

# REPORT OF THE COMMITTEE ON ZONING AND PLANNING

## Voting Members:

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

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Committee Meeting Held  
June 16, 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), CD1 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 Second Reading and was the subject of a public hearing at the Council's meeting of May 4, 2016, reports as follows:

The purpose of Bill 27 (2016), CD1 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 June 16, 2016, the Director of Planning and Permitting spoke in support of the Bill and the posted proposed CD2 version of the Bill submitted by Chair Martin.

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## CITY COUNCIL

CITY AND COUNTY OF HONOLULU  
HONOLULU, HAWAII

ADOPTED ON

**JUL 06 2016**

COMMITTEE REPORT NO. **209**

# REPORT OF THE COMMITTEE ON ZONING AND PLANNING

## Voting Members:

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The Deputy Director of Environmental Services also spoke in general support of the Bill, but the department was concerned that in the CD2 version of the Bill, repeal date language was deleted from the codified provisions of the Bill, and appears only in the last section of the Bill. The Deputy Director further stated, however, that he understood that the revision was made to conform to current drafting conventions.

Your Committee received written supporting testimony from representatives of Hawaiian Community Assets, Hawaii Appleseed Center for Law & Economic Justice, Hawaii Habitat for Humanity and the Sovereign Councils of the Hawaiian Homelands Assembly. One individual submitted written testimony in support of the Bill.

Your Committee amended the Bill to a posted CD2 version that makes the following amendments:

- A. Capitalizes the word "and" in the title.
- B. Deletes subsection (a) from the new Sec. 18.5.\_\_\_\_.
- C. Consolidates subsections (b) and (c) into a new subsection (a) that combines all provisions and provides for a cumulative 60 calendar day deadline, and re-alphabetizes subsequent subsections. Failure to act on all provisions within that timeframe will result in the permit being deemed approved.
- D. Deletes repeal language in SECTION 2, SECTION 3, and SECTION 5 of the bill.

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## CITY COUNCIL

CITY AND COUNTY OF HONOLULU  
HONOLULU, HAWAII

ADOPTED ON \_\_\_\_\_

**JUL 06 2016**

COMMITTEE REPORT NO. 209

# REPORT OF THE COMMITTEE ON ZONING AND PLANNING

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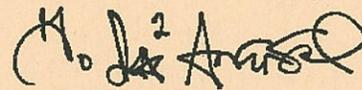
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- E. Deletes SECTION 7 of the bill (regarding severability) and renumbers subsequent sections.
- F. Makes miscellaneous technical and non-substantive amendments.

Your Committee on Zoning and Planning is in accord with the intent and purpose of Bill 27 (2016), CD1, as amended herein, and recommends that it pass Third Reading in the form attached hereto, as Bill 27 (2016), CD2. (Ayes: Anderson, Ozawa, Fukunaga, – 3; Noes: None; Excused: Kobayashi, Manahan – 2.)

Respectfully submitted,



\_\_\_\_\_  
Committee Chair

2016 JUN 15 10:51 AM  
CITY OF HONOLULU  
CLERK OF THE CITY

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**CITY COUNCIL**  
CITY AND COUNTY OF HONOLULU  
HONOLULU, HAWAII

ADOPTED ON JUL 06 2016

COMMITTEE REPORT NO. 209



**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, will 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), will be reimbursed if requested by the permittee.

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] will 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] will equal 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] will 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] will 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] are to 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), will be reimbursed if requested by the permittee."



**A BILL FOR AN ORDINANCE**

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) Upon receipt of an application for a permit for construction of an accessory dwelling unit or conversion of an existing structure to an accessory dwelling unit, the building official will have a maximum of 60 calendar days to do both of the following:

- (1) Notify the applicant in writing whether the application is complete or incomplete, and if the application is found incomplete, the written notice must state the corrective action necessary to complete the application; and
- (2) 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 state the necessary corrective action, if any.

If the building official fails to complete the actions specified in both subdivisions (1) and (2) within 60 calendar days, the permit will be deemed approved; provided that the days between the notification of the applicant that an application is incomplete and the resubmittal of the application will be excluded.

- (b) The applicant shall be responsible for ensuring that the plans for the project deemed approved comply with all applicable regulations, governmental provisions and requirements.
- (c) 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] will 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] city 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] city 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] will be on the owner of the structure. An applicant filing for such exemption [shall] must certify in writing that the work to be performed [shall] will be in conformance with the requirements of this section.
- (c) All owners and their contractors [shall] will 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 non-ultra-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] will 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), will be reimbursed if requested by the permittee. Building permit fees and plan review fees will not be waived where a permit was required and work started or proceeded without obtaining a permit. In these cases, fees will be required pursuant to Section 18-6.2(d).

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] will be calculated as set forth in this section.



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A BILL FOR AN ORDINANCE

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- (a) Country and Residential Districts, Excluding Planned Development Housing Projects. The minimum land area in country and residential districts [shall] will 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] will be based on the total number of potential lots.

A lot [which] that cannot be further subdivided [shall] will count as one potential lot. For a lot [which] that can be further subdivided, the potential number of lots [shall] will 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] will 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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**A BILL FOR AN ORDINANCE**

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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. 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 1990, the revisor of ordinances need not include the brackets, the bracketed material, or the underscoring.



**CITY COUNCIL**  
 CITY AND COUNTY OF HONOLULU  
 HONOLULU, HAWAII

ORDINANCE \_\_\_\_\_

BILL 27 (2016), CD2

**A BILL FOR AN ORDINANCE**

SECTION 8. 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)

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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