

REPORT OF THE COMMITTEE ON ZONING AND PLANNING

Voting Members:

Ikaika Anderson, Chair; Trevor Ozawa, Vice-Chair;
Carol Fukunaga, Ann H. Kobayashi, Joey Manahan

Committee Meeting Held
April 28, 2016

Honorable Ernest Y. Martin
Chair, City Council
City and County of Honolulu

Mr. Chair:

Your Committee on Zoning and Planning, to which was referred Bill 27 (2016) entitled:

"A BILL FOR AN ORDINANCE TO AMEND CHAPTER 14, CHAPTER 18, AND CHAPTER 22, REVISED ORDINANCES OF HONOLULU 1990, AS AMENDED, RELATING TO INCENTIVES FOR ACCESSORY DWELLING UNITS PRODUCTION,"

which passed First Reading at the Council's meeting of April 20, 2016, reports as follows:

The purpose of Bill 27 (2016) is to temporarily exempt "accessory dwelling units," as defined in Section 21-10.1, from certain fees and to permanently exempt accessory dwelling units from the requirement to provide or dedicate land for park and playground purposes. The intent of this ordinance is to provide incentives to stimulate the creation of accessory dwelling units, in order to increase the number of affordable rental units and to help alleviate Honolulu's housing shortage.

At your Committee's meeting on April 28, 2016, the Director of Planning and Permitting testified that Bill 27 would do the following:

- Waive building, plan review, grading, grubbing or stockpiling permit fees, for a period of two years, until June 30, 2018.

CITY COUNCIL

CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ADOPTED ON

MAY 04 2016

COMMITTEE REPORT NO. **146**

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- Waive the wastewater system facility charges, for a period of two years, until June 30, 2018.
- Provide a permanent waiver of park dedication fees, the same as currently provided for Ohana Dwelling Units.
- Fees for the after-the-fact building permits will not be waived (for converting illegally constructed structures into legal ADUs).
- Refund fees paid by applicants that have received their ADU permits since the ADU Ordinance was signed into law (September 14, 2015).

At your Committee's meeting on April 28, 2016, written supporting testimony was received from representatives of Hawaiian Community Assets; BIA-Hawaii; and Sovereign Councils of the Hawaiian Homelands Assembly. State Representative Cynthia Thielen and one other individual submitted testimony in support of the Bill.

Your Committee amended the Bill to a hand-carried proposed CD1 version that makes the following amendments:

- A. Adds a new Section 5 that establishes a new section in Chapter 18, Article 5, to read as follows, and renumbers subsequent Sections:

Sec. 18-5. Permit for accessory dwelling unit.

- (a) The building official shall within 30 days of the effective date of this ordinance, identify all areas of the city where there is sufficient infrastructure to allow accessory dwelling units and make the information

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available to the public. "Accessory dwelling unit" as used in this section means the same as defined in Section 21-10.1.

- (b) The building official shall notify an applicant in writing whether an application for a permit for construction of an accessory dwelling unit, or conversion of an existing structure to an accessory dwelling unit, is complete or incomplete within 30 days of its submission. If the application is found to be incomplete, the written notice must state the corrective action necessary to complete the application. The permit application will be deemed accepted upon the building official finding that the application is complete, or if written notice to the applicant is not provided within 30 days of submission.
- (c) The building official shall have a maximum of 30 calendar days to review and approve or deny an accepted permit application for construction of an accessory dwelling unit, or conversion of an existing structure to an accessory dwelling unit. If the application is denied, the building official shall provide written notice of the reason for denial and provide the necessary corrective action. If the building official fails to act within 30 days, the permit will be deemed approved.
- (d) The applicant shall be responsible for ensuring that the plans for the project deemed approved comply with all applicable regulations, governmental provisions and requirements.
- (e) The building official may suspend or revoke a permit deemed approved for noncompliance as provided under Section 18-5.4(d)."

B. Makes miscellaneous technical and nonsubstantive amendments.

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The Director and Deputy Director of the Department of Planning and Permitting expressed concerns with respect to the 30-day time restrictions in the CD1 version of the Bill. They agreed to work further with the Council to address the concerns once the Bill is returned to Committee.

Your Committee on Zoning and Planning is in accord with the intent and purpose of Bill 27 (2016), as amended herein, and recommends that it pass Second Reading, be scheduled for a public hearing, and thereafter be referred back to Committee in the form attached hereto, as Bill 27 (2016), CD1. (Ayes: Anderson, Ozawa, Fukunaga, Kobayashi, Manahan – 5; Noes: None.)

