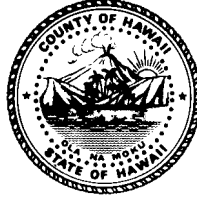


COUNTY OF HAWAI‘I



STATE OF HAWAI‘I

BILL NO. 373 Draft 2

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING CHAPTER 10, EROSION AND SEDIMENTATION CONTROL, HAWAI‘I COUNTY CODE 1983 (2005 EDITION, AS AMENDED).

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF HAWAI‘I:

SECTION 1. Chapter 10, Hawai‘i County Code 1983 (2005 edition, as amended), is hereby repealed in its entirety.

SECTION 2. The Hawai‘i County Code is amended by adding a new Chapter 10, which shall read as follow:

**“Chapter 10**

**EROSION AND SEDIMENTATION CONTROL**

**Article 1. General Provisions.**

**Section 10-1. Purpose.**

The purpose of this chapter is to provide minimum standards to protect property, promote public health, safety and welfare, and to preserve and enhance the natural environment, including water quality, by regulating grubbing and grading operations and controlling soil erosion and sedimentation in construction and in agricultural operations within the County.

**Section 10-2. Definitions.**

Whenever used in this chapter, the following words shall have the meaning indicated:

“Agriculture” or “Agricultural operations” means the care and production of livestock, livestock products, poultry or poultry products, aquaculture or aquaculture products, apiary, horticultural, agronomical or floricultural products or the planting, cultivating and harvesting of crops or trees, including tree farms to produce the same. Agricultural production may include but not be limited to land preparation in accordance with acceptable conservation practices.

“Best management practices” or “BMPs” mean schedules of activities, prohibitions or designations of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of State waters. Best management practices include treatment requirements, operating procedures, and practices to control site runoff.

“Burial site” means any burial site, as defined in section 6E-2, Hawai‘i Revised Statutes, which has been recorded in an archaeological survey of the property or is otherwise known to the owner.

“Conservation Plan” means a document submitted by a landowner or land user, containing information for the conservation of soil, water, vegetation and other applicable natural resources for an area of land to be used for agricultural operations, and not adversely affecting the watershed. The conservation plan shall include appropriate monitoring and reporting provisions for the scheduled activities.

“Conservationist” means an employee of the U. S. Department of Agriculture Natural Resources Conservation Service (NRCS) or the soil and water conservation district or an NRCS certified Technical Service Provider with background and training to recommend conservation practices on agricultural land under the guidance of the local NRCS engineer.

“Contractor” means any individual, firm, corporation, partnership or other responsible legal entity who performs grading, grubbing or stockpiling work under a contract.

“Engineer” means a professional engineer (civil or structural) licensed in the State of Hawai‘i.

“Engineer’s soils report” means a report that describes soil conditions with grading and construction recommendations applicable to the soil conditions and other pertinent information relevant to this chapter prepared by an engineer experienced in the practice of soil mechanics and foundation engineering.

“Erosion” means the wearing away of the ground surface as a result of action by wind and/or water.

“Excavation,” “cut” or “borrow” means any act by which soil, sand, gravel, rock or any similar material is cut into, dug, uncovered, removed, displaced, relocated or bulldozed.

“Fill” means any act by which soil, sand, gravel, rock or any other material is deposited, placed, pushed, dumped, pulled, transported, or moved to a new location.

“Grading” means any excavation or fill or any combination thereof.

“Grubbing” means any act by which vegetation, including trees, timber, shrubbery and plants, is dislodged or uprooted from the surface exposing bare ground.

“Historic and archaeological sites” mean those sites listed with the County general plan, the Hawai‘i Register of Historic Places, the State Inventory of Historic Places or any historic property, as defined in section 6E-2, Hawai‘i Revised Statutes, which has been recorded in an archaeological survey of the property or is otherwise known to the owner.

“Land surveyor” means a person duly licensed as a professional land surveyor in the State.

“Maximum extent practicable” means economically reasonable measures for the control of the addition of sediments from non-point sources, which reflect the greatest degree of sediment reduction achievable through the application of the best available non-point sedimentation control practices, technologies, processes, siting criteria, operating methods or other alternatives.

“National pollutant discharge elimination system permit” or “NPDES permit” means an authorization, license, or equivalent control document issued by the U.S. Environmental Protection Agency or the director of health, State of Hawai‘i, to implement the requirements of 40 CFR Parts 122, 123, and 124. NPDES permit includes an NPDES general permit according to 40 CFR §122.28 and a notice of general permit coverage or “NGPC,” as the context requires. NPDES permit does not include any permit which has not yet been the subject of final agency action, such as a draft permit.

“Overburden” means a soil material overlaying another geologic formation.

“Permittee” means the person or party to whom the permit is issued and shall be the property owner and/or developer of the property including but not limited to any lessee, attorney-in-fact or other person, firm, corporation, partnership, limited liability company, or other legal entity with the right to use and occupy the property.

“Person” means an individual, firm, corporation, partnership or other responsible legal entity.

“Plasticity” means the property of a soil which allows it to be deformed beyond the point of recovery without cracking or appreciable volume change.

“Public utility” means any utility regulated by the State Public Utilities Commission.

“Sedimentation” means the deposition of erosional debris-soil sediment displaced by erosion and transported by water from a high elevation to an area of lower gradient where sediments are deposited as a result of slack water.

“Soil and water conservation districts” means the legal subdivisions of the State of Hawai‘i authorized under chapter 180, Hawai‘i Revised Statutes.

“Stockpiling” means the temporary storage of soil, sand, gravel, rock or other similar material in excess of five hundred cubic yards upon any premises for the purpose of using the material as fill material at some future time.

### **Section 10-3. Minimum BMPs.**

Regardless of whether a permit is required pursuant to this chapter, all grading, grubbing and stockpiling activities shall provide BMPs in accordance with erosion and sedimentation control standards and guidelines established by the department of public works to the maximum extent practicable to minimize erosion and to prevent damage by sedimentation to streams, watercourses, undisturbed areas and the property of others. It shall be the permittee’s and/or the property owner’s and/or contractor’s responsibility to ensure that the BMPs are satisfactorily implemented and maintained.

