer. Except for slopes, the fill shall be compacted to 90 percent of maximum density as determined by the most recent ASTM soil compaction test D1557 unless the engineer's soils report justifies a lesser degree of compaction, or unless otherwise recommended by the soils engineer.
- (g) Vegetation. Whenever feasible, natural vegetation should be retained by becoming part of the erosion control plan during construction or part of the permanent landscaping plan if applicable. If it is necessary that vegetation be removed, trees, timber, plants, shrubbery and other woody vegetation, after being uprooted, displaced or dislodged from the ground by excavation, clearing or grubbing, shall not be stored or deposited along the banks of any stream, river or natural watercourse. After being uprooted, displaced or dislodged, such vegetation shall be disposed of by means approved in writing by the director of planning and permitting or removed from the site within a reasonable time, but not to exceed three months.
- (h) Drainage Provisions. Adequate provisions shall be made to prevent surface waters from damaging the cut face of an excavation or the sloped surfaces of a fill. Positive drainage shall be provided to prevent the accumulation or retention of surface water in pits, gullies, holes or similar depressions. All drainage facilities shall be designed to carry surface waters to a street, storm drain inlet or natural watercourse and shall include an erosion and sedimentation control plan to prevent sediment-laden runoff from leaving the site, either during or following construction. The director of planning and permitting may require such detention or retention drainage structures and pipes to be constructed or installed, which in the director's opinion, are necessary to prevent erosion damage, prevent sediment-laden runoff from leaving the site, and to satisfactorily carry off surface waters. The flow of any existing and known natural underground drainage shall not be impeded or changed so as to cause damage to adjoining property.
- (i) Debris Prohibited. No person shall perform any grading operation so as to cause falling rocks, soil or debris in any form to fall, slide or flow onto adjoining properties, streets or natural watercourses.
- (j) Work Days. No grading work shall be done on Saturdays, Sundays and holidays at any time without prior notice to the director of planning and permitting, provided such grading work is also in conformance with Hawaii Administrative Rules, Chapter 11-43, "Community Noise Control for Oahu."
- (k) Dust Control. All work areas within and without the actual grading area shall be maintained free from dust which will cause a nuisance or hazard to others and in conformance with the air pollution control standards contained in Hawaii Administrative Rules, Chapter 11-60, "Air Pollution Control."
- (l) Water Quality Standards. All grading operations authorized under Articles 13 through 16 of this chapter shall be performed in conformance with the applicable provisions of the water pollution control and water quality standards contained in Hawaii Administrative Rules, Chapter 11-55, "Water Pollution Control" and Chapter 11-54, "Water Quality Standards" and if applicable, the NPDES permit for the project. Any dewatering discharge into state waters will require an NPDES permit from the department of health under Chapter 11-55, "Water Pollution Control." Any dewatering discharge into the city-owned storm sewer system will require a construction dewatering permit from the director of planning and permitting and an NPDES permit for the discharge of any pollutant into state waters through the city-owned storm sewer system from the department of health, State of Hawaii.
- (m) Notification of Completion. The permittee or the permittee's agent shall notify the director of planning and permitting or the director's representative when the grading operation is ready for final inspection. Final approval shall not be given until completion of all work including installation of all drainage structures and their protective devices, completion of all planting showing a healthy growth in conformance with the approved plans and specifications, and the required reports have been submitted.
- (n) Report After Grading.
 - (1) When grading involves cuts or fills for which an engineer's soils report was required, the permittee shall submit a final report, prepared by an engineer, upon the completion of such work. This report shall contain:
 - (A) A description of materials used in the fill and its moisture content at the time of compaction, the procedure used in depositing and compacting the fill, the preparation of original ground surface before making the fill, but not limited to benching and subsurface drainage, and a plan or tabulation showing the general location and elevation of compaction tests made in the fill together with a tabulation of relative compaction densities obtained at each location, the location of subdrains and other pertinent features of the fill necessary for its stability.
 - (B) A certification that the work was done in conformity to this chapter, the approved plans and specifications and the engineer's soils report.
 - (2) Where a slope hazard evaluation and mitigation plan was required to be submitted with a grading permit application, the permittee shall submit a final assessment report, prepared by an engineer, upon the completion of site work, prior to building construction. The assessment report shall contain a verification that the prevention measures and any stabilization measures called for in the engineering slope hazard report or construction plans were done in conformity with this chapter, and the approved plans and specifications.
- (o) As-Graded Plan. Upon completion of grading areas over one acre or areas graded under subdivision rules, an as-graded plan prepared by an engineer or land surveyor shall be submitted if required by the director of planning and permitting.

(Sec. 23-3.1, R.O. 1978 (1983 Ed.); Am. Ord 92-122, 04-27)

Sec. 14-15.2 Special requirements.

