



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

ORDINANCE \_\_\_\_\_  
BILL **58 (2023)**

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**A BILL FOR AN ORDINANCE**

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RELATING TO AUTHORIZED PERSONNEL.

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

SECTION 1. Purpose. The purpose of this ordinance is to permit authorized personnel to enforce certain provisions of the Revised Ordinances of Honolulu 2021.

SECTION 2. Chapter 16, Revised Ordinances of Honolulu 2021 ("Building Code"), is amended by adding a new article to be appropriately designated by the Revisor of Ordinances and to read as follows:

**"ARTICLE \_\_: GENERAL PROVISIONS**

**§ 16-\_\_.1 Definitions.**

For the purposes of this chapter, the following definitions apply unless the context clearly indicates or requires a different meaning.

**Authorized Personnel.** Any officer or inspector who has been designated by the building official and deputized by the chief of police as a special officer for the purpose of enforcing this code.

**Building.** Has the same meaning as defined in § 16-1.1.

**Building Official.** Has the same meaning as defined in § 16A-2.1.

**Person.** Has the same meaning as defined in § 16A-2.1.

**Responsible Person.** Has the same meaning as defined in § 16A-2.1.

**Structure.** Has the same meaning as defined in § 16-1.1.

**This Code.** The building code (Chapter 16)."



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SECTION 3. Section 16-10.2, Revised Ordinances of Honolulu 2021 ("Notice of violation"), is amended by amending subsection (a) to read as follows:

- "(a) Whenever any ~~[person, firm, or corporation]~~ person violates this code, the building official or authorized personnel shall serve a notice of violation ~~[to the party responsible for the violation to make the building or structure or portion thereof comply]~~ upon the responsible person. The notice of violation must require that the responsible person bring the property, building, or structure, or any noncompliant portion thereof, into compliance with the requirements of this code. A notice of violation must be served upon the responsible ~~[persons]~~ person either personally or by certified mail. However, if the whereabouts of ~~[such persons]~~ the person are unknown~~[,]~~ and ~~[the same]~~ cannot be ascertained by the building official or authorized personnel in the exercise of reasonable diligence~~[,]~~ and the building official or authorized personnel provides an affidavit to that effect, then a notice of violation may be served by publishing ~~[the same]~~ the notice of violation in accordance with HRS § 1-28.5, or if that provision no longer applies, by publication once each week for two consecutive weeks in a [daily or weekly publication] newspaper of general circulation in the city [pursuant to HRS § 1-28.5]."

SECTION 4. Section 16-10.3, Revised Ordinances of Honolulu 2021 ("Criminal prosecution"), is amended by amending subsections (a), (b), and (c) to read as follows:

- "(a) ~~[General.]~~ Any ~~[person, firm, or corporation]~~ person violating this code is guilty of a misdemeanor, ~~[and each such person]~~ is guilty of a separate offense for each and every day or portion thereof during which ~~[any]~~ the violation ~~[of this code]~~ is committed, continued, or permitted, and, upon conviction of any such violation, ~~[such person shall be]~~ is punishable by a fine of not more than \$2,000~~[,]~~ or ~~[by]~~ imprisonment for not more than one year, or ~~[by]~~ both ~~[fine and imprisonment]~~.
- (b) 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 building, plumbing, electrical, or housing codes (hereinafter referred to as "authorized personnel")]~~ authorized personnel may arrest ~~[without warrant]~~ alleged violators without a warrant by issuing a summons or citation in accordance with the procedure specified in this section. Nothing in this section ~~[shall]~~ is to be construed as barring ~~[such]~~ any authorized personnel from initiating prosecution by warrant or ~~[such]~~ any other judicial process ~~[as is]~~ permitted by statute or rule of court.



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- (c) Any authorized personnel ~~[designated by the building official,]~~ may, upon making an arrest for a violation of the building, plumbing, electrical, or housing codes, ~~[may]~~ take the name and address of the alleged violator and shall issue to ~~[the violator in writing]~~ any person arrested a written summons or citation hereinafter described, notifying the ~~[violator]~~ person to answer the complaint to be entered against the ~~[violator]~~ person at a place and ~~[at a]~~ time provided in the summons or citation."