- (a) Runon and runoff [~~Runoff~~] control. Off-site runon and on-site [~~On-site~~] runoff shall be managed in such a way so as to control erosion to prevent damage to downstream properties and to return waters to the natural drainage [~~course~~] patterns to the maximum extent practicable.
- (b) Dust control. All work areas within and [~~without~~] outside the actual grading area shall be maintained free from fugitive dust which will cause a nuisance or hazard to others in conformance with the air pollution control standards contained in Hawai‘i Administrative Rules, chapter 11-60, “Air Pollution Control,” as may be amended.
- (c) Vegetation. Whenever feasible, natural vegetation, especially grasses, should be retained. If it is necessary to be removed, trees, timber, plants, shrubbery and other woody vegetation, after being uprooted, displaced or dislodged from the ground by excavation, clearing or grubbing, shall not be stored in or deposited along the banks of any stream, river or natural watercourse.
- (d) Erosion controls. All disturbed areas subject to erosion shall be addressed with erosion control measures in accordance with erosion and sedimentation control standards and guidelines established by the department of public works. Erosion control measures may include but are not limited to: staging construction; clearing only areas essential for construction; locating potential non-point pollutant sources away from steep slopes, water bodies, and critical areas; routing construction traffic to avoid existing or newly planted vegetation; protecting natural vegetation with fencing, tree armoring, and retaining walls

or tree wells; stockpiling topsoil, covering the stockpile to prevent dust, and reapplying the topsoil; covering or stabilizing all soil stockpiles; using wind erosion control; intercepting runoff above disturbed slopes and conveying it to a safe place to deposit and receive such waters; constructing benches, terraces, or ditches at regular intervals to intercept runoff on long or steep disturbed or man-made slopes; providing linings or other method to prevent erosion of storm water conveyance channels; using check dams where needed to slow flow velocities; and using seeding and fertilizing, mulching, sodding, matting, blankets, bonded fiber matrices, or other effective soil erosion control technique [~~; and providing vehicle wheel wash facilities for vehicles before they leave the site~~].

- (e) Sediment control. In addition to the erosion control measures above, provide practices to capture sediment that is transported in runoff to prevent the sediment from leaving the site in accordance with erosion and sedimentation control standards and guidelines established by the department of public works. Filtration and detention (gravitational settling) are the main processes used to remove sediment from construction site runoff. Sediment control measures include sediment basins; sediment traps; filter fabric silt fences; straw bale, sand bag, or gravel bag barriers; inlet protection; stabilized construction entrances, vehicle wheel wash facilities and other measure to minimize off-site tracking of sediment by construction vehicles; and vegetated filter strips.
- (f) Material and waste management. Measures to ensure the proper storage of [~~toxic material~~] potential pollutants and prevent the discharge of pollutants associated with construction materials and wastes shall be implemented.
- (g) Timing of control measure implementation. Timing of control measure implementation shall be in accordance with the approved erosion control plan if such plan is required. At a minimum, when there are no approved erosion control plans, disturbed areas of a construction site that will not be redisturbed for 21 days or more will be stabilized (grassed, graveled or other measures) by no later than the 14th day after last disturbance.

#### **Section 10-4. Hazardous conditions.**

- (a) Whenever the director of public works determines that any existing excavation, fill, grubbing, stockpiling or grubbed vegetation has become a hazard to property, or adversely affects the safety, use, or stability of a public way or drainage channel, the owner of the property upon which the excavation, fill, grubbing, [~~or~~] stockpiling or grubbed vegetation is located, or other person or agent in control of said property [~~, upon receipt of notice in writing from the director of public works~~] shall [~~, within the period specified therein,~~] repair or eliminate the hazard and be in conformance with the requirements of this chapter.
- (b) The director of public works or the director's authorized representatives are hereby authorized to enter any property to determine or to enforce the provisions of this chapter.

#### **Section 10-5. Agricultural Operations.**

- (a) Agricultural operations, including ranching incidental to or in conjunction with crop or livestock production, that conform with soil conservation practices and are in accordance with an actively pursued comprehensive conservation plan, prepared by an [~~a registered~~] engineer or conservationist, shall be exempt from the provisions of this chapter provided:
  - (1) Such operations do not alter the general and localized drainage patterns with respect to abutting properties based on best available information.

- (2) The conservation plan for the affected properties have been reviewed and approved by the applicable soil and water conservation district directors.
- (3) The conservation plan, including any approved modifications, is reviewed and reapproved by the applicable soil and water conservation district directors not less than once every five years.
- (4) The conservation plan for a property shall terminate upon transfer of ownership of the property unless the new owner applies to and is accepted as a cooperator by the applicable soil and water conservation district.
- (b) This section shall not ~~[exempt]~~ be applicable for the construction of [permanent agriculturally related] infrastructure [-including access roads, buildings, and other similar improvements from complying with applicable provisions of this chapter and any] that is required to comply with County building, zoning, State of Hawai'i NPDES and/or other County, State or Federal [requirements] regulations unless otherwise excluded by Section 10-6.
- (c) Should the soil and water conservation district directors find that an agricultural operation is not in conformance with its approved conservation plan; the district directors shall immediately notify the director of public works. Upon receipt of the notification, the director of public works shall issue a notice of violation and implement applicable provisions of Article 5 of this chapter, to enforce compliance with this section.

**Section 10-6. Exclusions.**

- (a) All work in this section must conform to the provisions of sections 10-3 and 10-38 to be considered for exclusion. Exclusions do not relieve anyone of their responsibility to secure all other applicable County, State or Federal permits including, but not limited to, those described in section 10-12(b).
- (b) This chapter shall not apply to the following:
  - (1) Mining or quarrying operations regulated by other County ordinance or governmental agencies.
  - (2) Excavation within the building lines for basements and footings of a building, retaining wall, or other structure, authorized by a valid building permit.
  - (3) Grading and grubbing on individual cemetery plots.
  - (4) Sanitary land filling and similar solid waste disposal facilities with an approved operating permit from the State of Hawai'i Department of Health.
  - (5) Excavation which does not alter the general drainage pattern with respect to abutting properties, which does not exceed one hundred cubic yards of material on any one site, and does not exceed five feet in vertical height at its highest point; provided that the cut meets the cut slopes and the distance from property lines requirements in article 4 of this chapter.
  - (6) Fill which does not alter the general drainage pattern with respect to abutting properties, which does not exceed one hundred cubic yards of material on any one site and does not exceed five feet in vertical depth at its deepest point, provided that the fill meets the fill slopes and distance from property lines requirements in article 4 of this chapter.
  - (7) Grubbing which does not alter the general and localized drainage pattern with respect to abutting properties and does not exceed a total area of one acre.