Respectfully submitted,



Committee Chair

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ADOPTED ON MAY 04 2016

COMMITTEE REPORT NO. 146



A BILL FOR AN ORDINANCE

TO AMEND CHAPTER 14, CHAPTER 18, and CHAPTER 22, REVISED ORDINANCES OF HONOLULU 1990, AS AMENDED, RELATING TO INCENTIVES FOR ACCESSORY DWELLING UNITS PRODUCTION.

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

SECTION 1. Purpose and intent. The purpose of this ordinance is to provide incentives to stimulate the creation of accessory dwelling units, in order to increase the number of affordable rental units and to help alleviate Honolulu's housing shortage.

SECTION 2. Chapter 14, Article 10, Revised Ordinances of Honolulu 1990 ("Wastewater System Facility Charges"), is amended by adding a new Section 14-10.7 to read as follows:

"Sec. 14-10.7 Waiver of wastewater system facility charges for accessory dwelling unit projects.

The wastewater system facility charges, as set forth in Appendix 14-D of this chapter, for the creation of an "accessory dwelling unit," as defined in Section 21-10.1, shall be waived. The wastewater system facility charges that were collected for the creation of "accessory dwelling units" from the effective date of Ordinance 15-41 (September 14, 2015) shall be reimbursed, if requested by the permittee. The wastewater system facility charges waiver shall be repealed on June 30, 2018."

SECTION 3. Section 14-14.4, Revised Ordinances of Honolulu 1990, is amended to read as follows:

"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:



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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.
- (g) When grading, grubbing or stockpiling permits are processed in conjunction with a building permit for the creation of an "accessory dwelling unit," as defined in Section 21-10.1, the chief engineer shall waive the collection of the permit fees required in subsections (a), (b) and (c) of this section. The grading, grubbing and stockpiling permit fees that were collected for the creation of "accessory dwelling units" from the effective date of Ordinance 15-41 (September 14, 2015) shall be reimbursed, if requested by the permittee. The grading, grubbing, or stockpiling permits fee waiver shall be repealed on June 30, 2018."



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SECTION 4. Chapter 18, Article 5, Revised Ordinances of Honolulu 1990 ("Permit Issuance"), is amended by adding a new section to be designated by the revisor of ordinances and to read as follows:

"Sec. 18-5. Permit for accessory dwelling unit.

- (a) The building official shall within 30 days of the effective date of this ordinance, identify all areas of the city where there is sufficient infrastructure to allow accessory dwelling units and make the information available to the public. "Accessory dwelling unit" as used in this section means the same as defined in Section 21-10.1.
- (b) The building official shall notify an applicant in writing whether an application for a permit for construction of an accessory dwelling unit, or conversion of an existing structure to an accessory dwelling unit, is complete or incomplete within 30 days of its submission. If the application is found to be incomplete, the written notice must state the corrective action necessary to complete the application. The permit application will be deemed accepted upon the building official finding that the application is complete, or if written notice to the applicant is not provided within 30 days of submission.
- (c) The building official shall have a maximum of 30 calendar days to review and approve or deny an accepted permit application for construction of an accessory dwelling unit, or conversion of an existing structure to an accessory dwelling unit. If the application is denied, the building official shall provide written notice of the reason for denial and provide the necessary corrective action. If the building official fails to act within 30 days, the permit will be deemed approved.
- (d) The applicant shall be responsible for ensuring that the plans for the project deemed approved comply with all applicable regulations, governmental provisions and requirements.
- (e) The building official may suspend or revoke a permit deemed approved for noncompliance as provided under Section 18-5.4(d)."

SECTION 5. Section 18-6.5, ROH 1990, is amended to read as follows:

"Sec. 18-6.5 Exemptions.

- (a) The city, all agencies thereof and contractors therewith shall be exempt from the requirement of paying plan review and permit fees.



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- (b) The building official may grant an exemption from the requirement of paying plan review and permit fees for any person seeking to restore or reconstruct a structure damaged or destroyed as a result of a major disaster. For the purposes of this section:
- (1) "Major Disaster" means any hurricane, tornado, storm, flood, high water, tsunami, earthquake, volcanic eruption, landslide, mud slide, fire, explosion or other catastrophe occurring in any part of the City and County of Honolulu that causes damage, suffering and loss to such a degree that:
 - (A) The President of the United States has declared, pursuant to the Disaster Relief Act of 1974, P.L. 93-288, that a major disaster exists such that the City and County of Honolulu or any part thereof is eligible for federal disaster assistance programs;
 - (B) The governor of the State of Hawaii has declared pursuant to HRS Chapter 209 that a major disaster has occurred;
 - (C) The mayor has issued a proclamation declaring the existence of a major disaster; or
 - (D) The council has adopted a resolution declaring the existence of a major disaster.
 - (2) "Restore and reconstruct" means any repair or other work performed to return a structure to its former condition that does not increase the floor area of the structure beyond that of the structure prior to the major disaster, is in conformance with the building code, flood hazard regulations, land use ordinance, and other applicable laws, and is started within two years of the major disaster.
 - (3) The burden of proof that work to be performed qualifies for an exemption from the payment of building permit fees due to a major disaster shall be on the owner of the structure. An applicant filing for such exemption shall certify in writing that the work to be performed shall be in conformance with the requirements of this section.
- (c) All owners and their contractors shall be exempt from paying that portion of any building permit fee for permits issued after September 15, 1994 attributable to the installation of ultra-low flush toilets that they install on their properties to replace existing nonultra-low flush toilets.



