

INFORMATIONAL BULLETIN 2016-09-02

DATE: Rev 4/18/2019

CODE/SECTION: Hawaii County Code § 5-19.1(a).1(a)(18) Exception

SUBJECT: HCC § 5-19.1(a)(18) Exception from Building Permit Requirements Further Explained

DISCUSSION:

The Department of Public Works (“DPW”) is responsible for issuing building permits and/or determining that a permit is not required for a structure because it is covered by one of the exceptions to the permit requirement. DPW has received many questions from the public about one of these exceptions to the permit requirement (HCC § 5-19.1(a)(18)), which are explained in further detail in this bulletin.

FAQ Re: HCC § 5-19.1(a)(18) Exception from Building Permit Requirements

**Question:** Do I need a building permit to construct a structure on my property?

**Answer:** Generally yes, depending on a number of factors, mainly what type of structure you are planning on constructing and where it will be located.

HCC § 5-19.1(a)(18) requires that people get permits to “construct, put up, enlarge, alter, repair, move, convert, or demolish buildings or structures” in this County. However, there are a number of exceptions to this permit requirement (link to HCC § 5-19.1(a)(18)).

**Question:** What do I have to do to claim the exception for a structure under HCC § 5-19.1(a)(18), do I have to file anything with DPW?

**Answer:** You are not required to file anything with DPW if you construct or put up a structure that is covered by any of the exceptions to the permit requirement found in HCC § 5-19.1(a)(18). If you have questions or concerns about whether a structure that you are planning to construct or put up is an exception to the permit requirement, then we recommend that you consult DPW.

**Question:** Can a structure with two levels or floors be an exception under HCC § 5-19.1(a)(18)?

**Answer:** No, this exception only applies to structures with one level or floor.

**Question:** Can the structure be attached to another structure and be an exception under HCC § 5-19.1(a)(18)?

**Answer:** No, this exception only applies to “detached accessory structures.”

**Question:** Can I or someone else live in a structure and claim it is an exception under HCC § 5-19.1(a)(18)?

**Answer:** No, the structure must be used for “tool and storage sheds, playhouses and similar uses.”

**Question:** Is there a size limit on a structure that can be an exception under HCC § 5-19.1(a)(18)?

**Answer:** Yes, the floor area cannot be greater than 600 square feet for land zoned as agricultural or 120 square feet for land that is not zoned as agricultural. Please check with the Planning Department for questions about zoning.

<sup>1</sup> There is a separate State law (HRS § 46-88) that also allows certain structures to be built on certain types of agricultural lands. DPW also has a form available online for people who wish to claim that exemption from the building permit requirement.

**Question:** Can I put a structure that is an exception to the permit requirement under HCC § 5-19.1(a)(18) anywhere on my property?

**Answer:** No, structures cannot be located within the building setback as required by Zoning, Chapter 25 of HCC or within a designated flood area —please verify setback requirements with the Planning Department and flood zone requirements with the Engineering Division of Public Works.

**Question:** If I am constructing or putting up a structure on agricultural zoned land under the HCC § 5-19.1(a)(18) exception is there a required minimum size of agricultural zoned land?

**Answer:** No, the land just needs to be zoned for agricultural use. There is no minimum size for the land itself, but the structure cannot be greater than 600 square feet and the owner is responsible for verifying setback requirements with the Planning Department and flood zone requirements with the Engineering Division of Public Works.

**Question:** If I am constructing or putting up a structure on agricultural zoned land under the HCC § 5-19.1(a)(18) exception, must there be an existing permitted structure on that property?

**Answer:** No, the land just needs to be zoned for agricultural use. There is no requirement that there must be an existing permitted structure on the property, but the structure cannot be greater than 600 square feet and the owner is responsible for verifying setback requirements with the Planning Department and flood zone requirements with the Engineering Division of Public Works.

**Question:** If I am constructing or putting up a structure on agricultural zoned land under the HCC § 5-19.1(a)(18) exception, must there be a commercial agricultural enterprise on the property?

**Answer:** No, the land just needs to be zoned for agricultural use. There is no requirement that there must be a commercial agricultural enterprise on the property, but the structure cannot be greater than 600 square feet and the owner is responsible for verifying setback requirements with the Planning Department and flood zone requirements with the Engineering Division of Public Works.

<sup>1</sup> There is a separate State law (HRS § 46-88) that also allows certain structures to be built on certain types of agricultural lands. DPW also has a form available online for people who wish to claim that exemption from the building permit requirement.