SECTION 5. Section 16-10.4, Revised Ordinances of Honolulu 2021, is amended to read as follows:

**"§ 16-10.4 Administrative enforcement.**

In lieu of or in addition to enforcement pursuant to § 16-10.3, if the building official or authorized personnel determines that any ~~[person, firm, or corporation]~~ person is not complying with a notice of violation, the building official or authorized personnel may have the ~~[party responsible for the violation]~~ responsible person served, by certified mail or delivery, with ~~[an order pursuant to this section.]~~ a notice of order.

(a) *Contents of the order.*

- (1) The order may require the ~~[party responsible for the violation]~~ responsible person to do any of the following:
- (A) Correct the violation within the time specified in the order;
  - (B) Except where paragraph (C) applies, pay a civil fine not to exceed:
    - (i) \$2,000 in the manner, at the place, and before the date specified in the order; and
    - (ii) \$2,000 per day for each day in which the violation persists, in the manner and at the time and place specified in the order;
  - (C) Where a building or structure, or portion thereof, is erected, constructed, enlarged, altered, improved, or converted without the necessary permit; ~~[and]~~ a notice of violation has been served that contains an instruction that the ~~[party responsible for the violation]~~ responsible person suspend work on the building or structure, or



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portion thereof[.]; and work on the building or structure, or portion thereof, has nevertheless continued:

- (i) Pay a civil fine equal to 10 times the building permit fee amount that would have been incurred pursuant to § 18-6.2 if the building permit had been properly obtained[.] or \$10,000, whichever is greater, in the manner, at the place, and before the date specified in the order;
- (ii) Pay a civil fine equal to 10 times the building permit fee amount that would have been incurred pursuant to § 18-6.2 if the building permit had been properly obtained[.] or \$10,000, whichever is greater, per day for each day in which the violation persists, in the manner and at the time and place specified in the order; or
- (iii) Demolish the building or structure, or portion thereof;

The civil fines issued pursuant to this paragraph cannot be reduced nor can any portion thereof be waived by the building official[.] or authorized personnel.

- (2) The order must advise the ~~[party responsible for the violation]~~ responsible person that the order will become final 30 calendar days after the date of its delivery. The order must also advise that the building official's or authorized personnel's action may be appealed to the building board of appeals.
- (b) *Service of notice of order.* A notice of order must be served upon the responsible ~~[persons]~~ person either personally or by certified mail. However, if the whereabouts of ~~[such persons]~~ the person are unknown and ~~[the same]~~ cannot be ascertained by the building official or authorized personnel in the exercise of reasonable diligence and the building official or authorized personnel provides an affidavit to that effect, then a notice of order may be served by publishing the ~~[same]~~ notice of order in accordance with HRS § 1-28.5, or if that provision no longer applies, by publication once each week for two consecutive weeks in a ~~[daily or weekly publication in the city pursuant to HRS § 1-28.5.]~~ 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, or both,



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as appropriate. If so recorded, a notice of order has the same force and effect as other lis pendens or other legal notices provided by law.

- (c) *Effect of order—right to appeal.* The order issued by the building official or authorized personnel under this section ~~[will become]~~ becomes final 30 calendar days after the date of the delivery of the order. The ~~[party responsible for the violation]~~ responsible person may appeal the order to the building board of appeals as provided in this chapter. The appeal must be received in writing on or before the date the order becomes final. ~~[An]~~ However, an appeal to the building board of appeals does not stay any provisions of the order requiring correction of the violation and payment of civil fines. An order or provision of an order to demolish a building or structure, or portion thereof, pursuant to subsection (a)(1)(C)(iii), will be stayed until the conclusion of the appeal, including any judicial review thereof pursuant to HRS Chapter 91.
- (d) *Judicial enforcement of order.* The ~~[building official]~~ corporation counsel may institute a civil action in any court of competent jurisdiction for the enforcement of any order issued pursuant to this section~~[-]~~ at the request of the building official or authorized personnel. Where the civil action has been instituted to enforce the civil fine imposed by ~~[said]~~ an order, the ~~[building official]~~ corporation counsel need only show that the notice of violation and order were served~~[-]~~ on the responsible person by the building official or authorized personnel, that a civil fine was imposed, the amount of the civil fine imposed, and that the fine imposed has not been paid.
- (e) *Report.* The building official or authorized personnel shall, upon issuance of a notice of order pursuant to subsection (a)(1)(C), submit a report to the State department of commerce and consumer affairs. The report must at a minimum contain the following information:
- (1) Date of the order;
  - (2) Name, address, and license number of any contractor, as that term is defined in HRS § 444-1, or the name and address of any owner-builder~~[-]~~ who has supervised or performed any work on the building or structure, or portion thereof, contrary to an instruction under subsection (a)(1)(C) by the building official or authorized personnel to the responsible ~~[party]~~ person to suspend work; and
  - (3) Nature and description of the violation, and the penalty imposed."