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- (d) The building official shall waive the collection of any building permit fee for a period of three years where the business has been certified to be a qualified business pursuant to Section 35-1.3.
- (e) The building official shall waive the collection of any building permit fee for any person seeking to replace a dilapidated dwelling unit located on homestead land leased under the Hawaiian Homes Commission Act of 1920. For the purposes of this section:
- (1) "Dilapidated dwelling unit" means any residential home that has significantly deteriorated because of age, termites or other causes, which make the home unsafe, uninhabitable or unhealthy.
 - (2) The burden of proof that a dwelling unit is dilapidated which qualifies for an exemption from the payment of building permit fees shall be on the owner of the unit. An applicant filing for such exemption shall attach acceptable proof that the dwelling unit is dilapidated to the building permit application.
 - (3) The replacement home may increase the floor area of the originally demolished or removed structure.
- (f) The building official shall waive the collection of any plan review and building permit fees exclusively for the creation of an "accessory dwelling unit," as defined in Section 21-10.1. The plan review and building permit fees that were collected for the creation of "accessory dwelling units" from the effective date of Ordinance 15-41 (September 14, 2015) shall be reimbursed, if requested by the permittee. Building permit fees and plan review fees shall not be waived where a permit was required and work started or proceeded without obtaining such permit. In these cases, fees shall be required following Section 18-6.2(d). The plan review and building permit fee waiver shall be repealed on June 30, 2018.

SECTION 6. Section 22-7.5, Revised Ordinances of Honolulu 1990, is amended to read as follows:

"Sec. 22-7.5 Land area required for parks and playgrounds.

The land area required for parks and playgrounds shall be calculated as set forth in this section.



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- (a) Country and Residential Districts, Excluding Planned Development Housing Projects. The minimum land area in country and residential districts shall be:
- (1) For subdivisions involving three or four lots: 50 square feet per dwelling or lodging unit;
 - (2) For subdivisions involving five lots: 100 square feet per dwelling or lodging unit;
 - (3) For subdivisions involving six lots: 200 square feet per dwelling or lodging unit;
 - (4) For subdivisions involving seven or eight lots: 300 square feet per dwelling or lodging unit; and
 - (5) For subdivisions involving nine or more lots: 350 square feet per dwelling or lodging unit.

For subdivision actions involving eight or fewer lots, the applicable rate shall be based on the total number of potential lots.

A lot which cannot be further subdivided shall count as one potential lot. For a lot which can be further subdivided, the potential number of lots shall be determined by dividing the area of the lot by the minimum potential lot size for the zoning district.

Dwelling or lodging units shall include existing, proposed and potentially developable units, except for "ohana dwelling units" and "accessory dwelling units" as defined in [the land use ordinance of the city.] Section 21-10.1.

- (b) Other Districts and Planned Development Projects within Residential Districts. The minimum land area required shall be either 10 percent of the maximum permitted floor area or the following, whichever is less:
- (1) Apartment, resort and mixed-use districts: 110 square feet per dwelling or lodging unit;
 - (2) Planned development project: 110 square feet per dwelling or lodging unit.



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(c) Special District Use Precincts.

- (1) Dwellings, one-family and two-family and duplex units: 350 square feet per dwelling or lodging unit, in accordance with subsection (a) above;
- (2) Multiple-family dwelling: 10 percent of the maximum permitted floor area or 110 square feet per dwelling or lodging unit, whichever is less."

SECTION 7. Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application.

SECTION 8. Ordinance material to be repealed is bracketed. New material is underscored. When revising, compiling or printing this ordinance for inclusion in the Revised Ordinances of Honolulu, the revisor of ordinances need not include the brackets, the bracketed material, or the underscoring.



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SECTION 9. This ordinance takes effect upon its approval; provided that the amendments to the Revised Ordinances of Honolulu 1990 made in Section 2, Section 3 and Section 5 of this ordinance are repealed on June 30, 2018.

INTRODUCED BY:

Ernest Martin (BR)

DATE OF INTRODUCTION:

March 22, 2016
Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Deputy Corporation Counsel

APPROVED this _____ day of _____, 20____.

KIRK CALDWELL, Mayor
City and County of Honolulu