

## Chapter 27

### HOUSING CODE

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#### Article 1. General Provisions

#### Sections:

- 27-1.1 **Findings--Intent.**
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#### Sec. 27-1.1 Findings--Intent.

- (a) Findings. The council finds that there are buildings, structures, properties and portions thereof within the City and County of Honolulu that are used or designed or intended to be used for human habitation that are unfit for such habitation due to dilapidation; disrepair; structural defects; defects increasing the hazards of fire, accidents or other calamities; lack of adequate ventilation, light or sanitary facilities; uncleanliness; overcrowding; inadequate ingress and egress; inadequate drainage; violations of the health and fire regulations; and violations of other laws, regulations and ordinances relating to the use of land and the use and occupancy of buildings and improvements. The council further finds that such unsafe and unsanitary conditions affect their surrounding areas and threaten the health, safety and welfare of the public by creating unsafe living conditions; fire hazards; breeding grounds for insects, rodents and vermin; and public nuisances.
- (b) Declaration of Intent. In view of the foregoing findings, the council declares that:
- (1) The purpose of this code is to provide minimum standards regarding the use, occupancy, location and maintenance of all buildings and properties that are used or intended to be used for human habitation, and properties and structures that may affect the use of buildings or properties for human habitation within the city.
  - (2) All property owners and persons in possession of real property shall keep their property free from unsafe or unsanitary conditions that harm or threaten to harm the lawful use of property for human habitation or that may prevent, impair, or otherwise unreasonably interfere with the quiet enjoyment of residential property within the city.

(Sec. 25-1.1, R.O. 1978 (1983 Ed.); Am. Ord. 97-50, 14-36)

#### Sec. 27-1.2 Short title.

This chapter shall be known as the "housing code," may be cited as such, and will be referred to in this chapter as "this code." (Sec. 25-1.2, R.O. 1978 (1983 Ed.); Am. Ord. 97-50)

#### Sec. 27-1.3 Application--Compliance required.

- (a) Application.

- (1) The provisions of this code apply in the City and County of Honolulu to any building, as defined in this code, and to any parcel of real property located within thirty feet of any building governed by this code.
  - (2) Where any building is used or intended to be used as a combination apartment house-hotel, the provisions of this code relative to each part of such combination applies to such part as if it were a separate building.
  - (3) Every rooming house, congregate residence or lodging house must comply with all the requirements of this code for dwellings.
  - (b) Alteration. When alterations, additions or repairs are made to an existing building, such alterations, additions or repairs must conform to the provisions of this code.
  - (c) Relocation. Buildings or structures moved into or within the city must comply with the requirements in the building code for new buildings and structures.
- (Sec. 25-1.3, R.O. 1978 (1983 Ed.); Am. Ord. 97-50, 14-36)

## **Article 2. Definitions**

### **Sections:**

#### **27-2.1 Definitions.**

#### **Sec. 27-2.1 Definitions.**

For the purpose of this code, all terms, phrases, words and their derivatives have the meanings respectively ascribed to them in this article. Terms that are not defined in this article have the meanings ascribed to them in the building code or Chapter 21, as appropriate under the context in which such terms are used. Where terms are not defined by this article, the building code, or Chapter 21, they have their ordinary accepted meanings within the context with which they are used. Words in the singular include the plural and the plural the singular. Words used in the masculine gender include the feminine and the feminine the masculine.

"Building" means any structure, or portion thereof, which is used, or designed or intended to be used for lawful human habitation and includes any appurtenances belonging thereto or usually enjoyed therewith. The term includes, without limiting the generality of the foregoing, any structure mounted on wheels or otherwise, such as a trailer, wagon or powered vehicle which is parked and stationary and used for living purposes. The term does not include any jail, hospital, asylum, sanitarium, orphanage, prison, detention home or other institution in which human beings are housed and detained under legal restraint.

"Building code" means the building code of the City and County of Honolulu, as amended.

"Building official" means the director of the department of planning and permitting, or the director's duly authorized representative or agent.

"Ceiling height" means the clear vertical distance from the finished floor to the finished ceiling.

"Chapter 21" means the Land Use Ordinance of the city.

"Family" is as defined in Chapter 21.

"Hot water" means water at a temperature of not less than 110 degrees Fahrenheit.

"Human habitation" means the use or occupancy of a property or structure as a dwelling, place of residence, abode, hotel, or place of overnight accommodation. The presence of a kitchen, bathroom, personal hygienic products, toiletries, shower, personal mail, bed, couch or other domestic furnishings in a structure creates a rebuttable presumption that it is used for human habitation. However, the term does not apply to tents or temporary structures that are used for permitted camping activities.