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SECTION 6. Section 16A-2.1, Revised Ordinances of Honolulu 2021, is amended by adding a new definition of "Authorized Personnel" to read as follows:

**"Authorized Personnel.** Has the same meaning as defined in § 16-.1."

SECTION 7. Section 16A-10.1, Revised Ordinances of Honolulu 2021 ("Authority—Responsibilities"), is amended by amending subsections (b) and (c) to read as follows:

- "(b) *Right of entry.* Upon presentation of proper credentials, the building official or authorized personnel may enter ~~[at reasonable times]~~ any building, structure, or property in the city at reasonable times to perform any duty imposed upon ~~[such]~~ the person by this code.
- (c) *Administrative warrant.* If the building official or authorized personnel 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]~~ the consent is denied, the building official or authorized personnel 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 or authorized personnel to enter private property to abate a public nuisance by seizing, removing, repairing, altering, demolishing, or otherwise destroying private property pursuant to this code."

SECTION 8. Section 16A-10.5, Revised Ordinances of Honolulu 2021, is amended to read as follows:

**"§ 16A-10.5 Enforcement—Penalty.**

- (a) *Notice of violation.* Whenever any person violates this code, the building official or authorized personnel 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]~~ thereof, into compliance with the requirements of this code. ~~[Notices]~~ A notice of violation must be served upon the responsible ~~[persons]~~ person either personally or by certified mail. However, if the whereabouts of ~~[such persons is]~~ the person are unknown and ~~[the same]~~ cannot be ascertained





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by the building official or authorized personnel in the exercise of reasonable diligence and the building official or authorized personnel provides an affidavit to that effect, then a notice of violation may be issued by publishing the ~~[same]~~ notice of violation in accordance with HRS § 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]~~ The 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 this code ~~[shall be]~~ is guilty of a misdemeanor, ~~[and each such person]~~ is guilty of a separate offense for each and every day or portion thereof during which ~~[such]~~ the violation is committed, continued, or permitted, and, upon conviction of ~~[any such]~~ the violation, ~~[such person shall be]~~ is punishable by a fine of not more than \$1,000~~[-]~~ 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 building, plumbing, electrical, or housing code (hereinafter referred to as "authorized personnel")]~~ authorized personnel may arrest ~~[without warrant]~~ alleged violators without a warrant by issuing a summons or citation in accordance with the procedure specified in this section. Nothing in this section ~~[shall]~~ is to be construed as barring ~~[such]~~ any authorized personnel from initiating prosecution by warrant or ~~[such]~~ any other judicial process ~~[as is]~~ permitted by statute or rule of court.



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- (3) Any authorized personnel ~~[designated by the building official]~~ may, 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]~~ person a written summons or citation hereinafter described, notifying the ~~[violator]~~ person to answer the complaint to be entered against the ~~[violator]~~ person 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]~~ the 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 and the city.
- (5) In every case when a citation is issued, the original of the ~~[same]~~ citation 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 or authorized personnel determines that any person is not complying with a notice of violation, the building official or authorized personnel 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 in the manner, at the place, and before the date specified in the order; or





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- (iii) Pay a civil fine not to exceed \$1,000 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, and can be recorded as an administrative lien on all real property owned by the responsible person ~~[or persons]~~.
- (C) The order must advise the responsible person ~~[or persons]~~ that the order ~~[becomes]~~ will become final 30 calendar days after the date of its delivery. The order must also advise that the building official's or authorized personnel's action may be appealed to the building board of appeals.
- (2) *Service of ~~[notices]~~ notice 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]~~ the responsible ~~[persons is]~~ person are unknown and ~~[the same]~~ cannot be ascertained by the building official or authorized personnel in the exercise of reasonable diligence, and the building official or authorized personnel provides an affidavit to that effect, a notice of order may be served by publishing the ~~[same]~~ the notice of order in accordance with HRS § 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~~[-], or both, as appropriate.~~ If so recorded, a notice of order ~~[shall have]~~ has 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 or authorized personnel 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.



