

**Form C Attachment A-4**  
**C&C County of Honolulu Grading Ordinance**  
**Letter of Agreement**

STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION  
HIGHWAYS DIVISION  
DESIGN BRANCH  
**M E M O R A N D U M**

HWY-D 2.XXXX  
DATE: September 8, 2008

TO: HWY-C, -D, -L, -T, -O

FROM: HWY

SUBJECT: WAIVER OF DETAILED PLAN REVIEW - LETTER OF AGREEMENT  
(LOA) BETWEEN HAWAII STATE DEPARTMENT OF TRANSPORTATION  
AND CITY & COUNTY OF HONOLULU (C&C) DATED AUGUST 12, 2008

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By letter of agreement (Attachment A), the C&C has agreed not to conduct a detailed plan review for DOT-Highways projects requiring grading permits provided that DOT submits a self certification form (Attachment B) along with any required grading permit applications. This applies only to projects on Oahu that require grading permits.

Upon completion of design, the design Project Manager shall use Attachment C, Typical Projects not Requiring Grading Permits dated 8-20-08 and Attachment D, Revised Ordinances of Honolulu to determine whether if the project requires a grading permit or not.

If the project does not require a grading permit, no grading plan review by C&C is needed. However if a project requires a grading permit, the following shall be done:

1. The Project Manager shall complete Attachment B to be signed by the Section Head and Branch Head.
2. The signed original will be provided to HWY-OC's construction engineer prior to the preconstruction conference. A copy of this form will be kept in the design project file.
3. At the preconstruction meeting, this form will be provided to the construction contractor, who in turn, will provide this to the C&C when a grading permit is processed.

It should be noted that this specifically pertains to grading plan review. The possibility exists that your project may affect other C&C facilities such as sewer lines, waterlines, traffic signals, sidewalks, etc. While such work may not require a grading permit, these plans will still require review and approval by C&C.

If you have any questions regarding this matter, please contact Scot Urada, Design Branch Head at 692-7559.

Memo to HWY-C, -D, -L, -T, -O  
Page 2  
September 8, 2008

HWY-D 2.xxxx

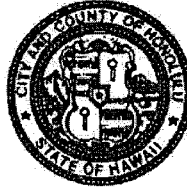
Attachment

SU:

DIR 1261

DEPARTMENT OF PLANNING AND PERMITTING  
**CITY AND COUNTY OF HONOLULU**  
650 SOUTH KING STREET, 7<sup>TH</sup> FLOOR • HONOLULU, HAWAII 96813  
PHONE: (808) 768-8000 • FAX: (808) 527-6743  
DEPT. WEB SITE: [www.honolulu.gov](http://www.honolulu.gov) • CITY WEB SITE: [www.honolulu.gov](http://www.honolulu.gov)

MUFI HANNEMANN  
MAYOR



HENRY ENG, FAICP  
DIRECTOR

DAVID K. TANOUE  
DEPUTY DIRECTOR

2008/ELOG-1912 (wyw)

August 12, 2008

The Honorable Brennon T. Morioka, Ph. D., P. E.,  
Director  
State of Hawaii  
Department of Transportation  
869 Punchbowl Street  
Honolulu, Hawaii 96813-5097

Dear Dr. Morioka:

Subject: Grading Plan Reviews for State DOT  
Highways Division Projects

This is in response to your letter of June 25, 2008 (HWY-D 2.816).

We agree that a detailed review of grading plans for Highways Division projects by our department is a duplication of government effort. Accordingly, as originally established by the former Department of Public Works on May 27, 1986 (14-0415), we will continue to process grading permits for those projects without our detailed plan reviews, subject to the DOT's compliance with all applicable codes, rules, regulations, and procedures.

With regard to the required DOT certifications that must be submitted with the grading permit applications, we have no objections to the use of the proposed certification form enclosed with your letter.

Should there be any questions, please contact our Civil Engineering Branch staff at 768-8215.