"Kitchen" is as defined in Chapter 21.

"Nuisance" means any public or private nuisance as defined by this code located on property governed by this code.

"Nuisance in fact" means an otherwise lawful use or condition on property that unreasonably interferes with the quiet enjoyment of private property or the use of public property for its intended purposes.

"Person" means any natural person, corporation, limited liability company, partnership, limited partnership, registered business entity, trust, firm, joint venture, association, club, organization or other entity, and may include any officer, agent, servant, or employee thereof that is responsible for the use or condition of any property governed by this code.

"Private nuisance" means a nuisance in fact that does not affect the health, safety, or welfare of the general public.

"Property" means real property that is used or intended to be used for human habitation or residential purposes. The term also includes real property that is located within thirty feet of real property that is used or intended to be used for human habitation or residential purposes, and includes all improvements on and appurtenances to real property governed by this code. Where appropriate, property also refers to personal property that is located on real property that is governed by this code.

"Public nuisance" means any unsafe or unsanitary use or condition on real property that harms or threatens to harm the health, safety, or welfare of the general public and includes, without limitation, the following uses and conditions:

- (1) Any use or condition of real property that creates a fire hazard, as determined by the fire chief or the fire chief's duly authorized representative or agent pursuant to an enforcement order or declaratory ruling;
- (2) Any use or condition of real property that is determined to be detrimental to the public health, safety or welfare by the director of the state department of health, or the director's duly authorized representative or agent pursuant to an enforcement order or declaratory ruling;
- (3) Any structure that is determined to be a substandard building by the building official pursuant to an enforcement order or a declaratory ruling;
- (4) Uncultivated, flammable weeds in excess of 18 inches in height located within 30 feet of any building in the apartment, apartment mixed use, or residential zoning districts;
- (5) Items or materials that may impede, interfere with, or obstruct entry or exit points to a building or driveway;
- (6) Accumulations of leaves, needles, vines or other dead vegetation on the roof of any building;
- (7) Dead trees or deadwood overhanging the roof of any building;
- (8) Any substance, item, material, building, place or structure which emits or causes offensive, disagreeable or nauseous odor detectable from a public place;
- (9) Stagnant ponds or pools of water;
- (10) An infestation of insects, vermin or rodents found in the country, residential, apartment, or apartment mixed use zoning district;
- (11) The human habitation of structures or vehicles that are not designed or intended for living, sleeping, cooking or dining;
- (12) The occupancy or habitation of a building in excess of permitted occupancy limits;
- (13) The storage of accumulated personal property covering 30 percent or more of any required yard unless fully enclosed in a lawful structure;
- (14) Abandoned, inoperable, or unused iceboxes or refrigerators unless the door, opening or lid thereof is closed and secured by a lock or restraint;
- (15) One or more junked vehicles, defined as an inoperable vehicle that is at least three years old and subject to extensive damages, including but not limited to: a broken or missing window, broken or missing wheels or tires, or broken or missing motor or transmission; and
- (16) Any building or structure which presents a reasonable risk of harm to its occupants or the public by reason of hazardous, dilapidated, or improper wiring, weather protection, plumbing or mechanical equipment, as defined by this code.

"Public place" means a place, structure, or area open and accessible to the general public and includes all city roads, courts, malls, and paved areas unless otherwise indicated by signage.

"Responsible person" or "responsible persons" means any property owner, tenant, or person with an interest in real property governed by this code and also includes all persons with an interest in or right to use or possess personal property governed by this code.

"Rooming house" means a lodging house.

"Service room" means any room used for storage, bath or utility purposes, and not included in the definition of habitable rooms.

"Structure" means anything above existing grade constructed or erected with a fixed location on the ground, or requiring a fixed location on the ground, or attached to something having a fixed location on the ground. The term "structure" includes the term "building" as defined in this code.

"Substandard building" means any building or portion thereof that is determined to be an unsafe building in accordance with the building code or that endangers the life, limb, health, property, safety or welfare of the public or its occupants due to one or more violations of this code.

"Superficial floor area" means the net floor area within the enclosing walls of a room in which the ceiling height is not less than five feet, excluding built-in equipment such as wardrobes, cabinets, kitchen units or fixtures.

"Used" means used or designed or intended to be used.

"Vent shaft" means a court used only to ventilate or light a water closet, bath, toilet, utility room or other service room.

"Window" means a fixed or operable glazed opening or a shuttered opening using transparent, or translucent materials.