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(4) *Addition of unpaid civil fines to fees or charges collected by the city~~;~~—  
administrative liens.*

(A) When civil fines imposed pursuant to this subsection remain unpaid after all rights to administrative appeal or judicial review have been exhausted~~;~~ and the fines either:

- (i) Exceed \$150,000; or
- (ii) Have been outstanding for more than five years;

the building official or authorized personnel shall, pursuant to Chapter 6, Article 1, and rules adopted by the building official, add the civil fines to the fees and charges specified in paragraph (B)~~;~~ and record the unpaid civil fines as a lien in favor of the city on all real property owned by the responsible person ~~[or persons]~~.

(B) The building official or authorized personnel shall, at a minimum, add the civil fines to the following fees and charges collected by the city, if applicable to the responsible person ~~[or persons]~~:

- (i) All fees collected by the department of planning and permitting, unless the fees are for permits, applications, or approvals for work necessary to correct the violation that is the subject of the notice of order;
- (ii) Motor vehicle registration fee and vehicle weight tax;
- (iii) Motor vehicle transfer of ownership fee;
- (iv) Driver's license renewal fee;
- (v) Business license renewal fee;
- (vi) Liquor license and renewal fees;
- (vii) Refuse collection fee; and
- (viii) Refuse disposal fee.



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(d) *Judicial enforcement.*

- (1) ~~[Injunctive relief.]~~ The corporation counsel is authorized to bring an action to enjoin any public nuisance, as defined by this code, at the request of the building official~~[-]~~ or authorized personnel. 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 granting the 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 subdivision (1) if it appears that:
  - (A) The public nuisance complained of was cited by the building official or authorized personnel pursuant to a notice of violation and notice of order and remains unabated after all rights to appeal the notice of order have been exhausted or expired; or
  - (B) A building, use of real property, or ~~[conditions]~~ condition on real property governed by this code ~~[present]~~ presents an unreasonable risk of harm to the public health, safety, or welfare, and the public interests favor the removal of ~~[such]~~ the 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 attorney's fees, may be reduced to a judgment or recorded as a lien against the property on which ~~[such]~~ the abatement occurs. A lien recorded against the property that is registered in the State bureau of conveyances or land court, or both, 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 before the city lien.
- (4) The corporation counsel may seek enforcement of a lien under subdivision (3) and subsection (c)(4) ~~[and subdivision (3)]~~ in the circuit court of the first circuit, and the proceedings before the circuit court ~~[shall]~~ will be conducted in the same manner and form as ordinary foreclosure proceedings as provided for in HRS Chapter 667. ~~[If the]~~ The corporation



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counsel may request the court to permit service to be made in the manner provided by HRS §§ 634-23 through 634-29 if:

- (A) The owners or claimants of the property against which a lien is sought to be foreclosed~~;~~ are at the time out of the city, ~~or~~ cannot be served within the city, or ~~[if the owners] are [unknown, and the]~~ unknown;
  - (B) That fact ~~[shall be]~~ is made to appear by affidavit to the satisfaction of the ~~[court,]~~ court; and
  - (C) ~~[it shall in]~~ In like manner, it ~~[appear]~~ appears prima facie that a cause of action exists against ~~[such]~~ the owners or claimants or against the property described in the complaint, or that ~~[such]~~ the owners or claimants are necessary or proper parties to the ~~[action, the corporation counsel may request the court to permit service to be made in the manner provided by HRS §§ 634-23 through 634-29.]~~ action.
- (5) Any person aggrieved by a private nuisance may bring a civil action for damages, for injunctive relief to enjoin ~~[such]~~ the private nuisance, or for both damages and injunctive relief.
- (6) Nothing in this section ~~[shall preclude]~~ precludes the corporation counsel from seeking any other remedy or enforcement action available by law."

SECTION 9. Section 16A-10.6, Revised Ordinances of Honolulu 2021 ("Placement of 'housing code violator' sign"), is amended by amending subsection (a) to read as follows:

- "(a) The building official or authorized personnel 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."



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SECTION 10. Section 18-2.1, Revised Ordinances of Honolulu 2021, is amended by amending the definitions of "Building official" and "This Code" to read as follows:

**"Building Official.** ~~[The director of planning and permitting of the city or the director's authorized deputy.]~~ Has the same meaning as defined in § 16A-2.1."

**"This Code.** The building (Chapter 16~~[, as amended]~~), housing (Chapter 16A), electrical (Chapter 17), plumbing (Chapter 19), and sidewalk (Chapter 14, Article 3) codes."