Very truly yours,

  
Henry Eng, FAICP, Director  
Department of Planning and Permitting

HE:th:jfk

cc/incom: Project Review Section

DEPT OF TRANSPORTATION  
2008 AUG 18 P 3 19  
HIGHWAYS DIVISION

ATTACHMENT A

JUN 25 2008  
*ref*

HWY-D 2.8186

JUN 25 2008

Mr. Henry Eng, Director  
Department of Planning and Permitting  
City and County of Honolulu  
650 South King Street, 7<sup>th</sup> Floor  
Honolulu, Hawaii 96813

Dear Mr. Eng:

Subject: Request for Non-Applicability of Detailed Plan Review for State Department of  
Transportation Highways (HDOT) projects

We request for the City & County of Honolulu's (City) continued concurrence that a detailed plan review is not required for projects submitted for grading permits. In 1986, the City and HDOT agreed that a detailed plan review was not required provided that HDOT submits with the grading permit application, "a statement certifying that the work has been reviewed and found in substantial compliance with the City's Grading Ordinance."

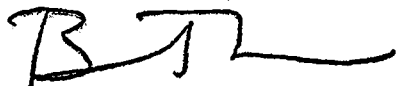
The rationale for the previous agreement was that during project development by HDOT, our design process already covers the intent of the City's grading ordinance and is in compliance with current State and Federal requirements. Thus another level of review by a different government agency would be a duplication of effort.

HDOT will continue to submit grading permits as required by Chapter 14, Revised Ordinances of Honolulu. Approved plan sheets will be furnished with the permit application.

HDOT is responsible to correct any deficiencies in erosion and sediment control, both during construction and post construction, and our field construction personnel are required to monitor, control and enforce erosion control procedures and Best Management Practices.

If agreeable, this request supersedes the City's letter 14-0415 dated May 27, 1986 and DOT's letter HWY-DD 2.90019 dated May 13, 1986. We look forward for a favorable consideration to this request to enable a cost and time efficient means to deliver transportation projects to Oahu's motorists.

Very truly yours,



BRENNON T. MORIOKA, Ph.D., P.E.  
Director of Transportation

Enclosures

SU: mjkn.  
bc: HWY-D, -DD, -DS, -DH, -DB, -DL, -T, -L

Post-it® Fax Note	7871	Date 2/14/08	# of pages 4
To SHAKKI	From Mel		
Co./Dept.	Co.		
Phone #	Phone # 768104		
Fax # 528 2368	Fax #		

BLIC WORKS

OF HONOLULU

STREET  
H 96813

MAY 29 3 38 PM '86

DEPT. OF  
TRANSPORTATIONRUSSELL L. SMITH, JR.  
DIRECTOR AND CHIEF ENGINEER

14-0415

FRANK F. FASI  
MAYOR

May 27, 1986

Mr. Wayne Y. Yamasaki, Director  
Department of Transportation  
State of Hawaii  
869 Punchbowl Street  
Honolulu, Hawaii 96813

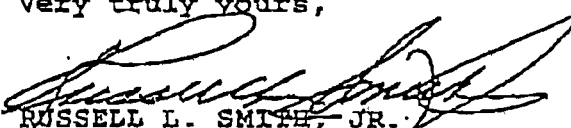
Dear Mr. Yamasaki:

Subject: Your Letter HWY-DD 2.90019, of May 13, 1986,  
Regarding Detailed Review of Highways Plans  
for Conformance to the Grading Ordinance

We generally concur in your belief that a detailed review of Highways Division plans by our Division of Engineering, for conformance to the requirements of Chapter 23 of the Revised Ordinances of Honolulu (Grading Ordinance) constitutes a duplication of effort in carrying out the intent of the Ordinance.

Therefore, we are approving your request for an exemption from a detailed plan review providing that you meet the requirements stated in your subject letter and that you submit with the grading permit application a statement certifying that the work has been reviewed and found to be in substantial compliance with the City's Grading Ordinance.

Very truly yours,

  
RUSSELL L. SMITH, JR.  
Director and Chief Engineer

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HIGHWAYS DIVISION

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HIGHWAYS DIVISION  
DEPT. OF TRANSPORTATION

5/16/82  
wf

M. 12

MAY 13 1986

HWY-DD  
2.90019

Mr. Russell L. Smith, Jr.  
Director and Chief Engineer  
Department of Public Works  
City and County of Honolulu  
Honolulu, Hawaii 96813

Dear Mr. Smith:

Plans, developed by the Highways Division, State Department of Transportation (SDOT) are required to be approved by the City and County of Honolulu in accordance with the provisions of Chapter 23, Grading, Soil Erosion and Sediment Control of the Revised Ordinances of Honolulu 1983 25 amended (Ordinance No. 81-13), because the State is not exempt from the provisions of the ordinance.

After discussing the plan review process with your staff, we believe that the detailed review and approval of the Highways Division's plans is a duplication of effort by the City and State personnel in trying to carry out the intent of the City's grading ordinance. The Highways Division, in their plan development, must meet similar requirements listed in the Grading Ordinance and additionally must meet the following applicable State and Federal requirements:

State:

Environmental Impact Statement Regulation (Chapter 343, HRS)

Conservation District Use Application

Hawaii Coastal Zone Management Program (HCZMP)

Mr. Russell L. Smith, Jr.  
Page 2

RWY-DD  
2.90019

MAY 13 1994

Federal:

Water Pollution Control Act

Clean Water Act

Safe Drinking Water

Flood Control Act

Farmland Protection Act

As the Director of Transportation, I approve all plans, thereby, signifying that all applicable requirements have been complied with and in the case of federal aid projects, the Administrator of the Federal Highway Administration also signs the plans for compliance.

We, therefore, request that an exemption be granted for the Highways Division, SDOT, from the detailed plan review and approval process of the grading ordinance.

However, we will continue to submit applications for grading permits as required by the ordinance. We will also furnish signed copies of the plans and the accompanying special provisions with the application. The City can then issue the grading permit subject to appropriate conditions desired by the City.

Regarding highway projects, the SDOT is responsible to correct any deficiencies in erosion and sediment control and further, our field personnel are required to monitor, control and enforce our temporary erosion control procedures that are specified in Section 639 - "Temporary Project Water Pollution Control (Soil Erosion)" of the Hawaii Standard Specifications for Road and Bridge Construction.



Mr. Russell L. Smith, Jr.

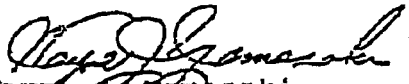
Page 3

MAY 13 1984

HWY-DD ..  
2.90019

I sincerely hope that a favorable consideration is given to our request for an exemption from the detailed plan review and approval process so that we may expedite projects which benefit Oahu's motorists.

Very truly yours,

  
Wayne A. Yamasaki  
Director of Transportation

RMM-wb

cc: HWY-DS  
HWY-DD  
HWY-M  
HWY-K  
HWY-H

To: Department of Planning and Permitting  
City & County of Honolulu  
650 South King Street, 7<sup>th</sup> Floor  
Honolulu, Hawaii 96813

Attention: Permitting & Inspection Section

From: State of Hawaii  
Department of Transportation  
Highways Division  
601 Kamokila Boulevard, Room 688A  
Kapolei, Hawaii 96707

Subject: Non applicability for Detailed Plan review for projects requiring Grading Permits:

Project No: \_\_\_\_\_

Project Title: \_\_\_\_\_

TMK No(s): \_\_\_\_\_

Detailed plan review and approval for the above project by the City & County of Honolulu is not applicable for the reasons stated in the HWY-D letter no. 2.8186 dated June 25, 2008 and as agreed with in DPP Letter 2008/ELOG-1912 dated August 12, 2008.

We certify that the work has been reviewed and is found to be in compliance with Chapter 14, Articles 13, 14 & 15 as amended, Revised Ordinances of Honolulu.

The Department of Transportation and/or its consultant have reviewed the City & County of Honolulu Rules Relating to Soil Erosion Standards and Guidelines (Guidelines) and the attached Erosion Control Plan and related documents have been prepared in accordance with the referenced Guidelines.

For questions regarding this matter, please contact Scot Urada at 692-7559, Engineering Program Manager, Design Branch, Highways Division.

Project Manager: \_\_\_\_\_  
Print name

Date: \_\_\_\_\_

Section Head: \_\_\_\_\_  
signature

Date: \_\_\_\_\_

Branch Head: \_\_\_\_\_  
signature

Date: \_\_\_\_\_

ATTACHMENT B

**Typical projects not requiring Grading Permits**  
**(for DOT's use only to determine non-applicability)**

**8-20-08**

	<b>Project Type</b>	<b>Typical Scope of Work</b>
1	Pavement Preservation and Maintenance (PPM)	Application of chip seal, slurry seal, cold plane and replace up to 1-1/2 inches of asphalt.
2	Road Resurfacing	Cut and replace asphalt, place more than 1-1/2 inches of asphalt, ultra thin white topping
3	Road Rehabilitation	Demolition and replacement of PCC, removal and repair and replacement of entire pavement section including PCC or AC and underlying pavement structure materials.
4	Electrical, water, sewer, drainage, communication or other utility installation or relocations	Trenching, removal and/or installation of conduits or pipes, trench backfill, and patching.
5	Traffic Signal Modernization and/or Installation	Trenching, installation of electrical and communication conduits, backfill, patching, replacement of traffic signal hardware, installation of poles & mast arms, augering and placement of concrete foundations, placement of small concrete pads for electrical equipment.
6	Lighting Improvements	Trenching, installation of electrical conduits, backfill, patching, augering and placement of concrete light foundations, placement of small concrete pads for electrical transformers and equipment.
7	Guardrail and Shoulder Improvements	Excavation for shoulder pavement section, install concrete sidewalks and wheel chair ramps, guardrails and end treatments, relocating street lights, grading to "shape" shoulder areas.
8	Intersection Improvements	Installation of pavement structures & sidewalks; minor grading and/or shaping; sometimes installation of traffic signal facilities and installation of electrical and communication conduits.
9	Landscape Improvements	Installation of trees, shrubs, irrigation facilities and other architectural features.
10	Retaining Walls or Sound Walls	Excavation and backfill for footings and walls.
11	Rockfall Protection	Installation of anchors, restraining or containment mesh, restraining or energy absorbing fencing. Slope scaling and removal of boulders.
12	Drainage Improvements	Trenching and replacement of drainage pipes, installation of catchment, inlet or outlet structures, installation of AC or concrete berms or curbs, installation of concrete gutters. Earth or lined ditches and/or swales.

**Exclusions (Section 14, Article 13.5, ROH)**

1. *Excavation* which does not alter the general drainage pattern with respect to abutting properties, which does not exceed 50 cubic yards of materials on any one site, and does not exceed three feet in vertical height at its deepest point; **provided that the cut meets the cut slopes and distance from property lines requirement in Section 14-15.1, ROH (attachment D).**
2. *Fill* which does not alter the general drainage pattern with respect to abutting properties, which does not exceed 50 cubic yards of materials on any one site, and does not exceed three feet in vertical height at its deepest point; **provided that the cut meets the cut slopes and distance from property lines requirement in Section 14-15.1, ROH.**
3. Grubbing that does not alter the general drainage pattern with respect to abutting properties and does not exceed a total of 15,000 square feet.

the corrective measures to be taken. Grading operations shall cease until corrective measures satisfactory to the chief engineer have been taken. In addition, whenever the work is not being done in conformance with a NPDES permit, the state department of health will be notified.

(Sec. 23-2.9, R.O. 1978 (1983 Ed.); Am. Ord. 92-122)

## Article 15. Grading, Grubbing and Stockpiling

### Sections:

**14-15.1 Conditions of permit.**

**14-15.2 Special requirements.**

### **Sec. 14-15.1 Conditions of permit.**

The requirements of subsections (a), (b) and (c) may be modified by the director of planning and permitting based on the engineer's soils report and engineering slope hazard report.

(a) **Height.** Where a cut or fill is greater than 15 feet in height, terraces or benches shall be constructed at vertical intervals of 15 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 at least eight feet and provided with drainage provisions to control erosion on the slope face and bench surface.

(b) **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:

- (1) One-half horizontal to one vertical in unweathered rock or mudrock;
  - (2) One horizontal to one vertical in decomposed rock;
  - (3) One and one-half horizontal to one vertical in soils of low plasticity, cuts of any height in highly plastic soils shall be as recommended in the applicable report.
- (c) **Fill Slopes.** Fills shall not be steeper than a ratio of two horizontal to one vertical except that fill using highly plastic clays shall have slopes as recommended in the applicable report.

(d) **Distance from property line.** The horizontal distance from the top of a cut slope or the bottom of a fill slope to the adjoining property line shall not be less than as follows:

<b>Distance from Property</b>	
<b>Height of Cut or Fill</b>	<b>Line (in feet)</b>
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 planning and permitting when cuts or fills are supported by retaining walls or when the permittee submits an engineer's soils report or engineering slope hazard report stating that the soil conditions will permit a lesser horizontal distance without causing damage or danger to the adjoining property.