"Yard" is as defined in Chapter 21.

(Sec. 25-2.1, R.O. 1978 (1983 Ed.); Am. Ord. 97-50, 14-36)

### **Article 3. Inspections**

#### **Sections:**

##### **27-3.1 Inspections.**

#### **Sec. 27-3.1 Inspections.**

All property, buildings and structures within the scope of this code shall be subject to inspection by the building official as provided in Section 27-10.1(b).

(Sec. 25-3.1, R.O. 1978 (1983 Ed.); Am. Ord. 97-50, 14-36)

### **Article 4. Space and Occupancy Standards**

#### **Sections:**

##### **27-4.1 Location on property.**

##### **27-4.2 Yards and courts.**

##### **27-4.3 Room dimensions.**

##### **27-4.4 Light--Ventilation.**

##### **27-4.5 Sanitation.**

#### **Sec. 27-4.1 Location on property.**

Access to Public Property. All buildings shall be located with respect to property lines and to other buildings on the same property as required by this code, the building code and all statutes, regulations and ordinances applicable to buildings. Each dwelling unit and each guest room in a dwelling or a lodging house or a congregate residence shall have access to a passageway, not less than three feet in width, leading to a public street or alley. Each apartment house or hotel shall have access to a public street by means of a passageway not less than 44 inches in width and seven feet in height. (Sec. 25-4.1, R.O. 1978 (1983 Ed.); Am. Ord. 97-50)

#### **Sec. 27-4.2 Yards and courts.**

(a) Scope. This section shall apply to all spacing between buildings or structures and lot boundaries, between buildings or structures on the same lot and between the walls of a court.

(b) Spacing. Minimum horizontal spacing shall be provided as follows:

(1) Between a wall of a building or structure with required windows and a vertical plane through a lot boundary, the spacing shall be as follows:

(A) For buildings or structures not more than 15 feet in height, not less than five feet.

(B) For buildings or structures not more than 25 feet in height, five feet plus one foot for each two feet in height for that portion in excess of 15 feet in height.

- (C) For buildings or structures more than 25 feet in height, 10 feet plus one foot for each 10 feet in height for that portion in excess of 25 feet in height, up to a maximum of 20 feet.
- (2) Between the walls of a building or structure and between exterior walls of same structure on the same lot, minimum horizontal spacing shall be provided in accordance with subdivision (1) of this subsection from a vertical plane through an assumed lot boundary located between, but not necessarily equidistant from the walls if there is a required window in one or both of the walls.
- (3) If the spacing required by subdivision (1) or (2), or by any other provision of law is reduced through a change or establishment of a boundary line, said building or structure shall be moved and/or altered to meet all the appropriate provisions stated above.
- (c) Courts.
  - (1) Courts having windows opening on any side shall be not less than 10 feet in width. Courts shall be not less than 10 feet in length unless bounded on one end by a street or yard. At least 50 percent of the required width or length shall be clear of any projections and unobstructed to the sky. Spacing shall also be provided in accordance with subsection (b).
  - (2) Adequate access shall be provided to the bottom of all courts for cleaning purposes. Every court more than two stories in height shall be provided with horizontal air intake at the bottom not less than 10 square feet in area and leading to the exterior of the building, unless abutting a yard or public way. The construction of the air intake shall be as required for the court walls of the building, but in no case shall it be less than one hour fire-resistive.
- (d) Projection into Spacing. Allowable projections into horizontal spacing between the walls of buildings or structures and between exterior walls of same building or structure of the same lot shall be as follows:
  - (1) Projections may extend to the assumed lot boundary from walls without required windows; and
  - (2) Projections may extend no more than one-half the distance to the assumed lot boundary from walls with required windows.

(Sec. 25-4.2, R.O. 1978 (1983 Ed.); Am. Ord. 97-50)