- (8) Exploratory excavations not to exceed fifty cubic yards under the direction of an engineer for the purpose of subsurface testing provided that the director of public works has been advised in writing a minimum of ten calendar days prior to the start of such excavation.
- (9) Clearing, excavation and filling required in conjunction with the installation and/or maintenance of septic tanks, dry wells, poles for overhead public utilities, street lighting, traffic signal systems and trenching for underground public utilities, public water and sewer systems and temporary BMPs.
- (10) Grading, grubbing or stockpiling work wholly regulated by any of the following permits: Stream channel alteration permit; Department of the Army permit; permit to work within State Highway or County right-of-ways; and well drilling permits.
- (11) Grubbing of trails for survey lines and access for soil exploration equipment.

## **Article 2. Permits.**

### **Section 10-7. Required.**

Except as excluded in section 10-6:

- (a) No grading work shall be commenced or performed without a grading permit.
- (b) No grubbing work shall be commenced or performed without a grubbing permit except where grubbing concerns land for which a grading permit has been issued.
- (c) No stockpiling work shall be commenced or performed without a stockpiling permit, except where stockpiling is on land for which a grading permit has been issued and stockpiling areas are shown on the approved grading plan.

### **Section 10-8. Application.**

- (a) An applicant for a grading, grubbing, or stockpiling permit shall first file an application on a form furnished by the County department of public works. An application may be made on behalf of the prospective permittee by its contractor or other authorized agent. Each application shall:
  - (1) Describe by tax map key number or street address the land on which the proposed work is to be done;
  - (2) State the estimated dates for the starting and completion of the proposed work; and
  - (3) Show the name of the permittee, owner, engineer, surveyor or other person preparing the plans as may be applicable, and contractor.
  - (4) Be reviewed and approved by the State of Hawai'i Historic Preservation Division for compliance with chapter 6E, Hawai'i Revised Statutes, and other applicable regulations and laws.
  - (5) Be reviewed and approved by the County of Hawai'i planning department for compliance with the County general plan and applicable land use regulations and laws. No approval will be granted unless the director of the planning department determines that:
    - (A) The proposed work implements a legal use of the property; or
    - (B) Is an approved remedial action.

- (b) Each application for a grading permit shall also be accompanied by three sets of plans and specifications prepared by an engineer or land surveyor [~~icensed in the State of Hawai'i~~], including:
- (1) For all areas:
    - (A) A vicinity sketch or other data adequately indicating the site location;
    - (B) Boundary lines of the property on which the work is to be performed;
    - (C) Location of any buildings, structures, designated or otherwise known historic, burial and archaeological sites, preservation buffer zones and/or easements, known previous grading and grubbing sites, large trees, definable rock outcroppings, lava tubes, and other significant topographic features on the property where the work is to be performed;
    - (D) Location of any buildings [~~;~~] and structures [~~;~~ ~~designated or otherwise known historic, burial and archaeological sites~~] on adjacent property which is within fifteen feet of the area to be graded that may be affected by the grading work;
    - (E) Contours, elevations and cross-sections showing the topography of the land before and after the completion of the proposed grading.
    - (F) Contours showing the topography of the existing ground extending five feet into adjacent property when required by the director of public works.
    - (G) Location of known water courses;
    - (H) Location of temporary and permanent BMPs;
    - (I) The area in square feet of the land to be graded and the quantities of excavation and fill involved; and
    - (J) Any additional plans, drawings, or calculations required by the director of public works.
  - (2) For grading of areas of more than fifteen thousand square feet an erosion and sedimentation control plan shall be prepared by an engineer and approved by the director of public works. This plan shall include detailed plans, and specifications of all drainage devices and utilities, including bank protection, walls, cribbing, dams, silting or sediment basins, landscaping, screen planting, erosion control planting, or other BMPs or protective devices to be constructed in connection with, or as a part of the proposed work, together with a map showing the drainage area and estimated runoff of the area served by any drains.
  - (3) Where a proposed cut or fill is greater than fifteen feet in height, or on land with slopes exceeding fifteen percent in an area with high plasticity soils, or when any fill is to be placed over a swamp, pond, gully, or lake, the permittee shall submit an engineer's soils report which shall include data regarding the nature, distribution and strength of existing soils and substantiating data from an engineer regarding the safety of the proposed grading, the fill, and the material to be used, and describing the cut sections showing the height, cut slope, benches, and material composing the cut bank.
- (c) An applicant for a grubbing permit shall furnish three sets of plot plans showing the location, the property boundaries, and any other pertinent information as may be required by the director of public works. Grubbing or land clearing by bulldozer for the purpose of making topographic survey shall not be permitted without an authorized grubbing permit. For grubbing more than one acre, an

erosion and sedimentation control plan shall be prepared by an engineer and approved by the director of public works. This plan shall include detailed plans, and specifications of all drainage devices and utilities, including bank protection, walls, cribbing, dams, silting or sediment basins, landscaping, screen planting, erosion control planting, or other BMPs or protective devices to be constructed in connection with, or as a part of the proposed work, together with a map showing the drainage area and estimated runoff of the area served by any drains.

- (d) An applicant for a stockpiling permit shall furnish three sets of plot plans showing the property lines and the location of the proposed stockpile, quantities, height of stockpile, duration of stockpile, source, and type of the material to be stockpiled and furnish any other pertinent information as may be required by the director of public works to control the creation of dust, drainage, or sedimentation problems. The plot plan for stockpiling shall be approved by the director of public works.
- (e) If no action (approval, disapproval, deferral, or modification) is taken by the director of public works within thirty days after submittal of the completed application (including approvals from other agencies as needed), the permit shall be deemed approved.

**Section 10-9. Fees.**

- (a) Before issuing a grading permit, the director of public works shall collect a permit fee for grading on the same site based on the volume of excavation or fill, whichever is greater, according to the following schedule:

Volume of Material	Permit Fee
0 – 1,000 cubic yards .....	\$15 per 100 cubic yards.
1,001 – 10,000 cubic yards .....	\$150 for the first 1,000 cubic yards plus \$15 for each additional 1,000 cubic yards or fraction thereof.
10,001 cubic yards or more .....	\$285 for the first 10,000 cubic yards plus \$9 per 1,000 cubic yards or fraction thereof.