- (a) Any person performing or causing to be performed any excavation or fill shall, at such person's own expense, provide the necessary means to prevent the movement of earth of the adjoining properties, to protect the improvements thereon, and to maintain the existing natural grade of adjoining properties.
- (b) Any person performing or causing to be performed, any excavation or fill shall be responsible for the maintenance or restoration of street pavements, sidewalks and curbs, and improvements of public utilities which may be affected. The maintenance or restoration of street pavements, sidewalks and curbs shall be performed in accordance with the requirements of the City and County of Honolulu and the maintenance and restoration of improvements of public utilities shall be in conformity with the standards of the public utility companies affected. At cuts fronting any street, a suitable and adequate barrier shall be installed to provide protection to the public.
- (c) Any person depositing or causing to be deposited, any silt or other debris in ditches, watercourses, drainage facilities and public roadways, shall remove such silt or other debris. In case such person shall fail, neglect or refuse to comply with the provisions of this section within 48 hours after written notice, served upon such person, either by mail or by personal service, the chief engineer may proceed to remove the silt and other debris or to take any other action the chief engineer deems appropriate. The costs incurred for any action taken by the chief engineer shall be payable by such person.
- (d) At any stage of the grading, grubbing or stockpiling work, if the chief engineer finds that further work as authorized by an existing permit is likely to create soil erosion problems or to endanger any life, limb or property, the chief engineer may require safety precautions, which may include but shall not be limited to the construction of flatter exposed slopes, the construction of additional silting or sediment basins, drainage facilities or benches; the removal of rocks, boulders, debris and other dangerous objects which, if dislodged, are likely to cause injury or damage; the construction of fences or other suitable protective barriers; or may refer to the local soil and water conservation district for advice from the soil conservation service or other appropriate agencies on the planting or sodding of slopes and bare areas. All planted or sodded areas shall be maintained. An irrigation system or watering facilities may be required by the chief engineer.
- (e) At any stage of the grading, grubbing or stockpiling operations, if the chief engineer finds that further work as authorized by an existing permit is likely to create dust problems which may jeopardize health, property or the public welfare, the chief engineer may require additional dust control precautions and, if these additional precautions are not effective in controlling dust, may stop all operations. These additional dust control measures may include such items as sprinkling water, applying mulch treated with bituminous material, or applying hydro mulch.
- (f) Hillside lots shall be graded in such a manner that any parcels which may be created therefrom, including all separate building sites which may be contained within said parcels, can be satisfactorily graded and developed as individual building sites.

(Sec. 23-3.2, R.O. 1978 (1983 Ed.))

Article 16. Violations, Penalties and Liabilities for Grading, Grubbing and Stockpiling

Sections:

- 14-16.1 General.**
- 14-16.2 Notice of violation--Stop work.**
- 14-16.3 Criminal prosecution.**
- 14-16.4 Administrative enforcement.**
- 14-16.5 Liability.**
- 14-16.6 Rule making powers.**
- 14-16.7 Decisions of the chief engineer.**
- 14-16.____ Depository of civil penalties**

Sec. 14-16.1 General.

It is unlawful for any person to do any act forbidden, or to fail to perform any act required, by the provisions of Articles 13 through 16 of this chapter. Whenever a corporation violates any of the provisions of Articles 13 through 16 of this chapter, the violation shall be deemed to be also that of the individual directors, officers or agents of the corporation who in their capacity as directors, officers or agents of such corporation have authorized, ordered or done any of the acts constituting in whole or in part such violation. (Sec. 23-4.1, R.O. 1978 (1983 Ed.); Am. Ord. 90-71)

Sec. 14-16.2 Notice of violation--Stop work.

- (a) Whenever any person, firm or corporation violates any provision of Articles 13 through 16 of this chapter, the chief engineer shall serve the person, firm or corporation with a notice of violation which shall require the person, firm or corporation responsible to correct the violation.
- (b) The notice of violation shall include but not be limited to the following information:
 - (1) The date of issuance of the notice;
 - (2) The name and address of the person or entity notified 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) An order to stop work if deemed necessary by the chief engineer; and
 - (6) The deadline for correction of the violation.
- (c) If the chief engineer deems it necessary for work to stop, the work shall cease upon receipt of the notice and shall not resume until corrective measures satisfactory to the chief engineer have been taken. If the notice includes a stop work order, the chief engineer shall notify and transmit a copy to the chief of police concurrently with the issuance of the notice. The chief of police 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. 90-71; Am. Ord. 91-07)

Sec. 14-16.3 Criminal prosecution.

Any person, firm or corporation violating any of the provisions of Articles 13 through 16 of this chapter shall be deemed guilty of a misdemeanor for each and every day or portion thereof during which any violation of any provisions of this chapter is committed and, upon conviction of any such violation, such person shall be punishable by a fine of not more than \$1,000.00 or by imprisonment for not more than one year, or by both fine and imprisonment. (Added by Ord. 90-71)

Sec. 14-16.4 Administrative enforcement.