SECTION 11. Section 18-2.1, Revised Ordinances of Honolulu 2021, is amended by adding new definitions of "Authorized Personnel," "Person," and "Responsible Person" to read as follows:

**"Authorized Personnel.** Any officer or inspector who has been designated by the building official and deputized by the chief of police as a special officer for the purpose of enforcing this chapter."

**"Person.** Has the same meaning as defined in § 16A-2.1."

**"Responsible Person.** Has the same meaning as defined in § 16A-2.1."

SECTION 12. Section 18-7.2, Revised Ordinances of Honolulu 2021 ("Notice of violation—Contents"), is amended by amending subsection (a) to read as follows:

"(a) Whenever any ~~[person, firm, or corporation]~~ person violates this chapter, the building official or authorized personnel shall serve a notice of violation ~~[to the party responsible for the violation to make the building or structure or portion thereof comply]~~ upon the responsible person. The notice of violation must require that the responsible person bring the property, building, or structure, or any noncompliant portion thereof, into compliance with the requirements of this chapter. A notice of violation must be served upon the responsible ~~[persons]~~ person either personally or by certified mail. However, if the whereabouts of ~~[such persons]~~ the person are unknown and ~~[the same]~~ cannot be ascertained by the building official or authorized personnel in the exercise of reasonable diligence and the building official or authorized personnel provides an affidavit to that effect, then a notice of violation may be served by publishing the ~~[same]~~ notice of violation in accordance with HRS § 1-28.5, or if that provision no longer applies, by publication once each week for two consecutive weeks in a ~~[daily or~~



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~~weekly publication]~~ newspaper of general circulation in the city ~~[pursuant to HRS § 1-28.5]."~~

SECTION 13. Section 18-7.3, Revised Ordinances of Honolulu 2021, is amended to read as follows:

**"§ 18-7.3 Criminal prosecution.**

- (a) *General.* Any ~~[person, firm, or corporation]~~ person violating this chapter is guilty of a misdemeanor, ~~[and each such person]~~ is guilty of a separate offense for each and every day or portion thereof during which any violation of this chapter is committed, continued, or permitted, and, upon conviction of ~~[any such]~~ the violation, ~~[such person shall be]~~ is punishable by a fine of not more than \$2,000 or ~~[by]~~ imprisonment for not more than one year, or ~~[by]~~ both ~~[fine and imprisonment]~~.
- (b) *Procedure on arrest—summons or citation.*
- (1) Any ~~[officer or inspector designated by the building official, who has been deputized by the chief of police as a special officer for the purpose of enforcing the building, plumbing, electrical, or housing codes (hereinafter referred to as "authorized personnel"),]~~ authorized personnel may arrest ~~[without warrant]~~ alleged violators without a warrant by issuing a summons or citation in accordance with the procedure specified in this section. Nothing in this section ~~[shall]~~ is to be construed as barring ~~[such]~~ authorized personnel from initiating prosecution by warrant or ~~[such]~~ any other judicial process ~~[as is]~~ permitted by statute or rule of court.
- (2) ~~[Procedure on arrest.]~~ Any authorized personnel ~~[designated by the building official,]~~ may, upon making an arrest for a violation of ~~[the building, plumbing, electrical, or housing codes,]~~ this chapter, ~~[may]~~ take the name and address of the alleged violator and shall issue to ~~[such]~~ the person ~~[in writing]~~ a written summons or citation hereinafter described, notifying ~~[such]~~ the person to answer the complaint to be entered against the person at a place and ~~[at a]~~ time provided in the summons or citation.
- (c) *Summons or citation.*
- (1) ~~[There shall be provided for use by authorized personnel a form of summons or citation for use in citing violators of the building, plumbing, electrical, or housing codes that does not mandate the physical arrest of such violators.]~~ Where the circumstances do not mandate the physical





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arrest of violators of this chapter, authorized personnel shall use a form of summons or citation to cite the violators. The form and content of ~~[such]~~ the summons or citation [shall] must be as adopted or prescribed by the administrative judge of the district court and ~~[shall]~~ 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 within the laws and regulations of the State ~~[of Hawaii]~~ and the ~~[City and County of Honolulu.]~~ city.

- (2) In every case when a citation is issued, the original of the ~~[same shall]~~ citation must be given to the violator; provided that the administrative judge of the district court may prescribe ~~[the giving to]~~ that the violator ~~[of]~~ be given a carbon copy of the citation and provide for the disposition of the original and any other copies.
- (3) Every citation ~~[shall]~~ must be consecutively numbered and each carbon copy ~~[shall]~~ must bear the number of its respective original."