- (b) Before issuing a grubbing permit, the director of public works shall collect a permit fee of \$30 for grubbing in excess of one acre, plus \$20 for each additional acre or fraction thereof.
- (c) Before issuing a stockpiling permit, the director of public works shall collect a permit fee of \$15 for stockpiling in excess of the first one hundred cubic yards, plus \$3 for each additional one thousand cubic yards or fraction thereof.
- (d) When grading, grubbing, or stockpiling is performed by or on behalf of the County, State, or Federal government, the director of public works shall waive the collection of any permit fee required in subsections (a), (b), and (c) above.
- (e) All permit fees shall be deposited in the general fund.

**Section 10-10. Grading, grubbing or stockpiling without a permit.**

- (a) Where work for which a grading, grubbing or stockpiling permit is required by this chapter is started or proceeded with before obtaining the permit, the fees shall be doubled or increased by an additional \$200, whichever is greater, as a minimum penalty for

noncompliance with the permit requirements of this chapter. Payment of this penalty shall not relieve any person from fully complying with the requirements of this chapter in the execution of the work nor from any other penalties prescribed herein.

- (b) The owner and developer of the property and/or the person or persons responsible for the initiation of grading, grubbing or stockpiling shall be responsible for correcting any damages done by the grading, grubbing or stockpiling on-site or off-site.
  - (1) Off-site corrections and restoration shall include, but not be limited to, repair of damages to improvements within the public right-of-way, to any portions of the County-owned or privately owned storm drainage systems or natural resources such as streams, wetlands, or reefs and will include the removal of any sediment and debris from these areas.
  - (2) On-site corrections and restoration shall include covering of exposed soil surfaces with planting, and correction of improper grading, grubbing or stockpiling, and drainage.
- (c) In the event that the person or persons responsible do not or cannot satisfactorily perform restoration to comply with the provisions of this chapter, they shall post a performance bond in an amount sufficient, as determined by the director of public works, to ensure payment of all costs of restoring the land to its original condition, and for repair of any damages which may have occurred to any improvements in the public right-of-way. Such performance bond shall be subject to the requirements of section 10-11, paragraphs (c) to (e) and shall be maintained in force for a period up to one year to ensure the establishment of adequate ground cover and completion of the restoration work. No certificate of completion for said work shall be issued by the director of public works without satisfactory completion of the restoration work.

**Section 10-11. Bond.**

- (a) Bond required. A grading or stockpiling permit shall not be issued for any cut, fill or stockpiling involving quantities more than one thousand cubic yards or for excavations or fills over fifteen feet in vertical height, or for work being done in increments of one thousand cubic yards or less, which is part of a larger development unless the permittee shall first file a bond for the benefit of the County of Hawai‘i.
  - (1) If the proposed grading or stockpiling is to be performed under a subdivision agreement and bond approved and accepted by the County in compliance with Chapter 22 of the Hawai‘i County Code or under a County, State or Federal government contract, then the director of public works shall not require a bond for grading or stockpiling. A copy of the approved and accepted subdivision agreement and bond shall be presented as evidence by the applicant for a grading or stockpiling permit.
  - (2) At the option of the applicant, the applicant may either file a bond guaranteed by a surety company duly authorized to transact business within the State, or the applicant may deposit cash or letter of credit in lieu of a bond. No interest shall be paid by the County on such cash deposit. The provisions herein relating to a surety bond shall be equally applicable to a cash deposit pledged as a bond.

- (b) Amount of bond. The amount of the bond shall be based on the number of cubic yards of material in excavation, fill, or stockpiling, whichever is the greatest volume. The amount of the bond shall be computed as set forth in the following schedule:

Volume of Material	Permit Bond
10,000 cubic yards or less.....	\$8 per cubic yard.
Over 10,000 – 100,000 cubic yards .....	\$80,000 plus \$3 per cubic yard for each additional cubic yard in excess of 10,000.
Over 100,000 cubic yards .....	\$350,000 plus \$1 per cubic yard in excess of 100,000.

- (c) At the option of the applicant, the applicant may file a bond in an amount equal to the cost of all work and services required to complete all of the work under the grading or stockpiling permit as approved by the director of public works. Cost estimates prepared by the permittee shall be subject to approval of the director of public works to determine the exact amount of the bond.
- (d) Conditions. The bond shall be conditioned to be payable to the County upon failure of the permittee to complete all of the required work within the specified time. The director of public works shall collect the moneys from the bond and complete the necessary work to control soil erosion and sedimentation or all unfinished work required by the permit. The parties executing the bond shall be firmly bound to pay for this entire cost. Any remaining sum should be returned to permittee.
- (e) Additional conditions. Each bond shall provide that the surety shall be held and firmly bound unto the County for so long as the following conditions have not been met:
  - (1) The permittee shall comply with all of the terms and conditions of the permit to the satisfaction of the director of public works;
  - (2) The permittee shall complete all of the work authorized under the permit within the time limit specified in the permit; and
  - (3) The surety company shall not terminate or cancel said bond until notified in writing by the director of public works of any termination or cancellation.
- (f) Period and termination of bond. The term of each bond shall begin upon the date of issuance of the permit and shall remain in effect until the completion of the work to the satisfaction of the director of public works. An amount equal to one-third of the bond may be retained for a period of six months after completion. Such completion shall be evidenced by a certificate signed by the director of public works. In the event of failure to complete the work or failure to comply with all of the conditions and terms of the permit, the director of public works may order the work to be completed as required by the permit and to the satisfaction of the director of public works. The surety executing such bond or the cash depositor, shall continue to be firmly bound under a continuing obligation for the payment of all necessary costs and expenses that may be incurred or expended by the County, in causing any and all of such required work to be done, and said surety and the permittee assents to the completion of the work even though it is performed after the time allowed in the permit. Upon completion of such work by the County, the bond shall be terminated. In the case of a cash deposit, such a deposit or any

unused portion thereof not required to complete the work authorized by the permit shall be refunded to the permittee.