**Sec. 27-4.3 Room dimensions.**

- (a) Ceiling Heights.
  - (1) Habitable space shall have a ceiling height of not less than seven feet six inches except as otherwise permitted in this section. Kitchens, halls, bathrooms and toilet compartments may have a ceiling height of not less than seven feet measured to the lowest projection from the ceiling. Where exposed beam ceiling members are spaced at less than 48 inches on center, ceiling height shall be measured to the bottom of these members. Where exposed beam ceiling members are spaced at 48 inches or more on center, ceiling height shall be measured to the bottom of the deck supported by these members, provided that the bottom of the members is not less than seven feet above the floor.
  - (2) If any room in a building has a sloping ceiling, the prescribed ceiling height for the room is required in only one-half the area thereof. No portion of the room measuring less than five feet from the finished floor to the finished ceiling shall be included in any computation of the minimum area thereof.
  - (3) If any room has a furred ceiling, the prescribed ceiling height is required in two-thirds the area thereof, but in no case shall the height of the furred ceiling be less than seven feet.
  - (4) Projections may be permitted to project below the ceiling provided the clearance is not less than six feet six inches.
- (b) Floor Area. Every dwelling unit and congregate residence shall have at least one room for living purposes which shall have not less than 120 square feet of floor area. Other habitable rooms except kitchens shall have a floor area of not less than 70 square feet. Where more than two persons occupy a room used for sleeping purposes the required floor area shall be increased at the rate of 50 square feet for each occupant in excess of two.

EXCEPTION: Nothing in this section shall prohibit the use of an efficiency dwelling unit meeting the following requirements:

- (1) The unit shall have a living room of not less than 220 square feet of floor area. An additional 100 square feet of floor area shall be provided for each occupant of such unit in excess of two.
  - (2) The unit shall be provided with a separate closet.
  - (3) The unit shall be provided with a kitchen sink, cooking appliance and refrigeration facilities, each having a clear working space of not less than 30 inches in front. Light and ventilation conforming to this code shall be provided.
  - (4) The unit shall be provided with a separate bathroom containing a water closet, lavatory, and bathtub or shower.
- (c) Width. Habitable rooms, other than kitchens, shall not be less than seven feet in any dimension. No water closet space shall be less than 30 inches in width. There shall be not less than 24 inches of clear space in front of each water closet stool and when sliding doors are not used, a door swing of not less than 90 degrees shall be provided for in front of each water closet stool.

(Sec. 25-4.3, R.O. 1978 (1983 Ed.); Am. Ord. 97-50)

**Sec. 27-4.4 Light--Ventilation.**

- (a) Natural Light and Ventilation.
- (1) All guest rooms and habitable rooms within a dwelling unit or congregate residence shall be provided with natural light by means of windows or skylights with an area of not less than one-tenth of the floor area of such rooms with a minimum of 10 square feet. Not less than one-half of the required window or skylight area shall be openable to provide natural ventilation.
  - (2) All bathrooms, water closet compartments, laundry rooms and similar rooms shall be provided with natural ventilation by means of windows with an openable area not less than one-twentieth of the floor area of such rooms with a minimum of one and one-half square feet.
- (b) Origin.
- (1) Required windows shall open directly onto the public way or a yard or court located on the same lot as the building.  
EXCEPTION: Required windows may open into a roofed porch or lanai where the porch or lanai:
    - (A) Abuts a public way, yard or court;
    - (B) Has a ceiling height of not less than seven feet; and
    - (C) Has the longer side at least 50 percent open and unobstructed. The area of fixed openings in open guardrails of minimum height may be credited for this requirement.
  - (2) A required window in a service room may open into a vent shaft which is open and unobstructed to the sky and not less than four feet in least dimension. No vent shaft shall extend through more than two stories.
  - (3) For the purpose of determining light and ventilation requirements, any room may be considered as a portion of an adjoining room when one-half of the area of the common wall is open and unobstructed and provides an opening of not less than one-tenth of the floor area of the interior room or 25 square feet, whichever is greater.
- (c) Mechanical Ventilation.
- (1) In lieu of required openable windows for natural ventilation, a mechanical ventilation system may be provided for all spaces except bedrooms.
  - (2) Mechanical ventilation systems for bathrooms containing a bathtub or shower or combination thereof, laundry rooms, and similar rooms, shall provide not less than five air changes per hour and shall be connected directly to the outside. The point of discharge of exhaust air shall be at least three feet from any opening which allows air entry into occupied portions of the building.
  - (3) Mechanical ventilation systems for all habitable rooms, except bedrooms, and public corridors shall be capable of providing not less than two air changes per hour. At least one-fifth of the air supply shall be taken from the outside.