- (a) In lieu of or in addition to enforcement pursuant to Section 14-16.3, if the director of planning and permitting determines that any person, firm or corporation is not complying with a notice of violation, the director of planning and permitting may issue an order to the person or entity responsible for the violation, pursuant to this section.
- (b) Contents of 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) Upon compliance with the provisions of HRS Chapter 91, pay a civil fine not to exceed \$5,000.00 in the manner, at the place and time specified in the order; and
- (C) Upon compliance with the provisions of HRS Chapter 91, pay a civil fine not to exceed \$5,000.00 per day for each day in which the violation occurs, in the manner and at the time and place specified in the order.
- (D) Restore the land affected by the violation to its original condition and obtain a certificate of completion from the director of planning and permitting. Restoration of the land must be completed within 30 days of the order becoming final.
- (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.
- (c) Recurring Violations.
- (1) Persons who have previously committed a violation under this chapter, in a five-year period, may be required to pay initial and daily civil fines under subsection (b) hereof in amounts up to two times the fine amounts previously imposed by the director of planning and permitting for the immediately preceding violation.
- (2) Where a person commits a violation under this chapter, at the same location, more than one time in a 12-month period, the director of planning and permitting shall refer the finding of violation to the prosecuting attorney for initiation of a criminal prosecution pursuant to Section 14-16.3.
- (d) Judicial Enforcement of Order. The director of planning and permitting may institute a civil action in any court of competent jurisdiction for the enforcement of any order issued pursuant to this section. If a violator does not pay the civil penalty assessed by the director of planning and permitting within 30 days after it is due, or does not request an administrative hearing to contest the violation within the time provided by the order, the director of planning and permitting shall request the corporation counsel to institute a civil action to recover the amount of the assessment. Where the civil action has been instituted to enforce the civil fine imposed by said order, the director of planning and permitting 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.
- (e) Injunctive Relief. The director of planning and permitting may institute a civil action in any court of competent jurisdiction to enjoin any violation, or threatened violation of this chapter. The institution of an action for injunctive relief does not relieve any person from liability under the civil and criminal penalties for violations of this chapter.
- (f) Exception – At the discretion of the director, the owner and developer of the property or person or persons responsible for such grading shall be deemed to have not violated the provisions of Articles 13 through 16 of this chapter by grading without a permit in cases of natural or manmade disasters. For the purposes of this section, a "natural disaster" includes disasters caused by fire, flood, tidal waves, hurricanes, tsunamis, volcanic eruptions, earthquakes, or other natural causes; and a "man-made disaster" includes disasters caused by enemy attacks, sabotage, other hostile actions, or disasters to individual homes, or other disasters manufactured, created or constructed by mankind.

(Added by Ord. 90-71; Am. Ord. 14-30)

Sec. 14-16.5 Liability.

The provisions of Articles 13 through 16 of this chapter shall not be construed to relieve or alleviate the liability of any person for damages resulting from performing, or causing to be performed, any grading, grubbing or stockpiling operation. The city, its officers and employees shall be free from any liability, cost or damage which may accrue from any grading, grubbing or stockpiling or any work connected therewith, authorized by Articles 13 through 16 of this chapter. (Sec. 23-4.2, R.O. 1978 (1983 Ed.); Am. Ord. 90-71)

Sec. 14-16.6 Rule making powers.

The chief engineer shall be empowered to promulgate rules and regulations pursuant to HRS Chapter 91, for the implementation of the provisions of Articles 13 through 16 of this chapter. (Sec. 23-4.3, R.O. 1978 (1983 Ed.); Am. Ord. 90-71)

Sec. 14-16.7 Decisions of the chief engineer.

Decisions of the chief engineer made in accordance with the provisions of Articles 13 through 16 of this chapter, and/or decisions involving variations from the standards referred to herein shall be made a matter of record in the permit file. (Sec. 23 4.4, R.O. 1978 (1983 Ed.); Am. Ord. 90-71)

Sec. 14-16.____ Depository of civil penalties.

Payments of civil penalties are to be deposited into a special account of the general fund, to be appropriately named by the department of budget and fiscal services, and shall be used for expenses related to enforcement activities of the department of planning and permitting.
 (Added by Ord. 14-30)

Article 17. Excavation and Repairs of Streets and Sidewalks

Sections:

- 14-17.1 Permit required--Application--Insurance--Bond--Permit fee.**
- 14-17.2 Notice of commencement, prosecution of work and inspection.**
- 14-17.3 Trench excavation, backfill and pavement restoration.**
- 14-17.4 Repairs by city.**
- 14-17.5 Charges to be levied for work done by the city for the board of water supply--Disposition.**
- 14-17.6 Indemnification of city.**
- 14-17.7 Violation--Penalty.**

Sec. 14-17.1 Permit required--Application--Insurance--Bond--Permit fee.