**Section 10-12. Conditions and limitations.**

- (a) The issuance of a grading permit shall constitute an authorization to do only that work which is described on the permit and on the plans and specifications approved by the director of public works.
- (b) Permits issued under the requirements of this chapter shall not relieve the permittee of the responsibility for securing required permits for work to be done which is regulated by any other County, State, or Federal agency, including approvals of permits which may be required under chapters 6E, 205, 205A and 343, Hawai'i Revised Statutes.
- (c) In the event the area to be graded requires an NPDES permit, approval of the NPDES permit may be obtained after the approval of the grading application; however, the grading plans, including any drainage and erosion control plans, shall conform to the conditions of the approved NPDES permit. In case of conflicting requirements, the most restrictive shall apply.
- (d [e]) A copy of the permit issued shall be posted in a conspicuous place on the site at or near the property boundary adjacent to an accessible road bordering the property during the progress of work.
- (e [d]) In granting any permit under this chapter, the director of public works may attach such conditions as may be reasonably necessary to prevent creation of a nuisance or hazard to public or private property. Such conditions may include, but shall not be limited to:
  - (1) Improvement of any existing grading to bring it up to the standards of this chapter;
  - (2) Requirements for fencing of excavations or fills which otherwise would be hazardous;
  - (3) Screen planting, landscaping, erosion control planting, or other treatments to maintain good appearance of graded area and reduce the detrimental impact on adjacent properties of the community;
  - (4) Cleaning up the area; and
  - (5) Days and hours of operation.

**Section 10-13. Expiration.**

Every grading, grubbing or stockpiling permit shall expire and become void no later than two years after the date of issuance. All stockpiled material temporarily stored on the premises shall be removed from the premises or used on the premises as fill material under a grading permit for fill prior to the expiration date.

**Section 10-14. Denial.**

- (a) If the director of public works finds that the work as proposed by the applicant is likely to cause hazardous conditions that may endanger any property or public way or structure or endanger the public health or welfare, the director shall deny the grading, grubbing or stockpiling permit. Factors to be considered in determining probability of hazardous conditions shall include, but not be limited to, possible geological instability caused by saturation of the ground by rains, earth movements, geological or flood hazards,

subsurface conditions such as the stratification and faulting of rock and the nature and type of soil or rock.

- (b) Failure of the director of public works to observe or recognize hazardous conditions or the director's failure to deny the grading, grubbing or stockpiling permit shall not relieve the permittee or the permittee's agent from being responsible, or cause the County, its officers or agents, to be held responsible for the conditions or damages resulting therefrom.

**Section 10-15. Suspension or revocation.**

- (a) The director of public works may, in writing, suspend or revoke a permit issued under the provisions of this chapter whenever:
  - (1) The permit has been issued on the basis of incorrect or insufficient information supplied by the permittee;
  - (2) The grading, grubbing, or stockpiling is not being performed in accordance with the terms and provisions of the permit; or
  - (3) The grading, grubbing, or stockpiling discloses objectionable or unsafe conditions.
- (b) When a permit has been suspended or revoked, the permittee shall submit detailed plans and proposals for compliance with the provisions of this chapter and for correcting the objectionable or unsafe conditions. Upon approval of such plans and proposals by the director of public works, the director may authorize the permittee in writing, to proceed with the work.

**Section 10-16. Construction prohibited prior to grading.**

Whenever a grading permit is required by this chapter, construction of any structure within the graded area shall not commence until a grading permit has been issued in accordance with this chapter or the director of public works has otherwise authorized portions of construction to proceed.

**Section 10-17. Inspections.**

- (a) Each permit issued under this chapter shall be deemed to include the right of the director of public works or the director's authorized representatives to enter upon and to inspect the grading, grubbing, or stockpiling operations.
- (b) The permittee shall notify the director of public works at least two working days before the permittee or the permittee's agent begins any grading, grubbing or stockpiling. A copy of the permit, approved plans and specifications for grading, grubbing, or stockpiling shall be maintained at the site during the progress of any work. Where it is found by inspection that the soil or other conditions are not the same as stated or shown in the application for grading, grubbing, or stockpiling permit, the director of public works may stop the grading, grubbing, or stockpiling until revised plans, based upon the existing conditions, are submitted by the permittee and approved by the director of public works. Approval or disapproval of applicant's revised plan shall be made within fourteen days from the date of receipt by the director of public works.
- (c) If the director of public works or the director's representative finds that the work is not being done in conformance with this chapter or the plans and specifications approved by the director of public works, the director shall immediately notify the person in charge of

the grading work of the nonconformity and immediately notify the responsible party of need for corrective measures to be taken pursuant to section 10-35. Grading operations shall cease until corrective measures satisfactory to the director of public works have been taken.

- (d) When a permittee has been served with a written notice, either by mail or personal service for failure to comply with any provisions of this chapter pursuant to section 10-35, or when a permittee has had the permittee's permit suspended or revoked by the director of public works, the permittee and any person connected with execution of the work authorized by the permit shall be denied a grading, grubbing, or stockpiling permit for such work until the permittee has complied and initiated action satisfactory to the director of public works to comply with the provisions of this chapter.

### **Article 3. Conditions and Specifications.**

#### **Section 10-18. Conditions of permit.**

- (a) The requirements of this section may be waived by the director of public works after the permittee submits an engineer's soils report substantiating data regarding the stability of the cut or fill slopes without complying with any of the requirements therein.

(1) Height. Where a cut or fill is greater than fifteen feet in height, terraces or benches shall be constructed at vertical intervals of fifteen feet except that where only one bench is required, it shall be at the midpoint. The minimum width of such terraces or benches shall be eight feet or as determined by the director of public works, based upon the type of material encountered and shall have suitable drainage provisions to control erosion on the slope face.

(2) Cut slopes. Under the following soil conditions, no cut may be steeper in slope than the ratio of its horizontal to its vertical distance as shown below:

½ horizontal to 1 vertical in unweathered rock;

1½ horizontal to 1 vertical in decomposed rocks or rock and soil mixture;

2 horizontal to 1 vertical in low plasticity soils;

3 horizontal to 1 vertical in high plasticity soils for cuts up to five feet in vertical depths.

Slopes for cuts exceeding this depth shall be as recommended in the engineer's soils report.

(3) Fill slopes. Under the following soil conditions, no fill may be steeper in slope than the ratio of its horizontal to its vertical distance as shown below:

1½ horizontal to 1 vertical in rock and soil mixture;

2 horizontal to 1 vertical in low plasticity soils;

3 horizontal to 1 vertical in high plasticity soils for fills up to five feet in vertical height.

Slopes for fills exceeding this height shall be as recommended in the engineer's soils report.

**Section 10-19. Distance from property line of cut or fill slope.**

- (a) The horizontal distance from the top of a cut slope or the bottom of a fill slope to the adjoining property line shall be as follows:

Height of Cut or Fill	Distance from Property Line (in feet)
Zero feet to 4 feet	2
More than 4 feet to 8 feet	4
More than 8 feet to 15 feet	6
More than 15 feet	8

These requirements may be modified by the director of public works when cuts or fills are supported by retaining walls, approved by the director, or when the permittee submits an engineer's soils report stating that the soil conditions will permit a lesser horizontal distance without causing damage or danger to the adjoining property.