- (4) All bathrooms, lavatories and toilet compartments which are ventilated by mechanical ventilation shall have fixed openings, from adjacent rooms or corridors or from other approved sources, which are sufficient to provide an inflow of air necessary to make exhaust ventilation effective. The exhaust air from bathrooms, lavatories and toilet compartments shall not be recirculated. Exhaust duct systems for toilet compartments and bathrooms shall be separate from the exhaust duct systems for other portions of a building.
  - (5) Toilet compartments, bathrooms and kitchens ventilated in accordance with this subsection may be provided with artificial light. When a water closet in a bathroom or toilet compartment is completely enclosed by partitions, such enclosure shall be separately lighted and ventilated.
  - (6) Systems of mechanical ventilation installed to comply with the provisions of this code shall be kept in good working order and in continuous operation at all times during occupancy of the room served by such system. All openings to ventilators shall be ratproofed.
  - (d) Hallways. All public hallways, stairs and other exitways shall be adequately lighted at all times in accordance with the building code.
- (Sec. 25-4.4, R.O. 1978 (1983 Ed.); Am. Ord. 97-50)

**Sec. 27-4.5 Sanitation.**

- (a) Dwelling Units, Lodging Houses and Congregate Residences. Every dwelling unit, lodging house and congregate residence shall be provided with a bathroom equipped with facilities consisting of a water closet, lavatory, and either a bathtub or shower.
  - (b) Hotels. Where private water closets, lavatories and baths are not provided, there shall be provided on each floor for each sex at least one water closet and lavatory and one bath accessible from a public hallway. Additional water closets shall be provided on each floor for each sex at the rate of one for every additional 10 guests, or fractional number thereof, in excess of 10. Such facilities shall be clearly marked to designate the sex.
  - (c) Kitchen. Every dwelling unit shall be provided with a kitchen. Every kitchen shall be provided with a kitchen sink. No wooden sink or sink of similarly absorbent material shall be permitted.
  - (d) Fixtures.
    - (1) All plumbing fixtures shall be connected to a sanitary sewer or to an approved private sewage disposal system. All plumbing fixtures shall be connected to an approved system of water supply and provided with hot and cold running water necessary for its normal operation.
    - (2) All plumbing fixtures shall be of an approved glazed earthenware type or of a similarly nonabsorbent material.
  - (e) Water Closet Compartments. Walls and floors of water closet compartments, except in dwellings, shall be finished in accordance with the building code.
  - (f) Room Separations. Every water closet, bathtub or shower required by this code shall be installed in a room which will afford privacy to the occupant.
  - (g) Installation and Maintenance. All sanitary facilities shall be installed and maintained in a safe and sanitary condition and in accordance with all applicable requirements of the plumbing code.
- (Sec. 25-4.5, R.O. 1978 (1983 Ed.); Am. Ord. 97-50)

**Article 5. Structural Requirements**

**Sections:**

**27-5.1 Structural requirements.**

**Sec. 27-5.1 Structural requirements.**

- (a) Generally. Buildings or structures may be of any type of construction permitted by the building code. Roofs, floors, walls, foundations and all other structural components of buildings shall be capable of resisting the forces and loads required by the building code. All structural elements shall be proportioned and joined in accordance with the stress limitations and design criteria as

specified in the appropriate sections of the building code. Buildings of every permitted type of construction shall comply with the applicable requirements of the building code.

- (b) Shelter. Every building shall be weather protected so as to provide shelter for the occupants against the elements and to exclude dampness.

(Sec. 25-5.1, R.O. 1978 (1983 Ed.); Ree. Ord. 97-50)

## **Article 6. Mechanical Requirements**

### **Sections:**

#### **27-6.1 Mechanical requirements.**

##### **Sec. 27-6.1 Mechanical requirements.**

- (a) Heating Facilities. When provided, heating facilities in dwelling units, guest rooms and congregate residences shall be installed and maintained in a safe condition and in accordance with all applicable laws. No unvented fuel-burning heaters shall be permitted. All heating devices or appliances shall be of an approved type.
- (b) Electrical Equipment. All electrical equipment, wiring and appliances shall be installed and maintained in a safe condition and in accordance with all applicable laws. All electrical equipment shall be of an approved type. Where there is electrical power available within 300 feet of any building, such building shall be connected to such electrical power. Every habitable room shall contain at least two electrical convenience outlets or one convenience outlet and one electric light fixture. Every water closet compartment, bathroom, laundry room, furnace room and public hallway shall contain at least one electric light fixture.
- (c) Ventilation. Ventilation for rooms and areas and for fuel-burning appliances shall be provided as required in accordance with all applicable laws and in this code. Ventilating equipment shall be of approved types, installed and maintained in a safe condition and in accordance with all applicable laws. Where mechanical ventilation is provided in lieu of the natural ventilation required by Section 27-4.4, such mechanical ventilation system shall be maintained in operation during the occupancy of any building or portion thereof.
- (d) Domestic Clothes Dryers.
  - (1) Where clothes dryer ducts are installed, moisture exhaust ducts shall have a minimum four-inch diameter. The duct shall be of metal and shall have smooth interior surfaces. EXCEPTION: Approved flexible duct connectors not more than six feet in length may be used in connection with domestic dryer exhausts. Flexible duct connectors shall not be concealed within construction.
  - (2) Moisture exhaust ducts and plenums shall terminate on the outside of the building and shall be equipped with a back-draft damper. In no case shall the moisture exhaust duct or plenum terminate beneath the building or in the attic. Screens shall not be installed at the duct termination. Ducts for exhausting clothes dryers shall not be connected or installed with sheet metal screws or other fasteners which will obstruct the flow. Moisture exhaust ducts shall not be connected to a gas vent connector, gas vent or chimney and shall not extend into or through ducts or plenums serving other appliances or fixtures.
  - (3) Unless otherwise permitted or required by the dryer manufacturer's installation instructions and approved by the building official, moisture exhaust ducts shall not exceed a total combined horizontal and vertical length of 14 feet, including two 90-degree elbows. Two feet shall be deducted for each 90-degree elbow in excess of two elbows. Plenums receiving discharge from two or more moisture exhaust ducts shall not be installed unless designed by a registered professional engineer or architect and approved by the building official.
  - (4) When a closet is designed for the installation of a clothes dryer, a minimum opening of 100 square inches for makeup air shall be provided in the door or by other approved means.

