

REPORT OF THE COMMITTEE ON EXECUTIVE MATTERS AND LEGAL AFFAIRS

Voting Members:

Tyler Dos Santos-Tam, Chair; Radiant Cordero, Vice-Chair;
Esther Kia'āina, Val A. Okimoto, Calvin K.Y. Say, Augie Tulba,
Andria Tupola, Tommy Waters, Matt Weyer

Committee Meeting Held
February 6, 2024

Honorable Tommy Waters
Chair, City Council
City and County of Honolulu

Mr. Chair:

Your Committee on Executive Matters and Legal Affairs, which considered Bill 44 (2023) entitled:

"A BILL FOR AN ORDINANCE RELATING TO FALSE STATEMENTS,"

which passed second reading and was the subject of a public hearing held at the August 9, 2023 Council meeting, reports as follows:

The purpose of Bill 44 (2023) is to deter persons from making or inciting the making of a false statement to a public servant.

Your Committee considered and approved a proposed CD1 (OCS2024-0082/2/2/2024 1:40 PM) version which makes the following amendments:

- A. Amends SECTION 1 of the bill to revise the purpose to state, "The purpose of this ordinance is to deter persons from making false statements to the building official."
- B. Replaces SECTION 2 of the bill with a new SECTION 2 that amends ROH § 18-1.1 ("Purpose and intent") to add that the purpose of ROH Chapter 18 is to deter the making of a false statement to the building official.

HONOLULU CITY COUNCIL
Ke Kanihela o ke Kalana o Honolulu
CITY AND COUNTY OF HONOLULU

ADOPTED ON FEB 28 2024

COMMITTEE REPORT NO. 37

REPORT OF THE COMMITTEE ON EXECUTIVE MATTERS AND LEGAL AFFAIRS

Voting Members:

Tyler Dos Santos-Tam, Chair; Radiant Cordero, Vice-Chair;
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- C. Renumbers SECTION 3 of the bill (containing the effective date of the ordinance) to SECTION 13 of the bill.
- D. Adds a new SECTION 3 of the bill that amends ROH § 18-2.1 ("Definitions") by adding new definitions of "False Statement" and "Person with a History of Making a False Statement."
- E. Adds a new SECTION 4 of the bill that adds a new unnumbered section to ROH Chapter 18, Article 2 ("General Provisions"), entitled "Rulemaking and administration."
- F. Adds a new SECTION 5 of the bill that adds a new unnumbered section to ROH Chapter 18, Article 4 ("Permit Application"), entitled "Denial or refusal of applications."
- G. Adds a new SECTION 6 of the bill that adds a new unnumbered section to ROH Chapter 18, Article 5 ("Permit Issuance"), entitled "Temporary Certificate of Occupancy."
- H. Adds a new SECTION 7 of the bill that amends ROH § 18-6.1 ("Plan review fees") to allow the building official to increase the plan review fee to 30 percent of the tentative building permit fee with no maximum for applicants who are persons with a history of making false statements.
- I. Adds a new SECTION 8 of the bill that amends ROH § 18-6.2 ("Building permit fees") to add a new subsection that allows the building official to double building permit fees for applicants who are persons with a history of making false statements.

HONOLULU CITY COUNCIL
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REPORT OF THE COMMITTEE ON EXECUTIVE MATTERS AND LEGAL AFFAIRS

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- J. Adds a new SECTION 9 of the bill to amend ROH § 18-7.1 ("[Violation and Penalty,] Generally") to establish that it is a violation of ROH Chapter 18 for any applicant to fail to comply with all applicable requirements and restrictions of ROH Chapter 18.
- K. Adds a new SECTION 10 of the bill to amend ROH § 18-7.2 ("Notice of violation—Contents") to state that the notice of violation must additionally notify the party of the applicable violation and, as applicable, direct the party to make the building or structure, or portion thereof, comply with the requirements of ROH Chapter 18.
- L. Adds a new SECTION 11 of the bill to amend ROH § 18-7.4 ("Administrative enforcement") to increase the maximum civil fines for violations of ROH Chapter 18 to \$3,000 per occurrence (instead of \$2,000) and \$3,000 per day for each day the violation persists (instead of \$2,000). Also adds that, in determining the appropriate penalties, the building official may take into consideration whether the person responsible for the violation is a person with a history of making false statements.
- M. Adds a new SECTION 12 of the bill to add a Ramseyer clause for the Revisor of Ordinances.
- N. Makes miscellaneous technical and nonsubstantive amendments.