SECTION 14. Section 18-7.4, Revised Ordinances of Honolulu 2021, is amended to read as follows:

### "§ 18-7.4 Administrative enforcement.

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

#### (a) *Contents of the order.*

- (1) The order may require the ~~[party responsible for the violation]~~ responsible person to do any or all of the following:
  - (A) Correct the violation within the time specified in the order;
  - (B) Except as provided in subsection (e)(2), pay a civil fine not to exceed \$2,000 in the manner, at the place, and before the date specified in the order; and



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- (C) Pay a civil fine not to exceed \$2,000 per day for each day in which the violation persists, in the manner and at the time and place specified in the order.
- (2) The order must advise the ~~[party responsible for the violation]~~ responsible person that the order will become final 30 calendar days after the date of its delivery. The order must also advise that the building official's or authorized personnel's action may be appealed to the building board of appeals.
- (b) *Service of notice of order.* A notice of order must be served upon the responsible ~~[persons]~~ person either personally or by certified mail. However, if the whereabouts of ~~[such persons]~~ the person are unknown and ~~[the same]~~ cannot be ascertained by the building official or authorized personnel in the exercise of reasonable diligence and the building official or authorized personnel provides an affidavit to that effect, then a notice of order may be served by publishing the ~~[same]~~ notice of order in accordance with HRS § 1-28.5, or if that provision no longer applies, by publication once each week for two consecutive weeks in a [daily or weekly publication] newspaper of general circulation in the city [pursuant to HRS Section 1-28.5]. 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, or both, as appropriate. 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.
- (c) *Effect of order—right to appeal.* The provisions of the order issued by the building official or authorized personnel under this section ~~[will]~~ become final 30 calendar days after the date of the delivery of the order. The ~~[party responsible for the violation]~~ responsible person may appeal the order to the building board of appeals as provided in Chapter 16. The appeal must be received in writing on or before the date on which the order becomes final. However, an appeal to the building board of appeals will not stay any provision of the order.
- (d) *Judicial enforcement of order.* The ~~[building official]~~ corporation counsel may institute a civil action in any court of competent jurisdiction for the enforcement of any order issued pursuant to this section~~[-]~~ at the request of the building official or authorized personnel. Where the civil action has been instituted to enforce the civil fine imposed by the order, the ~~[building official]~~ corporation counsel need only show that the notice of violation and order were served~~[-]~~ on the responsible person by the building official or authorized personnel, that a civil fine was



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**A BILL FOR AN ORDINANCE**

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imposed, the amount of the civil fine imposed, and that the fine imposed has not been paid.

- (e) *Three orders within a three-year period.* If a person incurs three final orders under this section within a period of three years relating to a detached one- or two-family dwelling, as those terms are used in Chapter 16, then:
- (1) For a period of three years from the date the third order becomes final, the building official may not accept any application for a permit under this chapter from the person; and
  - (2) The civil fine for any subsequent violation by the person within three years of the preceding violation will be \$10,000. The building official or authorized personnel may not reduce or waive any portion of the civil fine issued pursuant to this subdivision.

A notice of order that has been appealed will be deemed final when it has been sustained upon appeal.

Any person who has incurred three final orders under this section within a three-year period may not circumvent the application of this subsection through the use of third persons, including employees and agents, and any third person knowingly aiding a person in the circumvention of this subsection ~~[shall be]~~ is subject to the fine prescribed in subdivision (2)."

SECTION 15. In SECTIONS 3 through 14 of this ordinance, ordinance material to be repealed is bracketed and stricken and new ordinance 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 material that has been bracketed and stricken, or the underscoring. In § 16A-2.1, Revised Ordinances of Honolulu 2021 ("ROH"), as amended in SECTION 6 of this ordinance, the Revisor of Ordinances shall fill in the blank with the number of the ROH section enacted by SECTION 2 of this ordinance.



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

ORDINANCE \_\_\_\_\_  
BILL 58(2023)

**A BILL FOR AN ORDINANCE**

SECTION 16. This ordinance takes effect upon its approval.

INTRODUCED BY:

*A. Iyola*  
*[Signature]*  
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DATE OF INTRODUCTION:

**SEP 20 2023**

Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
Deputy Corporation Counsel

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

\_\_\_\_\_  
RICK BLANGIARDI, Mayor  
City and County of Honolulu