(Sec. 25-6.1, R.O. 1978 (1983 Ed.); Am. Ord. 97-50)

## **Article 7. Exits**

### **Sections:**

#### **27-7.1 Exits.**

#### **Sec. 27-7.1 Exits.**

Every dwelling unit or guest room shall have access directly to the outside or to a public corridor. All buildings or portions thereof shall be provided with exits, exitways and appurtenances as required by the building code. (Sec. 25-7.1, R.O. 1978 (1983 Ed.); Ree. Ord. 97-50)

## **Article 8. Fire Protection**

### **Sections:**

#### **27-8.1 Fire protection.**

#### **Sec. 27-8.1 Fire protection.**

All buildings or portions thereof shall be provided with the degree of fire-resistive construction as required by the building code, for the appropriate occupancy, type of construction, and location on property, and shall be provided with the appropriate fire-extinguishing systems or equipment required by the building code. (Sec. 25-8.1, R.O. 1978 (1983 Ed.); Am. Ord. 97-50)

**(Article 9. Substandard Buildings – Repealed by Ord. 14-36)**

## **Article 9. Violations**

### **Sections:**

#### **27-9.1 Violations.**

#### **Sec. 27-9.1 Violations.**

- (a) It is unlawful for any person to permit or maintain any use or condition on property that does not meet the requirements of this code or to maintain or permit any public nuisance on property governed by this code.
- (b) Responsibilities Defined. The owner of a building, structure or real property governed by this code shall be liable for violations of this code. The duty to comply with this code also extends to the occupants of any building and persons in possession of real property governed by this code. However, the imposition of liability for violations of this code against the occupants of a building or structure or persons in possession of real property does not relieve the owner of a building, structure or real property from the responsibility to comply with this code or any penalties imposed by this code.
- (c) This code is not intended to create a procedure for the elimination of private nuisances by the city. All members of the public shall be responsible for resolving disputes arising from private nuisances through the appropriate legal process.

(Added by Ord. 14-36)

**(Article 10. Notices and Orders of Building Official--Appeals.  
Repealed by Ord. 97-50)**

## **Article 10. Enforcement**

### **Sections:**

#### **27-10.1 Authority--Responsibilities.**

#### **27-10.2 Substandard buildings declared public nuisance.**

**27-10.3 Complaints inquiry and inspection.**

**27-10.4 Building board of appeals.**

**27-10.5 Enforcement—Penalty.**

**27-10.6 Placement of "housing code violator" sign.**

**Sec. 27-10.1 Authority--Responsibilities.**

- (a) Authority. The building official is authorized and directed to administer and enforce all of the provisions of this code.
- (b) Right of Entry. Upon presentation of proper credentials, the building official may enter at reasonable times any building, structure or property in the city to perform any duty imposed upon such person by this code.
- (c) Administrative Warrant. If the building official is unable to obtain the consent of a property owner or person in possession of real property to carry out any duty required of this code, or if such consent is denied, the building official may obtain an administrative warrant issued by any circuit or district court judge within the jurisdiction upon:
  - (1) Proper oath or affirmation showing probable cause that a violation of this code exists on the property; or
  - (2) An order issued by a court of competent jurisdiction that authorizes the building official to enter private property to abate a public nuisance by seizing, removing, repairing, altering, demolishing, or otherwise destroying private property pursuant to this code.