- (a) No person, including city officials and employees, shall, in any manner or for any purpose, break up, dig up, disturb, undermine or dig under, any public highway, street, thoroughfare, alley or sidewalk or any other public place, or cause the same to be done without having first obtained a permit therefor from the chief engineer; provided, that work to accomplish emergency repairs to utilities may be started without a permit. When such emergency work is performed, the chief engineer or the chief engineer's authorized representative shall be notified of the location and type of the emergency not later than the first work day following the emergency. A written permit covering the emergency work shall be obtained from the chief engineer not later than 10 working days following the emergency. The city road division shall not be required to obtain a permit for routine street maintenance, repair or resurfacing provided that such work does not require excavating below the sub base course. City departments shall not be required to obtain a permit for excavating single holes at any one location in sidewalk area for installation of pipe supported signs, markers, meters or planting of trees.
- (b) Any person desiring the permit required under this section shall make application therefor to the chief engineer on a form prescribed by the chief engineer. As a condition precedent to the issuance of any such permit, the chief engineer shall require:
 - (1) The securing of insurance naming the city as an additional assured, to protect it against any and all claims or action for injury and death to person or property damages due to any act or omission of the holder of the permit arising out of any work done under said permit, said insurance to be in the amount of \$100,000.00 for property damages per occurrence and in an amount not less than \$500,000.00 for bodily injury or death. A public utility company performing work for installation of service connections, for the location of troubles in pipes or conduits, or for making repairs thereto may furnish a certificate of insurance listing the limits of liability which shall equal or exceed the amounts specified above for each and every service connection, trouble location or repair work accomplished by the company's own forces during the term of the policy and certifying that the insurance company will not cancel or materially alter the coverage without giving the city 15 days advance notice; and
 - (2) When the work of restoration is not performed by the city, a bond shall be required in favor of the city, extending for a period not to exceed one year after approval of any restored pavement, sidewalk or other public improvement, to ensure the proper restoration thereof. The amount of the bond shall be not less than \$1,000.00 or the estimated cost of the excavation and restoration work whichever is higher. Utility companies shall be responsible for work and repairs in existing public streets performed by its employees, contractors or subcontractors. In lieu of furnishing a separate bond for each permit a utility company may furnish written guarantee to the city that the company will be responsible for the restoration work for a period not to exceed one year after satisfactory completion of the restoration work.
- (c) Before issuing a permit, the chief engineer shall:
 - (1) Require the presentation of a plan, drawn to scale, showing the location of each proposed excavation and the dimensions thereof including the surface area of said opening in paving, sidewalk and other structures, the nature, size, length and purpose of the structure to be installed therein, and such other details and information as the chief engineer may require to be shown upon such plan. In lieu of the plan, a single line sketch, drawn to scale, may be submitted to show the location of each excavation for a service connection, for location of trouble or for repair to utilities;
 - (2) Obtain clearance from city departments having underground installations and from the various utility companies prior to issuance of the permit;
 - (3) Collect a permit fee based on the schedule below. The permit fee shall not be refundable even if the applicant, after issuance of the permit, decides not to proceed with the construction.

Work	Permit Fee
Service connection	\$20.00
Repairs to utilities	\$20.00
Trench for installation of pipelines, underground cables, etc. for the first 20 lineal feet, plus \$10.00 for each additional 10 lineal feet or any fraction thereof.....	\$55.00

- (B) When the work is performed by or on behalf of the city except the board of water supply, the state or the federal government, the chief engineer shall waive the collection of any permit fee.

All permit fees shall be deposited in the highway fund.

- (d) Each permit shall be deemed to include the provision that all surplus excavated material, if desired by the chief engineer, shall be carted or hauled to and deposited upon such place as may be directed by the chief engineer at the expense of the permittee. The maximum distance such material is to be hauled shall not exceed the distance between the job site and the nearest city and county corporation yard.
- (e) Every trenching permit shall expire and become null and void one year after the date of issuance of the permit. Upon expiration of a permit, no work shall be commenced unless a new permit is first obtained. Permit fee for a new permit shall be the fee as specified above.
- (f) The permittee shall also obtain a permit from the city department of transportation services before any work on any portion of public street may begin.
- (g) Failure to obtain any permit or the violation of any provision of this section shall be deemed a misdemeanor.
(Sec. 20-1.1, R.O. 1978 (1983 Ed.); Am. Ord. 92-122, 03-12, 14-4)

Sec. 14-17.2 Notice of commencement, prosecution of work and inspection.

- (a) Notice of Commencement of Work. At least three working days before the work is started, the permittee or the permittee's representative shall give notice of the time of commencement of the work to the chief engineer or the chief engineer's representative.
- (b) Prosecution of Work. After the work has begun it shall be diligently and continuously prosecuted until completed. All work shall be completed within the time specified in the permit unless an extension of time for good cause shown is granted by the chief engineer.
- (c) Inspection. All work authorized under Articles 17 through 22 of this chapter shall be subject to inspection by the chief engineer or the chief engineer's authorized representative.
(Sec. 20-1.2, R.O. 1978 (1983 Ed.))

Sec. 14-17.3 Trench excavation, backfill and pavement restoration.