- (b) A retaining wall of six feet and over, or as otherwise provided by the County building code, shall be designed by an [a professional] engineer when deemed necessary by the director of public works. Setback requirements of the County zoning ordinance are referenced herein and the State land use commission and County zoning ordinance and other agencies' requirements on shoreline improvements shall be complied with.

**Section 10-20. Maximum cleared area.**

The maximum area of land that may be cleared for grading or grubbing is fifteen acres. Noncontiguous increments may be worked on concurrently provided that no single graded area exceeds fifteen acres and the work is in conformance with an approved NPDES permit. The area of land that may be cleared may be reduced by the director of public works to control pollution and minimize storm damage. However, if soils, hydrologic, climatic and construction conditions warrant, and adequate erosion and sedimentation control measures are taken, the director of public works may authorize additional area to be opened. Additional area shall not be cleared for grading or grubbing until erosion and sedimentation control measures to prevent dust or erosion problems in the area already graded or grubbed have been undertaken in compliance with the requirements of this chapter.

**Section 10-21. Fill materials.**

- (a) The fill material may consist of rock, gravel, sand, soil, or a mixture thereof. Except for slopes, the fill shall be compacted to minimum ninety percent of maximum density as determined by the ASTM soil compaction test D1557, as amended. The director of public works shall inspect the work and may require adequate inspection and compaction control substantiated by test results by an engineer qualified to prepare an engineer's soils report. These requirements may be modified by the director of public works if the permittee submits an engineer's soils report substantiating with appropriate investigation and analysis that the required ninety percent compaction density may be lowered without causing excessive settlement, creep, or stability problems.
- (b) Before placing fill or stockpiling, the natural ground surface shall be prepared and, if required by the director of public works, shall be keyed by a series of benches. No fill

shall be placed over any water spring, marsh, refuse dump, nor upon a soggy or springy foundation, provided that this requirement may be waived by the director of public works if the permittee submits an engineer's soils report substantiating data regarding the safety of the fill. Hazardous materials shall not be stockpiled.

**Section 10-22. Vegetation.**

Whenever feasible, natural vegetation should be retained by becoming part of the erosion control plan during construction or part of the permanent landscaping plan if applicable. If removed, trees, timber, plants, shrubbery, and other vegetation, after being uprooted, displaced, or dislodged from the ground by excavation, clearing, or grubbing, shall not be stored or deposited along the banks of any stream, river, or natural water course. After being uprooted, displaced or dislodged, such vegetation shall be disposed of and removed from the site. Exceptions providing for burial in open areas may be allowed as determined by the director of public works.

**Section 10-23. Debris prohibited.**

No person shall perform any grading operation so as to cause falling rocks, soil or debris in any form to fall, slide, or flow onto adjoining properties, streets or natural watercourses.

**Section 10-24. Dust control.**

All work areas within and beyond the actual grading area shall be maintained free from fugitive dust which will cause a nuisance or hazard to others and in conformance with the air pollution control standards contained in Hawai'i Administrative Rules, chapter 11-60, "Air Pollution Control," as may be amended.

**Section 10-25. Noise control.**

All grading, grubbing and stockpiling operations authorized under this chapter shall be performed in conformance with the applicable provisions of the noise rules contained in Hawai'i Administrative Rules, chapter 11-46, "Community Noise Control," as may be amended.

**Section 10-26. Water quality standards.**

All grading, grubbing and stockpiling operations authorized under this chapter shall be performed in conformance with the applicable provisions of the water pollution control and water quality standards contained in Hawai'i Administrative Rules, chapter 11-55, "Water Pollution Control," as may be amended, and chapter 11-54, "Water Quality Standards," as may be amended.

**Section 10-27. Special conditions and requirements.**

- (a) Any person performing or causing to be performed an excavation or fill shall, at that person's own expense, provide the necessary means to prevent the movement of earth of the adjoining properties, to protect the improvements thereon, and to maintain the existing natural grade of adjoining properties.
- (b) Any person performing or causing to be performed, any excavation or fill shall be responsible for the maintenance or restoration of street pavements, sidewalks, curbs, and improvements of public utilities which may be affected. The maintenance or restoration of street pavements, sidewalks and curbs shall be performed in accordance with the

requirements of the County and the maintenance and restoration of improvements of public utilities shall be in conformity with the standards of the public utilities companies affected.

- (c) Any person depositing or causing to be deposited, any silt or other debris in ditches, water courses, drainage facilities, and public roadways, shall remove such silt or other debris. In case such person shall fail, neglect, or refuse to commence remedial work for compliance with the provisions of this section within forty-eight hours after written notice, served upon the person, pursuant to section 10-35, the director of public works, upon a determination of imminent peril, may proceed to remove the silt and other debris or to take any other action the director deems appropriate. A notice of violation shall be issued and the costs incurred for any action taken by the director of public works shall be paid by such person.
- (d) At any stage of the grading, grubbing or stockpiling work, if the director of public works finds that further work as authorized by an existing permit is likely to create soil erosion problems or to endanger any life, limb, or property, the director may require safety precautions, which may include but shall not be limited to the construction of more gradual slopes, the construction of additional silting or sediment basins, drainage facilities or benches, the removal of rocks, boulders, debris, and other dangerous objects which, if dislodged, are likely to cause injury or damage, the construction of fences or other suitable protective barriers, the planting and sodding of slopes and bare areas and the performance of additional soil compaction. All planted or sodded areas shall be maintained. An irrigation system or watering facilities shall be provided as necessary to ensure proper maintenance.

**Section 10-28. Drainage.**

- (a) Adequate provisions shall be made to prevent surface waters from damaging the cut face of an excavation or the sloping surfaces of a fill. All drainage provisions shall be designed to carry surface waters to a storm drain system, natural watercourse, or other area approved by the director of public works as a safe place to deposit and receive such waters.
- (b) Whenever the surface of a lot is excavated or filled, positive drainage shall be provided to prevent the accumulation or retention of surface water in pits, gullies, holes, or similar depressions which may create a public safety hazard.
- (c) The flow of any existing and known natural underground drainage shall not be impeded or changed so as to cause damage to adjoining property.