(Sec. 25-11.1, R.O. 1978 (1983 Ed.); Am. Ord. 97-50, 14-36)

**Sec. 27-10.2 Substandard buildings declared public nuisance.**

Buildings which are substandard, as defined by this code, are declared to be public nuisances.

(Sec. 25-11.2, R.O. 1978 (1983 Ed.); Am. Ord. 97-50)

**Sec. 27-10.3 Complaints inquiry and inspection.**

- (a) Any person may submit a written complaint to the building official reporting a violation of this code. The complainant shall sign the complaint and describe the suspected violation, the property on which it is occurring, its location on the property, and any reports, documents, or citations that support a finding of violation.
- (b) If the building official receives a complaint that contains sufficient facts or allegations to support a determination that a violation of this code exists, the building official shall make inquiry or take up an investigation of the complaint.
- (c) Nothing in this code precludes the building official from initiating an investigation into potential violations of this code that are not reported by a written complaint.

(Sec. 25-11.3, R.O. 1978 (1983 Ed.); Am. Ord. 97-50, 14-36)

**Sec. 27-10.4 Building board of appeals.**

- (a) Definition. For the purpose of this code "building board of appeals" or "board" shall mean the board of appeals as specified in the building code.
- (b) Powers and Duties. In addition to those powers and duties specified in the building code, the building board of appeals:
  - (1) Shall conduct hearings in conformity with the applicable provisions of HRS Chapter 91 and the rules of the building board of appeals; and
  - (2) May recommend amendments to or revisions of this code consistent with the purpose of this code.

(Sec. 25-11.4, R.O. 1978 (1983 Ed.); Am. Ord. 97-50)

**Sec. 27-10.5 Enforcement—Penalty.**

- (a) Notice of Violation. Whenever any person violates any provision of this code, the building official shall serve a notice of violation upon the responsible person or persons. The notice of violation must require that the responsible person or persons bring the property, building or structure or any noncompliant portion of the same into compliance with the requirements of this code. Notices of violation must be served upon responsible persons either personally or by certified mail. However, if the whereabouts of such persons is unknown and the same cannot be

ascertained by the building official in the exercise of reasonable diligence and the building official provides an affidavit to that effect, then a notice of violation may be issued by publishing the same in accordance with HRS Section 1-28.5, or if that provision no longer applies, by publication once each week for two consecutive weeks in a newspaper of general circulation in the city.

Notices of violation must include at least the following information:

- (1) Date of the notice;
- (2) The name and address of the person noticed and the location of the violation;
- (3) The section number of the ordinance, code, or rule that has been violated;
- (4) The nature of the violation or a description of the same; and
- (5) The deadline for compliance with the notice.

(b) Criminal Prosecution.

- (1) General. Any person violating any of the provisions of this code shall be guilty of a misdemeanor, and each such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which such violation is committed, continued, or permitted, 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 such fine and imprisonment.
- (2) Any officer or inspector designated by the building official, who has been deputized by the chief of police as a special officer for the purpose of enforcing the provisions of the building, plumbing, electrical or housing code (hereinafter referred to as "authorized personnel"), may arrest without warrant alleged violators by issuing a summons or citation in accordance with the procedure specified in this section. Nothing in this section shall be construed as barring such authorized personnel from initiating prosecution by warrant or such other judicial process as is permitted by statute or rule of court.
- (3) Any authorized personnel designated by the building official, upon making an arrest for a violation of the building, plumbing, electrical or housing code, may take the name and address of the alleged violator and shall issue to the violator in writing a summons or citation hereinafter described, notifying the violator to answer the complaint to be entered against the violator at a place and at a time provided in the summons or citation.
- (4) Where the circumstances do not mandate the physical arrest of violators of the building, plumbing, electrical or housing code, authorized personnel shall use a form of summons or citation to cite such violators. The administrative judge of the district court shall adopt or prescribe the form and content of the summons or citation. The summons or citation must be printed on a form commensurate with the form of other summonses or citations used in modern methods of arrest, so designed to include all necessary information to make the same valid under the laws and regulations of the State of Hawaii and the city.
- (5) In every case when a citation is issued, the original of the same must be given to the violator; provided that the administrative judge of the district court may prescribe that the violator be given a carbon copy of the citation and provide for the disposition of the original and any other copies.
- (6) Every citation must be consecutively numbered and each carbon copy must bear the number of its respective original.

