

Chapter 10

EROSION AND SEDIMENTATION CONTROL

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Chapter 10**EROSION AND SEDIMENTATION CONTROL****Article 1. General Provisions.****Section 10-1. Definitions.**

- (a) Wherever used in this chapter, the following words shall have the meaning indicated:
- (1) "Designated historic and archaeological sites" means those sites listed with the County general plan or the Hawai'i register of historic places.
 - (2) "Engineer" means a professional engineer (civil or structural) registered in the State of Hawai'i.
 - (3) "Engineer's soils report" means a report on soils conditions prepared by an engineer experienced in the practice of soil mechanics and foundations engineering.
 - (4) "Erosion" means the wearing away of the ground surface as a result of action by wind and/or water.
 - (5) "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. State land use commission and County zoning and other agencies' regulations on shoreline improvements are made a part hereof by reference.
 - (6) "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. State land use commission and County zoning and other agencies' regulations on shoreline improvements are made a part hereof by reference.
 - (7) "Grading" means any excavation or fill or any combination thereof.
 - (8) "Grubbing" means any act by which vegetation, including trees, timber, shrubbery and plants, is removed, dislodged, uprooted or cleared from the surface of the ground.
 - (9) "Land surveyor" means a person duly registered as a professional land surveyor in the State.
 - (10) "Overburden" means a soil material overlaying another geologic formation.
 - (11) "Permittee" means the person or party to whom the permit is issued and shall include but not be limited to the property owner, his lessee, developer, agent, or attorney in fact.
 - (12) "Plasticity" means the property of a soil which allows it to be deformed beyond the point of recovery without cracking or appreciable volume change.
 - (13) "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.
 - (14) "Soil and water conservation districts" means the legal subdivisions of the State of Hawai'i authorized under chapter 180, Hawai'i Revised Statutes.
 - (15) "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.

(1975, Ord. No. 168, sec. 1.2; Am. 1976, Ord. No. 190, sec. 1; Am. 2001, Ord. No. 01-108, sec. 3.)

Section 10-2. Hazardous conditions.

- (a) Whenever the director of public works determines that any existing excavation, fill, grubbing or stockpiling 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 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.
- (1975, Ord. No. 168, sec. 1.3; Am. 1976, Ord. No. 190, sec. 1; Am. 2001, Ord. No. 01-108, sec. 1.)

Section 10-3. Exclusions.

- (a) All work in this section must conform to the provisions of section 10-26 to be considered for exclusion.
- (b) This chapter shall not apply to the following:
 - (1) Mining or quarrying operations regulated by other County ordinance or governmental agencies.
 - (2) Grading 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 filling and operation of rubbish dumps.
 - (5) Agricultural operations, including ranching incidental to or in conjunction with crop or livestock production and all other operations that are in conformance with soil conservation practices acceptable to the applicable soil and water conservation district directors and in accordance with an actively pursued comprehensive conservation program, providing:
 - (A) Such operations do not alter the general and localized drainage patterns with respect to abutting properties.
 - (B) A conservation program for the affected properties acceptable to and approved by the applicable soil and water conservation district directors is filed with the soil conservation district.
 - (C) The conservation program, with appropriate modifications is reviewed and re-approved by the soil and water conservation district directors periodically but not less than once every five years.
 - (6) 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 3 of this chapter.
 - (7) 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 3 of this chapter.
 - (8) 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.
 - (9) Exploratory excavations not to exceed fifty cubic yards under the direction of an engineer for the purpose of subsurface investigations required by the director of public works and provided that the director of public works has been advised in writing prior to the start of such excavation.

- (10) Clearing, excavation and filling required in conjunction with the installation of pole lines by electric, telephone and public utilities.
(1975, Ord. No. 168, sec. 1.4; Am. 2001, Ord. No. 01-108, sec. 1.)

Section 10-4. Completion by County; recovery of cost.

- (a) In the event that any permittee under this chapter fails to:
- (1) Comply with all the terms and conditions of the permit to the satisfaction of the director of public works;
 - (2) Complete all of the work authorized under the permit within the time limit specified in the permit;
 - (3) Comply with all special precautions enumerated in section 10-24 and with all the requirements of the director of public works pursuant to section 10-24; or
 - (4) Proceed under section 10-15(b); within thirty days after a permittee has been served with written notice thereof, either by mail or personal service, the council may order the permittee to be prosecuted as a violator of the provisions of this chapter and may order the director of public works to proceed with the work specified in such notice. A statement of the cost of such work shall be transmitted to the council who shall cause the same to be paid. Such cost shall be charged to the permittee or owner or both of the premises involved.
- (b) The County may enforce payment of such cost in any manner provided by law, including proceedings under chapter 507, part II, Hawai'i Revised Statutes. For the purposes of the operation of part II of chapter 507, Hawai'i Revised Statutes, the permittee shall be deemed to come within the definition of "owner" as defined in said chapter; the County shall be deemed to come within the definition of "general contractor" as defined in that chapter and the execution of work specified in the notice shall be deemed a contract between the permittee and the County.

(1975, Ord. No. 168, sec. 2.8; Am. 2001, Ord. No. 01-108, sec. 1.)

Section 10-5. Waivers.

In all applicable cases, if a permittee, supported by accompanied engineer's report, finds that strict adherence to the provisions of this chapter causes undue hardship or practical difficulty, the permittee may seek waivers from these provisions and the director of public works may grant a waiver with conditions if the director finds that the request will not likely create any problems to the adjoining properties nor endanger any life or limb nor be in conflict with existing ordinances and statutes.

(1975, Ord. No. 168, sec. 5; Am. 2001, Ord. No. 01-108, sec. 1.)

Section 10-6. Appeals.

Any person aggrieved by the decision of the director of public works in the administration or application of this chapter, may, within thirty days after the director of public works' decision, appeal the decision to the board of appeals. The board of appeals may affirm the decision of the director of public works or it may reverse or modify the decision if the decision is:

- (a) In violation of this chapter or other applicable law;
- (b) Clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or
- (c) Arbitrary, or capricious, or characterized by an abuse of discretion or clearly unwarranted exercise of discretion.

The board of appeals shall adopt rules pursuant to chapter 91, Hawai'i Revised Statutes, necessary for the purposes of this section.

(1975, Ord. No. 168, sec. 6; Am. 1981, Ord. No. 729, sec. 1; Am. 2001, Ord. No. 01-108, sec. 1.)

Section 10-7. 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 director of public works or any employee charged with the enforcement of this chapter, acting in good faith and without malice for the County in the discharge of their duties, shall not thereby render themselves liable personally and they are hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any required act or omission in the discharge of their duties.

(1975, Ord. No. 168, sec. 4.2; Am. 2001, Ord. No. 01-108, sec. 1.)

Section 10-8. Violations and penalty.

- (a) No person shall do any act forbidden, or fail to perform any act required by the provisions of this chapter.
- (b) The failure to comply with the requirements set forth under the provisions of this chapter shall be deemed a new offense for each day of such noncompliance.
- (c) Any person violating any of the provisions of this chapter shall, upon conviction, be punished by a fine not to exceed \$500, or by imprisonment not to exceed fifty days, or both, for each offense.

(1975, Ord. No. 168, sec. 4.1.)

Article 2. Permits.**Section 10-9. Required.**

- (a) Except as excluded in section 10-3:
 - (1) No grading work shall be commenced or performed without a grading permit.
 - (2) 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.
 - (3) No stockpiling work shall be commenced or performed without a stockpiling permit.
- (b) No grading, grubbing, or stockpiling permit shall be issued without the director of public works' review of the applicant's compliance with the County general plan or with chapters [6E],* 205 and 343, Hawai'i Revised Statutes.

(1975, Ord. No. 168, sec. 2.1; Am. 2001, Ord. No. 01-108, sec. 1.)

* **Editor's Note:** Chapter 6, Hawai'i Revised Statutes, was repealed and replaced with chapter 6E, pursuant to Act 104, SLH 1976.

Section 10-10. 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. Each application shall:
 - (1) Describe by tax key 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 and owner including engineer, if applicable, who shall be responsible for the work to be performed by the engineer, the engineer's contractors and employees and for requesting the inspections required herein.
- (b) Each application for a grading permit shall also be accompanied by two sets of plans and specifications, 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, or designated historic and archaeological sites, on the property where the work is to be performed and location of any building or structure on land of adjacent property which is within fifteen feet of the property to be graded when the grading may affect the buildings, structures, or designated historic and archaeological sites;
 - (D) Contours showing the topography of the existing ground and extending five feet into adjacent property when required by the director of public works. The scale and contour are to be appropriate to the work in question;
 - (E) Elevations, dimensions, location, extent and the slopes of all proposed grading shown by contours and other means;
 - (F) The area in square feet of the land to be graded and the quantities of excavation and fill involved. Show separately quantities for excavation within and outside of building lines; and
 - (G) 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, a contour map prepared by an engineer or land surveyor and approved by the director of public works and showing the contours and elevations of the land before and after the completion of the proposed grading. This map shall include the location of existing large trees, designated historic and archaeological sites, and definable rock outcroppings, lava tubes, 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 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 two 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. No permit will be required for cutting or bulldozing of trails for survey lines and access for soil exploration equipment.
- (d) An applicant for a stockpiling permit shall furnish two 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 initial request the permit shall be deemed approved.
- (1975, Ord. No. 168, sec. 2.2; Am. 2001, Ord. No. 01-108, sec. 1.)

Section 10-11. 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 — 100 cubic yards | \$5 |
| 101 — 1,000 cubic yards | \$5 for the first 100 cubic yards plus \$2 for each additional 100 cubic yards or fraction thereof. |
| 1,001 — 10,000 cubic yards | \$25 for the first 1,000 cubic yards plus \$2 for each additional 1,000 cubic yards or fraction thereof. |
| 10,001 cubic yards or more | \$41 for the first 10,000 cubic yards plus \$2 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 \$5 for grubbing in excess of one acre, plus \$2 for each additional five acres or fraction thereof.
 - (c) Before issuing a stockpiling permit the director of public works shall collect a permit fee of \$5 for stockpiling in excess of the first five hundred cubic yards plus \$2 for each additional one thousand cubic yards or fraction thereof.
 - (d) Where work for which a permit is required by this chapter is started or proceeded prior to obtaining the permit, the fees specified shall be doubled, but the payment of such double fee 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.
 - (e) 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.
 - (f) All permit fees shall be deposited in the general fund.
- (1975, Ord. No. 168, sec. 2.4; Am. 1986, Ord. No. 86-124, sec. 1; Am. 2001, Ord. No. 01-108, sec. 1.)

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 owner of responsibility for securing required permits for work to be done which is regulated by any other code, department or division of the governing agency.
 - (c) In granting any permit, 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.
- (1975, Ord. No. 168, sec. 2.3; Am. 2001, Ord. No. 01-108, sec. 1.)

Section 10-13. Expiration.

- (a) Every grading or grubbing permit shall expire and become void unless the work permitted herein is started within ninety days after the date of issuance or within ninety days after the completion date

specified thereon but not later than one year after the date of issuance. Extension of time may be granted if, in the judgment of the director of public works, the work authorized under the permit would not be exceeded. In such cases, no additional fee will be imposed.

- (b) Every stockpiling permit shall expire and become void one year 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. Extension of time may be granted if, in the judgment of the director of public works, the work authorized under the permit would not be exceeded. In such cases, no additional fee will be imposed.
(1975, Ord. No. 168, sec. 2.5; Am. 2001, Ord. No. 01-108, sec. 1.)

Section 10-14. Denial.

- (a) If the director of public works finds that the work as proposed by the applicant is likely to 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 saturation of the ground by rains, earth movements, geological or flood hazards, undesirable surface water runoff, 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.
(1975, Ord. No. 168, sec. 2.6; Am. 2001, Ord. No. 01-108, sec. 1.)

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 may 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.
(1975, Ord. No. 168, sec. 2.7; Am. 2001, Ord. No. 01-108, sec. 1.)

Section 10-16. Construction prohibited prior to grading.

No construction of any structure upon the premises involved shall be permitted until the director of public works has received the notice of completion that the grading, grubbing, or stockpile work has been completed in accordance with the grading permit.

(1975, Ord. No. 168, sec. 2.9; Am. 2001, Ord. No. 01-108, sec. 1.)

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 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. 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 provision of this chapter, 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.
- (1975, Ord. No. 168, sec. 2.10; Am. 2001, Ord. No. 01-108, sec. 1.)

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.

(1975, Ord. No. 168, sec. 3.1; Am. 1986, Ord. No. 86-6, sec. 1; Am. 2001, Ord. No. 01-108, sec. 1.)

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 building department, 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 shall be designed by 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.

(1975, Ord. No. 168, sec. 3.1; Am. 2001, Ord. No. 01-108, sec. 1.)

Section 10-20. Maximum cleared area.

The maximum area of land that may be cleared for grading or grubbing is twenty acres. The area of land that may be cleared may be increased or reduced by the director of public works to control pollution and minimize storm damage. Additional area shall not be cleared for grading or grubbing until measures to prevent dust or erosion problems in the area already graded or grubbed have been completed.

(1975, Ord. No. 168, sec. 3.1; Am. 2001, Ord. No. 01-108, sec. 1.)

Section 10-21. Fill materials.

The fill material may consist of rock, gravel, sand, soil, or a mixture thereof. Except for slopes, the fill shall be compacted to 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.

(1975, Ord. No. 168, sec. 3.1; Am. 2001, Ord. No. 01-108, sec. 1.)

Section 10-22. Preparation of ground surface; vegetation.

- (a) Before placing fill or stockpiling, the natural ground surface shall be prepared by removing the vegetation 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.

- (b) Whenever feasible natural vegetation should be retained. 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 within a reasonable time, but not to exceed three months. Exceptions providing for burial in open areas may be allowed as determined by the director of public works.

(1975, Ord. No. 168, sec. 3.1; Am. 2001, Ord. No. 01-108, sec. 1.)

Section 10-23. 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 summarizing the construction technique 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.

(1975, Ord. No. 168, sec. 3.1; Am. 2001, Ord. No. 01-108, sec. 1.)

Section 10-24. 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 comply with the provisions of this section within forty-eight hours after written notice, served upon the person, either by mail or by personal service, the director of public works may proceed to remove the silt and other debris or to take any other action the director deems appropriate. 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 may be required by the director of public works.
- (e) At any stage of the grading, grubbing, or stockpiling operations, if the director of public works finds that further work as authorized by an existing permit is likely to create dust problems which may jeopardize health, property, or the public welfare, the director of public works may require additional dust control

precautions and, if these additional precautions are not effective in controlling dust, may stop all operations. These additional dust control measures may include such items as sprinkling water, applying mulch treated with bituminous material, or applying hydro mulch.

(1975, Ord. No. 168, sec. 3.2; Am. 2001, Ord. No. 01-108, sec. 1.)

Section 10-25. 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 street, storm drain, natural water course, or other area, approved by the director of public works as a safe place to deposit and receive such waters. The director of public works may require such drainage structures and pipes to be constructed or installed, which in his opinion, are necessary to prevent erosion damage and to satisfactorily carry off surface 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 hazard or nuisance.
- (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.

(1975, Ord. No. 168, sec. 3.3; Am. 2001, Ord. No. 01-108, sec. 1.)

Section 10-26. 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 chapter 180C, Hawai'i Revised Statutes.

(1975, Ord. No. 168, sec. 3.4.)