**Section 10-29. Erosion and sedimentation control.**

All grading, grubbing, and stockpiling permits and operations shall conform to the erosion and sedimentation control standards and guidelines established by the department of public works in conformity with chapters 180C and 342D of the Hawai‘i Revised Statutes.

**Section 10-30. Report after grading; notification on completion.**

- (a) When grading involves cuts or fills for which an engineer’s soils report is required, the permittee shall submit a report by an [a-licensed] engineer summarizing the construction technique, monitoring, and inspection data as well as a statement regarding conformity to this chapter and the project specifications.

- (b) The permittee or the permittee's agent shall notify the director of public works or the director's representative when the grading operation is ready for final inspection. Final approval shall not be given until all work, including installation of all drainage structures and their protective devices have been completed and the required reports have been submitted.

#### **Article 4. Variances**

##### **Section 10-31. Variances; application.**

- (a) In unique cases where strict enforcement of this chapter would result in unnecessary hardship or practical difficulty, and where desirable relief may be granted without detriment to the public interest, convenience or welfare, a request for a variance may be submitted to the director for his consideration.
- (b) Variance applications shall be submitted upon a form designated by the director and shall include the following information and attachments:
  - (1) Applicant's name, phone number, and mailing address.
  - (2) Tax map key number of the affected property.
  - (3) Code section from which a variance is requested.
  - (4) Explanation of the applicant's unique circumstances and why compliance with the applicable code section would be difficult or cause an unnecessary hardship.
  - (5) Explanation of alternative measures that applicant is proposing to take in lieu of compliance with the applicable code section.
  - (6) Evidence that desired relief may be granted without adversely affecting the rights of adjacent property owners or tenants or detrimentally affecting the public interest.

##### **Section 10-32. Variances; criteria for granting.**

Only in situations where the following conditions exist may a variance be granted by the director:

- (a) A grant of a variance is necessitated by peculiar physical conditions not ordinarily found.
- (b) Granting the variance will not adversely affect the rights of adjacent property owners or tenants.
- (c) Granting the variance will not unreasonably violate the interest, safety, convenience, or general welfare of the public.
- (d) A strict application of the terms of this chapter would result in unnecessary hardship and practical difficulty upon the applicant or community.

##### **Section 10-33. Variance application fees.**

- (a) Upon submission of an application for a variance provided for in this article, applicants shall submit a processing fee of \$25.
- (b) Fees shall be waived for any variance applied for by a federal, state or county agency including the department of water supply.

## **Article 5. Violations, Penalties, Enforcement.**

### **Section 10-34. Violations.**

- (a) Failure to comply with any provision of this chapter or with any rule adopted pursuant to this chapter or with conditions imposed as part of any permit, approval or waiver under the provisions of this chapter, shall constitute a violation of this chapter.
- (b) Violations of State of Hawai'i Administrative Rules and statutes referenced in this chapter shall be as determined by final order, after exhaustion of administrative appeals from decisions of the State agency having enforcement jurisdiction over the respective State rules or statutes, unless otherwise provided by law.

### **Section 10-35. Administrative enforcement.**

It shall be unlawful for any person and/or contractor to perform or cause to be performed any grubbing, grading, or stockpiling on any property contrary to any provision of this chapter, or to use or maintain such property in an unlawfully graded condition, or to commit any other act prohibited by this chapter. This prohibition shall apply to any person operating grading or clearing equipment or otherwise performing work for hire.

- (a) In lieu of or in addition to enforcement pursuant to any other provisions of this chapter, if the director of public works determines that any person is violating any provision of this chapter, any rule adopted pursuant to this chapter or any conditions imposed as part of any permit, approval or waiver under the provisions of this chapter, the director shall serve the person with a notice of violation and order pursuant to this section. Service may be accomplished through personal service or by certified mail. The director of public works may also post a copy of the notice of violation and order at the site of the violation.
- (b) The notice of violation shall state with reasonable specificity the nature of the violation, and include at least the following information:
  - (1) Date of the notice.
  - (2) Name and address of the person noticed.
  - (3) Section number of the provision and/or permit that was violated.
  - (4) Nature of the violation.
  - (5) Location and date of the violation.
- (c) The order may require the person to do any or all of the following:
  - (1) Cease and desist from the violation.
  - (2) Correct the violation at the person's own expense before a date specified in the order.
  - (3) Reimburse the County for costs incurred during the course of performing any corrective work.
  - (4) Pay a civil fine not exceeding \$1,000 in the manner, at the place, and before the date specified in the order.
  - (5) Pay a civil fine not exceeding \$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. Each day a violation persists will be considered a separate violation.
- (d) The provisions of the order issued by the director of public works under this section shall become final thirty days after the receipt of the order, unless the director's action is appealed to the County board of appeals as provided in this section. All fines, penalties,

costs or other monetary charges imposed under this chapter shall be due and payable thirty days after the notice of such charges is served, unless the director's action is appealed to the County board of appeals as provided in this section. Whenever an appeal is filed with the board of appeals as provided herein, ~~any~~ all daily fines shall continue to accrue during the appeal process. Any monetary charges so appealed shall only become due and payable upon completion of all board of appeals proceedings and issuance of a final board of appeals order confirming the monetary charges in whole or in part.

- (e) Any person adversely affected by any order issued under this section may within thirty days after the service of the order, appeal the order to the County board of appeals. An appeal to the County board of appeals shall stay the provisions of the director's order pending the final decision of the board, except as ordered under sections 10-37 and 10-38. All work by the person cited shall stop during this appeal process except as may be required to correct an imminent peril to public health or safety. The appeal hearing before the board of appeals shall be conducted as a contested case under chapter 91, Hawai'i Revised Statutes. If, after a hearing held pursuant to this section, the board of appeals finds that a violation or violations have occurred, the board shall affirm or modify any penalties imposed or may modify or affirm the order previously issued, or issue an appropriate order or orders for the prevention, abatement, or control of the violation, or for the taking of other corrective action as may be appropriate, consistent with the director's authority under this chapter. If, after a hearing held pursuant to this section, the board of appeals finds that no violation has occurred or is occurring, the board of appeals shall rescind the order or penalty. Any order issued by the board of appeals after hearing may prescribe the date or dates by which the violation or violations shall cease and may prescribe timetables for necessary action in preventing, abating, or controlling the violation.
- (f) If any party is aggrieved by the decision of the board of appeals, the party may appeal the board's decision to the circuit court in the manner provided by chapter 91, Hawai'i Revised Statutes; provided that the operation of a cease and desist order or other corrective or remedial order affirmed or issued by the board of appeals shall not be stayed on appeal unless specifically ordered by a court of competent jurisdiction.
- (g) The director of public works may institute a civil action in any court of competent jurisdiction for the enforcement of any order issued pursuant to this section. Where the civil action has been instituted to enforce the civil fine, recover County costs, or both, as imposed by final order, the director of public works need only show that:
  - (1) The notice of violation and order were served.
  - (2) That a civil fine, County costs, or both were imposed.
  - (3) The amount of the civil fine, County costs, or both imposed.
  - (4) That the fine, County costs, or both imposed have not been paid.
- (h) The director of public works may work cooperatively with the planning department to allow the planning department to conduct inspections and draft citation orders on behalf of the department of public works.