(c) Administrative Enforcement. In lieu of or in addition to enforcement pursuant to subsection (b), if the building official determines that any person is not complying with a notice of violation, the building official may have the responsible person or persons served with a notice of order.

(1) Contents of Order.

- (A) The order may require the responsible person or persons to do any or all of the following:
  - (i) Correct the violation within the time specified in the order;
  - (ii) Pay a civil fine not to exceed \$1,000.00 in the manner, at the place and before the date specified in the order;
  - (iii) Pay a civil fine not to exceed \$1,000.00 per day for each day in which the violation persists, in the manner and at the time and place specified in the order.

- (B) The order must advise the responsible person or persons that the fines, if unpaid within the prescribed time period, can be added to specified fees, taxes, or charges collected by the city.
  - (C) The order must advise the responsible person or persons that the order becomes final 30 calendar days after the date of its delivery. The order must also advise that the building official's action may be appealed to the building board of appeals.
- (2) Service of Notices of Order. A notice of order issued pursuant to this section must be served upon the responsible person or persons either personally or by certified mail. However, if the whereabouts of one or more responsible persons is unknown and the same cannot be ascertained by the building official in the exercise of reasonable diligence, and the building official provides an affidavit to that effect, a notice of order may be served by publishing the same in accordance with HRS Section 1-28.5, or if that provision no longer applies, by publication once each week for two consecutive weeks in a newspaper of general circulation in the city. A copy of the notice of order must also be posted in a conspicuous place on the property affected by the complaint or order and may be recorded in the state bureau of conveyances or the land court. If so recorded, a notice of order shall have the same force and effect as other lis pendens or other legal notices provided by law.
- (3) Effect of Order; Right to Appeal. The order issued by the building official under this section becomes final 30 calendar days after the date of the delivery of the order. The responsible person or persons may appeal the order to the building board of appeals as provided by the building code. The appeal must be received in writing on or before the date the order becomes final. However, an appeal to the building board of appeals does not stay any provision of the order.
- (d) Judicial Enforcement.
- (1) Injunctive relief. The corporation counsel is hereby authorized to bring an action to enjoin any public nuisance, as defined by this code, at the request of the building official. An injunction sought by the corporation counsel may request any appropriate relief, including but not limited to an order requiring a responsible person to remove, demolish, destroy or otherwise abate a public nuisance or city authorization to enter private property and seize, remove, demolish, destroy, or otherwise abate a public nuisance.
  - (2) The corporation counsel may seek an injunction from a court under subsection (a) if it appears that:
    - (A) The public nuisance complained of was cited by the building official pursuant to a notice of violation and notice of order and remains unabated after all rights to appeal the notice of order have exhausted or expired; or
    - (B) It appears that a building, use of real property, or conditions on real property governed by this code present an unreasonable risk of harm to the public health, safety, or welfare and the public interests favor the removal of such unsafe or unsanitary condition over the property owner's interest in maintaining the current use or condition of the property.
  - (3) Where the city enters private property to abate a public nuisance, all costs of correction, including legal costs and attorneys fees, may be reduced to a judgment or recorded as a lien against the property on which such abatement occurs. A lien recorded against the property that is registered in the bureau of conveyances or land court is enforceable in the same manner as any mortgage or other lien on real property. The interest secured by the city lien is senior to any lien recorded or registered after the city lien is recorded and subordinate to any lien recorded prior to the city lien.
  - (4) Any person aggrieved by a private nuisance may bring a civil action for damages or for injunctive relief to enjoin such private nuisance.

(Sec. 25-11.5, R.O. 1978 (1983 Ed.); Am. Ord. 97-50, 14-36)

**Sec. 27-10.6 Placement of "housing code violator" sign.**

- (a) The building official may place a "housing code violator" sign on the city right-of-way fronting a building, structure, or premises with multiple violations of this code. The building official shall

establish criteria and standards for determining the circumstances warranting the placement of a sign. The building official shall establish the criteria and standards by rule adopted in accordance with HRS Chapter 91.

- (b) A sign placed pursuant to this section shall set forth the words "housing code violator" in capital letters and the name, address, and telephone number of the party responsible for the violations at the subject building, structure, or premises.

(Added by Ord. 97-50)

#### **Article 11. Severability.**

##### **Sections:**

##### **27-11.1 Severability.**

##### **Sec. 27-11.1 Severability.**

If any part of this code is for any reason declared unconstitutional or invalid, the other separable parts thereof shall not be affected thereby. (Sec. 25-12.1, R.O. 1978 (1983 Ed.); Am. Ord. 97-50)