- (a) Trench excavation and backfill shall be accomplished in accordance with the applicable provisions contained in the Standard Specifications for Public Works Construction dated September 1986 and Standard Details for Public Works Construction, dated September 1984, as amended, of the department of public works, City and County of Honolulu.
- (b) The permittee shall provide, in connection with the work covered by the permit, all necessary traffic control devices which shall conform to the requirements of the "Rules and Regulations Governing the Use of Traffic Control Devices at Work Sites or Adjacent to Public Streets and Public Highways" of the highway safety coordinator, State of Hawaii. The permittee shall be responsible for all damages of every kind or nature suffered because of the work done by the permittee.
- (c) In dewatering trenches, the discharge shall not be drained directly onto the street or gutter. In urban areas and areas where a storm sewer system has been installed, the discharge shall be drained to the nearest storm sewer by the use of pipes or other suitable means acceptable to the chief engineer. If necessary the discharge shall be processed, filtered, ponded or otherwise treated to comply with the applicable provisions of Hawaii Administrative Rules, Chapter 11-54, "Water Quality Standards" and Chapter 11-55, "Water Pollution Control" and any other applicable federal, state, and city and county ordinances and regulations concerning water pollution prior to its release into waterways or city storm sewer systems. No work shall commence unless a construction dewatering permit is first obtained from the chief engineer. The permittee is also required to obtain a NPDES permit for the discharge of any pollutant into state waters through the city-owned storm sewer system from the department of health, State of Hawaii. The city shall receive a copy of the NPDES permit and all analysis of the discharge required under the NPDES permit whenever the city-owned storm sewer system is used for the dewatering operation. Whenever the discharge is released directly into waterways not owned by the city, only a NPDES permit is required.
- (d) Concrete envelope or jacket for pipes or duct lines shall be not more than six inches wider than the width of the concrete envelope or jacket shown on the plan or drawings submitted by the applicant for a trenching permit. Whenever this tolerance is exceeded the sides of the concrete envelope or jacket shall be formed to maintain the dimensions shown on the plan or drawings.
- (e) The permit holder shall, upon completion of the backfilling and compaction of any excavation and after inspection and approval by the chief engineer, immediately commence the necessary work to restore the foundation and surface, including any public structure appurtenant thereto, to its original or equally good condition. The chief engineer may require compaction tests be performed to assure that the backfill has been compacted to the required density. Backfill not conforming to the specified degree of compaction shall be recompacted or removed and replaced with suitable material. Restoration shall be accomplished in accordance with the applicable provisions contained in the Standard Specifications for Public Works Construction dated September 1986 and Standard Details for Public Workers Construction dated September 1984, as amended, of the department of public works, City and County of Honolulu. Pavement restoration over the trench excavation shall be similar to that existing prior to the excavation, i.e., concrete base course shall be replaced with concrete of the same thickness.
- (f) When trenching in concrete sidewalks or concrete pavement the concrete to be removed shall first be cut with a saw to a depth of not less than one fourth the depth of the slab. The concrete shall be cut so as to leave a six inch wide undisturbed surface between the cut and the side of the trench. When any portion of a sidewalk block measuring four feet or less in dimension is cut, trenched or damaged during construction, the entire block shall be removed and replaced. A sidewalk block greater than four feet in dimension which is cut, trenched or damaged shall be removed and replaced in such a manner that the replaced and remaining strip or block shall be not less than four feet wide. The replaced sidewalk block shall be scored, finished, and colored to match the finish and color of the adjacent blocks.
- (g) All agencies having construction performed under a trenching permit shall submit as-built drawings to the chief engineer showing the actual construction performed.
(Sec. 20-1.3, R.O. 1978 (1983 Ed.); Am. Ord. 92-122)

Sec. 14-17.4 Repairs by city.

In the case of any excavation which has not been backfilled or restored in accordance with the provisions of this article, or in the case where the excavation poses hazards or nuisances, the chief engineer shall make or cause to be made, the necessary repairs and the expenses thereof shall be charged to and collected from the permit holder or any surety where a bond has been required, or the person responsible for the excavation in the event no permit has been obtained. Such repairs shall include, but not be limited to, the restoration of the foundation and surface, reexcavation and backfilling of excavations, repairs to any public structure and replacement of any public structure not properly restored. (Sec. 20-1.4, R.O. 1978 (1983 Ed.); Am. Ord. 92-122)

Sec. 14-17.5 Charges to be levied for work done by the city for the board of water supply--Disposition.

- (a) For any work done by the city for the board of water supply under the permit required by this article, charges for restoring the foundation and surface to its original or equally good condition shall be made by the city against the board of water supply.
- (b) Charges for the patching of any trench shall be at the following rates. These rates shall be escalated on a fiscal year basis by the representative consumer price index factor for the year preceding.
 - Asphalt concrete..... \$ 4.05 per square foot
 - Concrete..... \$19.54 per square foot
 - Asphaltic concrete on concrete..... \$22.05 per square foot
- (c) All moneys collected from charges herein levied shall be deposited into the highway fund and made available for purposes of that fund.

(Sec. 20-1.5, R.O. 1978 (1983 Ed.); Am. Ord. 92-122)

Sec. 14-17.6 Indemnification of city.

- (a) The holder of a permit shall indemnify and save harmless the city, the officers and agents thereof from all claims, demands, suits, actions or proceedings of every name, character and description which may be brought against the city for or on account of any injuries or damages to any person or property received or sustained by any person as a consequence of any act or acts of the holder of permit on work done under the permit.
- (b) The city while making repairs shall use every precaution required of the holder of permit as to barricades, lights and watchpersons for the safety of the public, but such action shall not relieve the holder of the permit from responsibility for accidents, should any occur.

(Sec. 20-1.6, R.O. 1978 (1983 Ed.))

Sec. 14-17.7 Violation--Penalty.