### **Section 10-36. Criminal prosecution.**

- (a) Any person, whether as principal, agent, employee, or otherwise, violating or causing or permitting the violation of any of the provisions of this chapter, shall be guilty of a violation, and upon conviction thereof, shall be punished by a fine not exceeding \$1,000,

- or by imprisonment not to exceed one year, or both, for each offense. Each day of each violation shall constitute a separate offense.
- (b) After a conviction for a first violation under this chapter, each further day of violation shall constitute a separate offense if the violation is a continuance of the subject of the first conviction.
  - (c) The imposition of a fine under this section shall be controlled by the provisions of the Hawai'i Penal Code relating to fines, sections 706-640 through 706-649, Hawai'i Revised Statutes.
  - (d) Any authorized personnel may issue a summons or citation to an alleged violator in accordance with the procedure specified in this section. Nothing in this section shall be construed as barring such authorized personnel from initiating prosecution by penal summons, by complaint, by warrant or such other judicial process as is permitted by statute or rule of court.
  - (e) Any authorized personnel issuing a summons or citation for a violation of this article may take the name and address of the alleged violator and shall issue to the alleged violator a written summons or citation notifying the alleged violator to answer at a place and at a time provided in the summons or citation.
  - (f) There shall be provided for use by authorized personnel a form of summons or citation for use in citing violators of this article which does not mandate the physical arrest of such violators. The form and content of such summons or citation shall be as adopted or prescribed by the administrative judge of the district court and shall 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 of Hawai'i and the County of Hawai'i.
  - (g) In every case when a citation is issued, the original of the same shall be given to the violator, provided that the administrative judge of the district court may prescribe the giving to the violator of a carbon copy of the citation and provide for the disposition of the original and any other copies.
  - (h) Every citation shall be consecutively numbered and each carbon copy shall bear the number of its respective original.

**Section 10-37. Injunctive action.**

The County of Hawai'i may maintain an action for an injunction to restrain any violation of the provisions of this article and may take any other lawful action to prevent or remedy any violation.

The Constitution of the State of Hawai'i (1978) provides that for the benefit of present and future generations, the state and its political subdivisions shall conserve and protect Hawai'i's natural resources, including land and water, and that all public natural resources are held in trust by the state for the benefit of the people. The County has an affirmative public trust duty to enact, maintain and enforce this chapter to protect public land and water resources. Violations of this chapter individually and cumulatively increase the likelihood of erosion of private and public lands, and injury to public waters, which are irreplaceable natural resources. Therefore, the County Council finds and declares that violations of this Chapter are public nuisances, which are subject to abatement and remedy by injunctive or mandatory equitable relief action by the County, through its Corporation Counsel or such special counsel as may be retained by the County for that purpose.

**Section 10-38. Emergency powers; procedures.**

- (a) Notwithstanding any other law to the contrary, if the director of public works determines that a violation of this chapter will cause imminent peril to the public health and safety, the director, without a public hearing, may order the responsible persons to immediately cease their activities, and may perform all necessary work and other actions as may be necessary to correct the violation. The order shall fix a place and time, not later than twenty-four hours thereafter, for a hearing to be held before a hearings officer appointed by the director of public works.
- (b) Nothing in this section shall be construed to limit any power authorized by law which the director of public works or any other County official may have to declare an emergency and act on the basis of such declaration.

**Section 10-39. Corrective work by the County; costs.**

- (a) When the director of public works determines that a violation of this chapter will cause imminent peril to the public health and/or safety, the department of public works may perform all necessary work to correct the violation. This work may include, but may not be limited to, clearing or removing of encroachments and obstructions, installation of erosion and sediment control measures, completion of authorized work, and restoration and revegetation of the site.
- (b) All costs incurred during the course of performing any corrective work shall be paid by the violator. The department of public works shall give, by certified mail, a bill to the violator. The violator shall then have thirty days from the date of mailing to pay the bill.
- (c) Should the violator fail to make full legal payment within thirty days, the County may use all legal means available to recover its expenses and costs by any action allowed in law or equity.

**Section 10-40. Liability.**

The provisions of this chapter shall not be construed to relieve or alleviate the liability of any person for damages resulting from performing, or causing to be performed, any grading, grubbing or stockpiling operation. The authorized personnel charged with the enforcement of this article, acting in good faith and without malice in the discharge of the duties required by this article or other pertinent law or ordinance, shall not thereby be rendered personally liable for damages that may accrue to persons or property as a result of an act or by reason of an act or omission in the discharge of such duties. A suit brought against the authorized personnel because of such act or omission performed by the authorized personnel in the enforcement of any provision of this article or other pertinent laws or ordinances implemented through the enforcement of this article shall be defended by the County of Hawai'i until final termination of such proceedings, and any judgment resulting there from shall be assumed by the County.

**Section 10-41. Remedies cumulative.**

The remedies provided in this article shall be cumulative and not exclusive.

**Article 6. Rule Making**

**Section 10-42. Adoption of rules.**

This chapter is intended to be self-executing to the extent permitted by law. The director of public works is authorized to promulgate rules pursuant to chapter 91 of the Hawai'i Revised Statutes as may be necessary for implementation of this chapter.”

SECTION 3. If any provision of this ordinance or the application thereof to any person or circumstance, 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, and to this end, the provisions of this ordinance are declared to be severable.

SECTION 4. This ordinance shall take effect six months after its approval.

INTRODUCED BY:

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COUNCIL MEMBER, COUNTY OF HAWAI'I

Hilo, Hawai'i  
Date of Introduction:  
Date of 1st Reading:  
Date of 2nd Reading:  
Effective Date: