

REQUEST FOR LEGAL SERVICES

Date: January 8, 2018
From: Robert Carroll, Chair
Land Use Committee

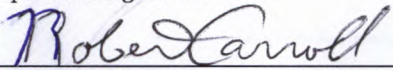
TRANSMITTAL

Memo to: DEPARTMENT OF THE CORPORATION COUNSEL
Attention: David Galazin, Esq.

Subject: CHAPTER 20.08, MAUI COUNTY CODE, RELATING TO SOIL EROSION AND SEDIMENT CONTROL (LU-47)

Background Data: Please review and, if appropriate, approve as to form and legality the attached revised proposed bill incorporating revisions made at the Committee's meeting of January 3, 2018. For ease of reference, a track-changes version and a "clean" version are attached. Please provide a hard copy of the approved bill with your response.

Work Requested: FOR APPROVAL AS TO FORM AND LEGALITY
 OTHER:

Requestor's signature  Robert Carroll	Contact Person <u>Alec Wagner or Carla Nakata</u> (Telephone Extension: <u>7662 or 7659, respectively</u>)
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ROUTINE (WITHIN 15 WORKING DAYS) RUSH (WITHIN 5 WORKING DAYS)
 PRIORITY (WITHIN 10 WORKING DAYS) URGENT (WITHIN 3 WORKING DAYS)

SPECIFY DUE DATE (IF IMPOSED BY SPECIFIC CIRCUMSTANCES): _____
REASON: _____

FOR CORPORATION COUNSEL'S RESPONSE

ASSIGNED TO:	ASSIGNMENT NO.	BY:
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TO REQUESTOR: APPROVED DISAPPROVED OTHER (SEE COMMENTS BELOW)
 RETURNING--PLEASE EXPAND AND PROVIDE DETAILS REGARDING ITEMS AS NOTED

COMMENTS (NOTE - THIS SECTION NOT TO BE USED FOR LEGAL ADVICE): _____

DEPARTMENT OF THE CORPORATION COUNSEL

Date _____

By _____

(Rev. 7/03)

lu:ltr:047acc01:ajw/cmn

Attachments

ORDINANCE NO. _____

BILL NO. _____ (2018)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 20.08, MAUI COUNTY
CODE, RELATING TO SOIL EROSION AND SEDIMENT CONTROL

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. The purpose of this ordinance is to preserve and protect sensitive historic, cultural, and archaeological sites, and unmarked human burial sites by clarifying the grading and grubbing permit process.

SECTION 2. Section 20.08.020, Maui County Code, is amended by amending the definition of "director" to read as follows:

"Director" means the director of public works, [and environmental management,] County of Maui, or the director's duly authorized representative."

SECTION 3. Section 20.08.075, Maui County Code, is amended by amending subsection B to read as follows:

"B. The plot plan shall also state:

1. All construction related conditions of the special management area permit[;].

2. That the importation and placement of soil is prohibited within the shoreline area as defined by chapter [201A-41] 205A-41, Hawaii Revised Statutes, except for sand as defined in this chapter[; and].

3. That grading of the coastal dune is prohibited pursuant to section 20.08.035."

SECTION 4. Section 20.08.080, Maui County Code, is amended to read as follows:

“20.08.080 Grading and grubbing permit review. Drainage, engineering slope hazard report, and erosion control plans shall be submitted to the applicable soil and water conservation district(s) and to the department of land and natural resources’ state historic preservation division for review and comment. Applicants shall provide information sufficient to show that the proposed work will be in conformance with **the most current standards on file with the department of public works, as** set forth by the soil and water conservation district(s). Final approval or disapproval by the County shall be made within ten days after receiving their comments.”

SECTION 5. Section 20.08.120, Maui County Code, is amended to read as follows:

“20.08.120 Permit—suspension or revocation. The director [may,] **shall,** in writing, suspend or revoke a permit issued under the provisions of sections 20.08.040 through 20.08.160 of this chapter whenever the permit has been issued on the basis of incorrect information supplied by the permittee or whenever the grubbing, stockpiling, or grading is not being performed in accordance with the terms and provisions of the permit[.]; the requirements of any state or county agency related to the work; or any archaeological monitoring, preservation, or mitigation plans approved by the department of land and natural resources’ state historic preservation division.”

SECTION 6. Section 20.08.160, Maui County Code, is amended to read as follows:

“20.08.160 [Permit—Requirements] Permit—requirements. The permittee shall notify the director **in writing** at least [two] **ten** days before the permittee or [his] the permittee’s agent begins any grading or grubbing. Plans and specifications for grading or grubbing bearing the approval of the director 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 a grading or grubbing permit, the director may stop the grading or grubbing until revised

grading or grubbing plans, based upon the existing conditions, are submitted by the permittee and approved by the director. Permittees shall comply with state and county laws and regulations; the recommendations of the soil and water conservation district(s); and the requirements of the department of land and natural resources' state historic preservation division. The director or any state or county agency with authority relevant to the work, including soil and water conservation district(s), the department of planning, or the department of land and natural resources' state historic preservation division, may enter onto the property to ensure compliance with this section."

SECTION 7. Material to be repealed is bracketed. New material is underscored. In printing this bill, the County Clerk need not include the brackets, the bracketed material, or the underscoring.

SECTION 8. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM
AND LEGALITY:

Department of the Corporation Counsel
County of Maui

LF2017-1137

2018-1-3 MCC 20.08 Amendments

lu:misc:047abill02:ajw

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lu:misc:047abill02:ajw