Any person who violates any provision of this article shall, upon conviction, be punished by a fine not exceeding \$1,000.00 or by imprisonment not exceeding three months, or by both for each separate offense. Each day of violation shall constitute a separate offense. In addition, any person upon conviction shall be liable for the total cost of any restoration of the foundation and surface, reexcavation and backfilling of excavations, repairs to any public structure and replacement of any public structure not properly restored. (Sec. 20-1.7, R.O. 1978 (1983 Ed.); Am. Ord. 92-122)

Article 18. Regulations Governing the Construction of Sidewalk, Curb or Driveway Within the Right of Way of Public Streets

Sections:

- 14-18.1 Short title and purpose.**
- 14-18.2 Definitions.**
- 14-18.3 Sidewalks, curbs and driveways to conform to grade, standards and specifications.**
- 14-18.4 Permit required.**
- 14-18.5 Notice of reconstruction or repair of sidewalks, curbs or driveways.**
- 14-18.6 Notice to owner.**
- 14-18.7 Failure to reconstruct or repair sidewalks, curbs or driveways.**
- 14-18.8 Standards and specifications for sidewalks.**
- 14-18.9 Standard details and specifications for curbs.**
- 14-18.10 Standards and specifications for driveways.**
- 14-18.11 Standards and specifications for wheelchair ramps.**
- 14-18.12 Ramp in gutter prohibited.**
- 14-18.13 Conversion of abandoned driveway to sidewalk.**
- 14-18.14 Inspection and approval.**
- 14-18.15 Violation--Penalty.**

Sec. 14-18.1 Short title and purpose.

- (a) Short Title. This article shall be known as the "sidewalk code," may be cited as such, and is referred to herein as "this code."
- (b) Purpose. The purpose of this article is to regulate, control and provide uniformity in the construction, reconstruction, installation, improvement and repairing of sidewalk, curb and driveway.

(Sec. 20-2.1, R.O. 1978 (1983 Ed.))

Sec. 14-18.2 Definitions.

For the purpose of this article:

"Abandoned driveway" means a driveway no longer used for egress and ingress purposes by motor vehicles.

"Asphalt concrete walkway" means a temporary walkway along a street constructed of asphalt concrete and intended for use by pedestrians.

"Building superintendent" means the director and building superintendent of the building department or such person's duly authorized representative.

"Chief engineer" means the director and chief engineer of the department of public works or such person's duly authorized representative.

"Curb" means the raised border of concrete, asphaltic concrete or stone along the edge of the pavement of a street.

"Driveway" means a facility constructed between the pavement of a roadway and any abutting property, which is used by motor vehicles for egress or ingress to the property.

"Owner" means any person, firm, corporation, partnership or other legal entity holding title to any property adjoining any street in the city and county or any lessee thereof holding under a recorded lease.

"Sidewalk" means that portion of a street between a curb line or the pavement of a roadway, and the adjacent property line intended for use by pedestrians, including any street setback area acquired by the city for road widening purposes.

"Street" means a public highway, as defined in HRS Section 264 1, unless otherwise specified.

"Wheelchair ramp" means a facility constructed between the curb and concrete sidewalk to provide access from the street to the sidewalk for wheelchairs. (Sec. 20-2.2, R.O. 1978 (1987 Supp. to 1983 Ed.))

Sec. 14-18.3 Sidewalks, curbs and driveways to conform to grade, standards and specifications.

All sidewalks, curbs and driveways shall be constructed according to standards and specifications as herein provided and shall conform to established grades. (Sec. 20-2.3, R.O. 1978 (1983 Ed.))

Sec. 14-18.4 Permit required.

A permit and the payment of fees are required under Chapter 18 of this code to perform work under this article. (Sec. 20-2.4, R.O. 1978 (1983 Ed.))

Sec. 14-18.5 Notice of reconstruction or repair of sidewalks, curbs or driveways.

Whenever the building superintendent finds that any sidewalk, curb or driveway is in need of reconstruction or repair in the interest of public safety or welfare, and such need is caused by action or actions attributable to the owner of land abutting such sidewalk, curb or driveway, the building superintendent is authorized to give notice thereof to such owner and to require such owner to reconstruct or repair the sidewalk, curb or driveway. (Sec. 20-2.5, R.O. 1978 (1983 Ed.))

Sec. 14-18.6 Notice to owner.

- (a) The notices specified in Section 14-18.5 shall be given by the building superintendent either by publication thereof in a daily newspaper of general circulation in the city once in each of three consecutive weeks, or by mailing a copy of such notice by certified mail to the owner.
- (b) Publication and Notice By Mail. When the building superintendent has doubt that the owner received the notice by mail, such notice shall also be given by publication.
- (c) Contents of Notice. The notice shall set forth the nature of the reconstruction or repair to be made, the location thereof, and a specific direction to such owner to reconstruct or repair such sidewalk, curb or driveway.
- (Sec. 20-2.6, R.O. 1978 (1983 Ed.))

Sec. 14-18.7 Failure to reconstruct or repair sidewalks, curbs or driveways.

- (a) Time Limit. If after the expiration of 60 days after the date of publication or after the receipt of the notice thereof an owner fails to reconstruct or repair the sidewalk, curb or driveway, the building superintendent shall issue a work order to the chief engineer to reconstruct or repair the sidewalk, curb or driveway as provided in subsection (b) of this section. If both written notice and publication is given to an owner, the expiration of the 60 days shall be based on whichever form of notice was last given.
- (b) Reconstruction or Repair of Sidewalks, Curbs or Driveways By City. The chief engineer is authorized and empowered to pay for the reconstruction or repair of sidewalks, curbs or driveways out of city funds or to have the work done by city employees.
- (c) Charge to Owner. When the city has reconstructed or repaired the sidewalk, curb or driveway or has paid for such work, the cost thereof including overhead costs, plus accrued interest at the rate of seven percent per annum shall be charged to the owner of such property and the owner shall be billed therefor by mail. The bill shall apprise the owner that failure to pay the bill will result in a lien. Interest at the rate of seven percent per annum shall accrue from the 31st calendar day after the bill has been mailed to the owner for payment in the event the same has not been paid prior thereto.
- (d) Statement of Chief Engineer. Where the full amount due the city is not paid by such owner within 30 calendar days after the bill has been mailed for payment, the chief engineer shall cause to be recorded with the city director of finance a statement showing the cost and expense incurred for the work, the date the work was done and the location of the property on which said work was done and file the same with the director of finance who shall refer the collection thereof to the corporation counsel.
- (e) Mechanic's and Materialman's Lien Procedure. Any work done by the city hereunder is deemed to be done pursuant to quasi-contract or constructive contract between the city and the owner. Based on the foregoing contractual relationship, if the owner fails to pay the amount duly noted on the statement filed by the chief engineer, the corporation counsel may proceed to file a mechanic's and materialman's lien pursuant to the provisions of Part II of HRS Chapter 507, or any other appropriate lien procedures.
- (Sec. 20-2.7, R.O. 1978 (1983 Ed.))

Sec. 14-18.8 Standards and specifications for sidewalks.

- (a) Generally. All sidewalks shall be constructed in accordance with the Standard Details, department of public works, City and County of Honolulu, dated August, 1976, as amended, and with the applicable sections of the Standard Specifications for Public Works Construction, department of public works, City and County of Honolulu, dated May, 1975, as amended.
- (b) Exceptions.
 - (1) Winding Sidewalks. Any and all sidewalks shall be constructed adjacent to the property lines; provided, however, the chief engineer may authorize winding sidewalks and provided further, that such sidewalks shall not cause additional hazards to the public as the chief engineer may determine.
 - (2) Other Surface Encroachments. The chief engineer may also authorize the placement of walls, fences, benches and other surface encroachments in the sidewalk area provided that application for such encroachments are made in writing to the chief engineer and provided further, that such encroachments do not unduly interfere with the public use of such space for utilities and pedestrian traffic. Such encroachments shall be removed at the owner's expense upon notification by the building superintendent when recommended by the chief engineer that the space is needed for public use.
 - (3) Notice. The building superintendent upon such recommendation by the chief engineer shall issue a notice in writing to the owner directing the owner to remove the encroachments or improvements. The work shall be done within such reasonable time limit as shall be stated in such notice which in no case shall be less than 20 days nor more than 60 days. Said notice may be given by personal service or by mailing a copy of such notice by certified mail to the owner.
 - (4) Failure to Remove Encroachments. Upon failure of the owner to comply with such notice within the time mentioned therein, the building superintendent shall cause such encroachments to be removed. The costs thereby incurred by the city shall be billed to such owner and shall, if not paid to the city by such owner within 30 days after such billing date, become a lien upon the property abutting such encroachments.
 - (5) Whenever the chief engineer finds that in the interest of public safety or welfare an asphalt concrete walkway is necessary for pedestrians, the chief engineer is authorized to construct such a walkway.
- (c) Filing Fee. A fee of \$200.00 shall be required for each application submitted under subsection (b)(2) dealing with other surface encroachments. All application fees collected shall not be refundable and shall be deposited into the highway fund. (Sec. 20-2.8, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 03-12, 14-4)

Sec. 14-18.9 Standard details and specifications for curbs.

All curbs shall be constructed in accordance with the Standard Details, department of public works, City and County of Honolulu, dated August, 1976, as amended, and with the applicable sections of the Standard Specifications for Public Works Construction, department of public works, City and County of Honolulu, dated May, 1975, as amended. (Sec. 20-2.9, R.O. 1978 (1983 Ed.))

Sec. 14-18.10 Standards and specifications for driveways.

- (a) Standards--Where Found. All driveways shall be constructed in accordance with the applicable standard driveway apron and layout details of the Standard Details, department of public works, City and County of Honolulu, dated August, 1976, as amended, and with the applicable sections of the Standard Specifications for Public Works Construction, department of public works, City and County of Honolulu, dated May, 1975, as amended.
- (b) Nonstandard Driveway. The chief engineer may authorize the construction of driveways which do not conform to the foregoing standards where topographic or traffic conditions warrant a variance from the standards.
- (c) Nonconforming Driveway. Whenever a driveway is constructed in a location where the existing driveways are finished in conformance to standards adopted prior to approval of this section, the chief engineer may authorize the constructed driveway to be finished and scored to match the finish and scoring of the adjacent driveways.
- (d) Designation. The chief engineer is further authorized to designate the location of a driveway in an area zoned for business, industrial or hotel-apartment use.
- (e) Exemption. When an existing driveway having width or location which does not conform to the width or location prescribed in the standard driveway layout is constructed, such driveway may be constructed to its existing width and location and shall be exempted from the width and location provisions in the standard driveway layout, provided that such driveway shall be constructed to conform to the standard driveway apron details.
- (f) Filing Fee. A fee of \$200.00 shall be required for each variance application or request covered under subsections (b) and (c) above. All application fees collected shall not be refundable and shall be deposited into the highway fund. (Sec. 20-2.10, R.O. 1978 (1983 Ed.); Am. Ord. 03-12, 14-4)

Sec. 14-18.11 Standards and specifications for wheelchair ramps.

