

# REQUEST FOR LEGAL SERVICES

**D a t e:** May 21, 2021

**F r o m:** Shane M. Sinenci, Chair

Agriculture and Public Trust Committee

TRANSMITTAL

**Memo to:** DEPARTMENT OF THE CORPORATION COUNSEL  
Attention: Stephanie Chen, Esq.

**Subject:** A BILL FOR AN ORDINANCE TO AMEND THE EXCLUSION FOR GRADING AND GRUBBING PERMITS FOR TRENCHING FOR UNDERGROUND UTILITIES (APT-11)

**Background Data:** Please see the attached bill.

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

☐ OTHER:

Requestor's signature  Shane M. Sinenci	Contact Person <u>Kasie Apo Takayama</u> (Telephone Extension: <u>7665</u> )

☐ 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): May 26, 2021 at 4:30 p.m.

REASON: For posting on June 4, 2021 Council meeting agenda.

## 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)

apt:ltr:011acc01:kmatt

Attachment

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

BILL NO. \_\_\_\_\_ (2021)

A BILL FOR AN ORDINANCE TO AMEND THE EXCLUSION FOR GRADING  
AND GRUBBING PERMITS FOR TRENCHING FOR UNDERGROUND UTILITIES

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

SECTION 1. Section 20.08.031, Maui County Code, is amended to read  
as follows:

**“20.08.031 Limited exclusions.** Sections 20.08.040 through 20.08.160 regarding permit applications and requirements [shall] do not apply to the following[.]; however all other provisions of this chapter, including the provision of minimum bmps as required by section 20.08.035, [shall] remain applicable to all work performed, and the following [shall] exclusions do not affect the applicability of section 20.08.040.C relating to cut or fill activity in special management areas:

A. Subsurface excavations and backfill for buildings and other structures authorized by a valid building permit issued by the land use and codes administration or excavations and backfill for cesspools and septic tanks authorized by the state department of health. This [exception shall] exclusion does not affect the applicability of this chapter to the placing of fill materials obtained from the excavations on other premises[;].

B. Excavation, fill, or stockpiling [which] that does not alter the general drainage pattern with respect to abutting properties and [which] that does not exceed one hundred cubic yards of material on any one site and does not exceed four feet in vertical height at its highest point; [provided] except that the slope face may not be steeper in slope and be located a minimum distance from neighboring properties, as enumerated in sections 20.08.170 through 20.08.210[;].

C. Grubbing [which] that does not alter the general drainage pattern with respect to abutting properties and does not exceed one acre[;].

D. Trenching for underground utilities when the trenches are backfilled[,], and the surface restored to its pre-existing grade and ground cover[.] in areas not identified as sensitive by the County

archaeologist, based on data provided by the state historic preservation division under Hawaii Revised Statutes chapter 6E, and less than two feet deep and less than fifty cubic yards.”

SECTION 2. 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 3. This Ordinance takes effect November 1, 2021.

APPROVED AS TO FORM AND LEGALITY:

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Department of the Corporation Counsel  
County of Maui

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