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FEB 28 2024

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**REPORT OF THE COMMITTEE ON
EXECUTIVE MATTERS AND LEGAL AFFAIRS**

Voting Members:

Tyler Dos Santos-Tam, Chair; Radiant Cordero, Vice-Chair;
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Your Committee on Executive Matter and Legal Affairs is in accord with the intent and purpose of Bill 44 (2023), as amended herein, and recommends that it pass third reading in the form attached hereto as Bill 44 (2023), CD1. (Ayes: Cordero, Dos Santos-Tam, Kia'āina, Okimoto, Say, Tulba, Waters, Weyer – 8; Noes: None; Absent: Tupola – 1.)

Respectfully submitted,



Committee Chair

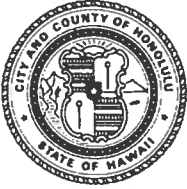
HONOLULU CITY COUNCIL
Ke Kanihela o ke Kalana o Honolulu
CITY AND COUNTY OF HONOLULU

ADOPTED ON

FEB 28 2024

COMMITTEE REPORT NO.

37



HONOLULU CITY COUNCIL
KE KANIHELA O KE KALANA O HONOLULU
CITY AND COUNTY OF HONOLULU

ORDINANCE _____

BILL 44 (2023), CD1

A BILL FOR AN ORDINANCE

RELATING TO FALSE STATEMENTS.

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

SECTION 1. Purpose. The purpose of this ordinance is to deter persons from making false statements to the building official.

SECTION 2. Section 18-1.1, Revised Ordinances of Honolulu 2021, is amended to read as follows:

"§ 18-1.1 Purpose and intent.

(a) The purpose of this chapter is to [~~consolidate~~]:

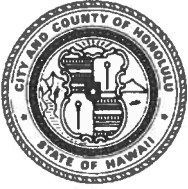
- (1) Consolidate the building, electrical, and plumbing permits, including permits for the construction of sidewalks, curbs, and driveways, into a single permit and to assess fees based on the value of the work to be performed[-]; and
- (2) Deter the making of a false statement to the building official.

(b) The foregoing consolidation is intended to expedite the issuance of a permit and for better administration of the building, electrical, and plumbing codes by the department of [~~planning~~] planning and permitting, including the administration of the sidewalks, curbs, and driveways codes by the departments of facility maintenance and planning and permitting."

SECTION 3. Section 18-2.1, Revised Ordinances of Honolulu 2021, is amended by adding new definitions of "False Statement" and "Person with a History of Making a False Statement" to read as follows:

"False Statement. Any statement in oral, written, printed, or electronic form, that is incorrect, inaccurate, or not in accordance with truth or fact."

"Person with a History of Making a False Statement. Any person who has been convicted of unsworn falsification to authorities or making a false, fraudulent, or fictitious claim pursuant to HRS Chapter 710, or its successor provisions."



HONOLULU CITY COUNCIL
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ORDINANCE _____

BILL **44 (2023), CD1**

A BILL FOR AN ORDINANCE

SECTION 4. Chapter 18, Article 2, Revised Ordinances of Honolulu 2021 ("General Provisions"), is amended by adding a new section to be appropriately designated by the Revisor of Ordinances and to read as follows:

"§ 18-2. Rulemaking and administration.

The building official may adopt rules pursuant to HRS Chapter 91 for the implementation, administration, and enforcement of this chapter."

SECTION 5. Chapter 18, Article 4, Revised Ordinances of Honolulu 2021 ("Permit Application"), is amended by adding a new section to be appropriately designated by the Revisor of Ordinances and to read as follows:

"§ 18-4. Denial or refusal of applications.