Wheelchair ramps shall be constructed only at locations approved by the chief engineer and in accordance with the applicable standards in the Standard Details, department of public works, City and County of Honolulu, dated August, 1976, as amended, and with the applicable sections of the Standard Specifications for Public Works Construction, department of public works, City and County of Honolulu, dated May, 1975, as amended. (Sec. 20-2.11, R.O. 1978 (1983 Ed.))

Sec. 14-18.12 Ramp in gutter prohibited.

The construction of a ramp in the gutter to permit vehicles to drive over the curb is prohibited. (Sec. 20-2.12, R.O. 1978 (1983 Ed.))

Sec. 14-18.13 Conversion of abandoned driveway to sidewalk.

- (a) Conversion. The building superintendent may require the owner to convert an abandoned driveway to a sidewalk.
- (b) Work to Be Done By City. If the owner fails to close such abandoned driveway and to convert it to a sidewalk, the building superintendent shall cause the city to perform the necessary work.
- (c) Notice. Prior to commencement of any work, the building superintendent shall notify the owner that if such owner fails to obtain a permit to convert the abandoned driveway to a sidewalk within 20 days from the date of such notice or having

obtained a permit, fails to convert such driveway to a sidewalk before the expiration of such permit, the city shall perform the necessary work and shall charge the costs thereof including the amount of the permit fee required by Section 14-18.4, to the owner.

- (d) Lien. All costs shall be billed to such owner and shall, if not paid to the city by such owner within 30 days after such billing date, become a lien upon the subject property.

(Sec. 20 2.13, R.O. 1978 (1983 Ed.))

Sec. 14 18.14 Inspection and approval.

- (a) Notice to City. The permittee shall notify the building superintendent, at least 24 hours before the permittee, the permittee's agent, contractor or subcontractor begins any work. All work authorized under the permit, including formwork and placement of reinforcement, shall be subject to inspection by the building superintendent.

- (b) Illegal Sidewalk Construction. Any sidewalk, curb or driveway constructed without a permit or without prior notification as provided under subsection (a) of this section shall be deemed a violation of the provisions of this article. If the building superintendent finds that a sidewalk, curb or driveway does not conform to the requirements prescribed in this article, the building superintendent may require that the sidewalk, curb or driveway be removed and reconstructed and if the owner fails to remove and reconstruct as required, the city shall cause the sidewalk, curb or driveway to be reconstructed and all costs thereby incurred by the city shall be billed to such owner and shall, if not paid to the city by such owner within 30 days after such billing date, become a lien upon the subject property.

(Sec. 20-2.14, R.O. 1978 (1983 Ed.))

Sec. 14-18.15 Violation--Penalty.

Any person violating any of the provisions of this article shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding \$100.00. The continuance of any such violation after conviction shall be deemed a new offense for each day of such continuance. (Sec. 20-2.15, R.O. 1978 (1983 Ed.))

Article 19. Public Utility Reserved Areas

Sections:

14 19.1 Area abutting street reserved for utilities.

14 19.2 Reserved area at intersections--Construction of driveways over same prohibited.

Sec. 14 19.1 Area abutting street reserved for utilities.

Whenever street and curb lines are established within the city, the area of two and one-half feet immediately back of the face of the curb on both sides of the street shall be reserved for public utility pole lines and unconduted utility cables; provided, however, that nothing shall prohibit the public utilities, the department of public works, the department of wastewater management, or the board of water supply from constructing gas lines, conduits or water and sewer lines across said strip, or the construction of catch basins and sewer manholes within such reserve, or the construction by the owner of the property abutting thereon of a driveway or driveways across said reserved strip; provided further, that installation of necessary cables and lines on the public utility poles and underground conduits for transmission of television signals may be allowed within the reserved area upon the terms and conditions set forth in a written approval from the city and the joint pole committee representing the public utility companies. (Sec. 20-3.1, R.O. 1978 (1983 Ed.); Am. Ord. 93-32)

Sec. 14-19.2 Reserved area at intersections--Construction of driveways over same prohibited.

An area two and one-half feet wide as described in Section 14-19.1, commencing at a location on the curb line tangent 15 feet before reaching the point of curb of said curb line and running thence along said curb line tangent to the point of curve of same and thence along the curb curve around to the curb line of the adjacent side of the intersecting street and ending 15 feet beyond the point of tangency, of the curb curve with said curb line, shall be reserved for the use of public utility poles and unconduted cables at intersecting streets. No driveway shall be constructed within this area notwithstanding the provisions of Section 14-19.1, except as provided in Section 14-18.10; provided, that installation of necessary cables and lines on the public utility poles and underground conduits for transmission of television signals may be allowed within the reserved area upon the terms and conditions set forth in a written approval from the city and the joint pole committee representing the public utility companies. (Sec. 20-3.2, R.O. 1978 (1983 Ed.))