

# REQUEST FOR LEGAL SERVICES

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

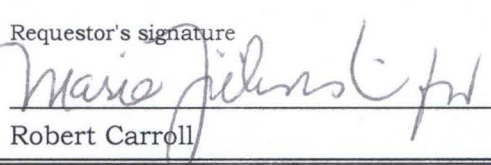
TRANSMITTAL

**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 attached mark-up and clean versions of revised proposed bill. If appropriate, please approve the clean version as to form and legality. A hard copy is requested with your response.

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

Requestor's signature  Robert Carroll	Contact Person <u>Carla Nakata or James Krueger</u> (Telephone Extension: 7659 or 7761, respectively)
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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:047acc02:jgk

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 enable the reviewing agencies to determine that the proposed work will be in conformance with the most current standards on file at the Department of Public Works of the soil and water conservation district(s) and will meet the requirements of chapter 6E, Hawaii Revised Statutes, and related administrative rules. Final approval or disapproval shall be made by the County [shall be made] within ten days after receiving [their] the reviewing agencies’ comments.”

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

**“20.08.120 Permit—suspension or revocation.** A. The director may, in writing, suspend or revoke a permit issued under the provisions of sections 20.08.040 through 20.08.160 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.

B. The director shall, in writing, suspend or revoke a permit issued under the provisions of sections 20.08.040 through 20.08.160 whenever any of the following occurs:

1. The permit has been issued on the basis of incorrect information supplied by the permittee.

2. The director has received written notification from a federal, state, or county agency of any warnings or violations of the requirements related to the work.

3. The director has received written notification from the department of land and natural resources’ state historic preservation division of any warnings or violations issued, including warnings or violations relating to archaeological monitoring, preservation, or mitigation plans approved by the state historic preservation division, and applicable to the permitted area.”

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 at least two days [before the permittee or his agent begins] prior to beginning any grading or grubbing. The director may require a pre-construction meeting prior to commencement of the work. 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) as approved by the county; 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, shall be allowed~~may enter~~ onto the property for which a grading and grubbing permit has been issued 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:

RICHELLE M. THOMSON  
DAVID GALAZIN

Department of the Corporation Counsel  
County of Maui

2018-0070

[lu:misc:047abill03:jgkPAF 18-002-2018-10-30](#)

Ordinance Soil Erosion



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lu:misc:047abil03:jgk