The building official may deny or refuse to process any application for a permit issued under this chapter that is submitted by a person with a history of making false statements, on the grounds that the applicant has a history of making false statements, for a period of two years from the date of their conviction under HRS Chapter 710, or its successor provisions.

Any person with a history of making false statements may not circumvent the application of this section through the use of a third party, including their employees and agents. A third party may not submit an application for a permit issued under this chapter on behalf of a person with a history of making false statements to circumvent the application of this section."

SECTION 6. Chapter 18, Article 5, Revised Ordinances of Honolulu 2021 ("Permit Issuance"), is amended by adding a new section to be appropriately designated by the Revisor of Ordinances and to read as follows:

"§ 18-5. Temporary Certificate of Occupancy

The building official may issue, to any applicant for a permit issued under this chapter who is a person with a history of making false statements, a temporary certificate of occupancy that is valid for a period of two years after issuance, or other time period after issuance established by the building official, when a certificate of occupancy would otherwise be issued. During the period that the temporary certificate of occupancy is valid, the department may, with reasonable notice to the holder of the building permit, conduct periodic inspections of the permitted building or structure to



A BILL FOR AN ORDINANCE

confirm that it is in the same structural form as when the temporary certificate of occupancy was issued."

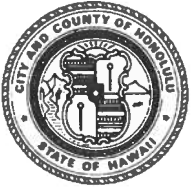
SECTION 7. Section 18-6.1, Revised Ordinances of Honolulu 2021 ("Plan review fees"), is amended by amending subsection (a) to read as follows:

"(a) When a plan or other data is required to be submitted by § 18-4.2, a plan review fee ~~[shall]~~ must be paid when submitting plans and specifications for review. ~~[Such]~~ The plan review fee ~~[shall be]~~ is 20 percent of ~~[a]~~ the tentative building permit fee ~~[established from]~~ as set forth in Table No. 18-A, set out at the end of this chapter, based upon a preliminary estimated valuation of work, but not greater than \$25,000~~[-]~~; provided that, for applicants who are persons with a history of making false statements, the building official may increase the plan review fee to 30 percent of the tentative building permit fee and the \$25,000 fee maximum does not apply. Plan review fees ~~[shall be]~~ are required in addition to the building permit fee."

SECTION 8. Section 18-6.2, Revised Ordinances of Honolulu 2021, is amended to read as follows:

"§ 18-6.2 Building permit fees.

- (a) ~~[(1)]~~ A fee for each building permit and other fees associated with the administration of the building codes ~~[shall]~~ must be paid to the building official as set forth in Table No. 18-A, set out at the end of this chapter.
- ~~[(2)]~~ Where a plan review fee has been paid before June 17, 2013 as set forth in § 18-6.1, the plan review fee payment ~~[shall]~~ will be credited toward payment of the building permit fee.
- (b) The determination of value or valuation under this code or this chapter ~~[shall]~~ must be made by the building official. The valuation to be used in computing the permit fees ~~[shall be]~~ is the total value of all construction work for which the permit is issued, as well as all finish work, painting, roofing, electrical, plumbing, heating, air conditioning, elevators, fire extinguishing systems, and any other permanent work or permanent equipment.
- (c) ~~[Where a new permit is]~~ For a new permit that is obtained to complete the construction of a project after the revocation of a permit under § 18-5.4(h), the



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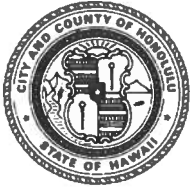
fee ~~[therefor shall be]~~ is based on the valuation of one-half the amount of ~~[work remaining to be done,]~~ the remaining work; provided~~[:]~~ that:

- (1) No change has been made or will be made in the original plans and specifications for such work;
- (2) ~~[That immediately before applying for this permit]~~ At the time the permit application is submitted, the work on the property has not been abandoned or suspended for a period of more than one year; and
- (3) No refund has been ~~[made]~~ issued under § 18-6.3(b).
- (d) ~~[Where work for which a permit is required by this chapter is started or proceeded with prior to obtaining such permit,]~~ For work that starts or proceeds prior to obtaining a permit as required by this chapter, the fees specified will be tripled~~[, but]~~; provided that the payment of ~~[such triple]~~ the tripled fee ~~[will]~~ does not relieve any persons from fully complying with the requirements of this code or this chapter in the execution of the work, nor from any other penalties prescribed in this code or in this chapter.
- (e) Except when the fees specified in subsection (d) will be paid, for applicants who are persons with a history of making false statements, the fees specified by this section may be doubled by the building official."

SECTION 9. Section 18-7.1, Revised Ordinances of Honolulu 2021, is amended to read as follows:

"§ 18-7.1 Generally.

- (a) ~~[No person shall]~~ A person may not erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy, or maintain any building or structure, or perform any electrical work, or install, remove, alter, repair or replace or cause to be installed, removed, altered, repaired or replaced any plumbing, gas or drainage piping work or any fixture, gas appliance or water heating or treating equipment, or construct, reconstruct, or improve any sidewalk, curb, or driveway in public street rights-of-way, or cause the same to be done, contrary to or in violation of this chapter.
- (b) Any person applying for a permit or approval pursuant to this chapter must comply with all applicable requirements of this chapter. The failure of an



A BILL FOR AN ORDINANCE

applicant to comply with all applicable requirements and restrictions set forth in this chapter is a violation of this chapter."

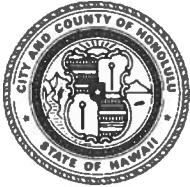
SECTION 10. Section 18-7.2, Revised Ordinances of Honolulu 2021 ("Notice of violation—Contents"), is amended by amending subsection (a) to read as follows:

"(a) Whenever any person, firm, or corporation violates this chapter, the building official shall serve a notice of violation to the party responsible for the violation to notify the party of the applicable violation and direct the party to make the building or structure, or portion thereof, comply with the requirements of this chapter[,], as applicable. A notice of violation must be served upon responsible persons either personally or by certified mail. However, if the whereabouts of such persons are 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 served by publishing the ~~[same]~~ notice of violation in accordance with HRS § 1-28.5, or if that provision no longer applies, once each week for two consecutive weeks in a daily or weekly publication in the city [pursuant to HRS § 1-28.5]."

SECTION 11. Section 18-7.4, Revised Ordinances of Honolulu 2021 ("Administrative enforcement"), is amended by amending subsection (a) to read as follows:

"(a) *Contents of the order.*

- (1) The order may require the party responsible for the violation to do any or all of the following:
 - (A) Correct the violation within the time specified in the order;
 - (B) Except as provided in subsection (e)(2), pay a civil fine not to exceed ~~[\$2,000]~~ \$3,000 in the manner, at the place, and before the date specified in the order; and
 - (C) Pay a civil fine not to exceed ~~[\$2,000]~~ \$3,000 per day for each day in which the violation persists, in the manner and at the time and place specified in the order.



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ORDINANCE _____

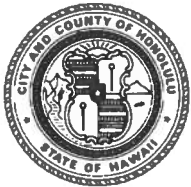
BILL 44 (2023), CD1

A BILL FOR AN ORDINANCE

In determining the appropriate penalties, the building official may take into consideration whether the person responsible for the violation is a person with a history of making false statements.

- (2) The order must advise the party responsible for the violation 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 action may be appealed to the building board of appeals."

SECTION 12. Ordinance material to be repealed is bracketed and stricken. 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.



HONOLULU CITY COUNCIL
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CITY AND COUNTY OF HONOLULU

ORDINANCE _____

BILL **44 (2023), CD1** _____

A BILL FOR AN ORDINANCE

SECTION 13. This ordinance takes effect upon its approval.

INTRODUCED BY:

Tyler Dos Santos-Tam

Tommy Waters

DATE OF INTRODUCTION:

July 6, 2023

Honolulu, Hawai'i

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Deputy Corporation Counsel

APPROVED this _____ day of _____, 20 _____.

RICK BLANGIARDI, Mayor
City and County of Honolulu

Report Title:

False Statements; DPP; Permit Application; Permit Fees; Penalties; Rulemaking Authority

Description:

Deters the making of false statements to the building official for persons with a prior conviction for the offense of making a false statement under State law.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.