(e) **Area Opened.** The maximum-sized parcel of land that may be opened for grading or grubbing is 15 acres. Noncontiguous increments may be worked concurrently provided no single parcel exceeds 15 acres, provided the work is in conformance with the NPDES permit. The area of land that may be opened may be reduced by the director of planning and

*Attachment D*

permitting to control pollution and minimize storm damage. However, if soils, hydrologic, climatic and construction conditions warrant, and adequate erosion prevention measures have been taken, the director of planning and permitting may authorize additional area to be opened. Additional area may not be opened for grading or grubbing until measures to prevent dust or erosion problems in the area already graded or grubbed have been undertaken to the satisfaction of the director.

(f) Fills. The requirements of subdivisions (1), (2) and (3) may be modified by the director of planning and permitting if the permittee submits an engineer's soils report recommending criteria for the proposed fill for its intended use.

(1) Fill material shall be selected to meet the requirements and conditions of the particular fill for which it is to be used. The fill material shall not contain vegetation or organic matter. Where rocks, concrete, or similar materials of greater than eight inches in diameter are incorporated into the fill, they shall be placed in accordance with the recommendation of a soils engineer.

(2) Preparation of Ground Surface. Before placing or stockpiling, the natural ground surface shall be prepared by removing the vegetation and, if required by the director of planning and permitting, shall be notched by a series of benches and/or subsurface drains installed. No fill shall be placed over any water spring, marsh, refuse dump, nor upon a soft, soggy or springy foundation; provided, that this requirement may be waived by the director of planning and permitting if the permittee submits an engineer's soils report recommending criteria for the fill.

(3) Placement and Compaction. Fill materials shall be spread and compacted in a series of eight-inch to 10-inch layers when compacted, unless otherwise recommended by the soils engineer. Except for slopes, the fill shall be compacted to 90 percent of maximum density as determined by the most recent ASTM soil compaction test D1557 unless the engineer's soils report justifies a lesser degree of compaction, or unless otherwise recommended by the soils engineer.

(g) 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 it is necessary that vegetation 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 or deposited along the banks of any stream, river or natural watercourse. After being uprooted, displaced or dislodged, such vegetation shall be disposed of by means approved in writing by the director of planning and permitting or removed from the site within a reasonable time, but not to exceed three months.

(h) Drainage Provisions. Adequate provisions shall be made to prevent surface waters from damaging the cut face of an excavation or the sloped surfaces of a fill. Positive drainage shall be provided to prevent the accumulation or retention of surface water in pits, gullies, holes or similar depressions. All drainage facilities shall be designed to carry surface waters to a street, storm drain inlet or natural watercourse and shall include an erosion and sedimentation control plan to prevent sediment-laden runoff from leaving the site, either during or following construction. The director of planning and permitting may require such detention or retention drainage structures and pipes to be constructed or installed, which in the director's opinion, are necessary to prevent erosion damage, prevent sediment-laden runoff from leaving the site, and to satisfactorily carry off surface waters. The flow of any existing and known natural underground drainage shall not be impeded or changed so as to cause damage to adjoining property.

(i) 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.

(j) **Work Days.** No grading work shall be done on Saturdays, Sundays and holidays at any time without prior notice to the director of planning and permitting, provided such grading work is also in conformance with Hawaii Administrative Rules, Chapter 11-43, "Community Noise Control for Oahu."

(k) **Dust Control.** All work areas within and without the actual grading area shall be maintained free from dust which will cause a nuisance or hazard to others and in conformance with the air pollution control standards contained in Hawaii Administrative Rules, Chapter 11-60, "Air Pollution Control."

(l) **Water Quality Standards.** All grading operations authorized under Articles 13 through 16 of this chapter shall be performed in conformance with the applicable provisions of the water pollution control and water quality standards contained in Hawaii Administrative Rules, Chapter 11-55, "Water Pollution Control" and Chapter 11-54, "Water Quality Standards" and if applicable, the NPDES permit for the project. Any dewatering discharge into state waters will require an NPDES permit from the department of health under Chapter 11-55, "Water Pollution Control." Any dewatering discharge into the city-owned storm sewer system will require a construction dewatering permit from the director of planning and permitting and an NPDES permit for the discharge of any pollutant into state waters through the city-owned storm sewer system from the department of health, State of Hawaii.

(m) **Notification of Completion.** The permittee or the permittee's agent shall notify the director of planning and permitting or the director's representative when the grading operation is ready for final inspection. Final approval shall not be given until completion of all work including installation of all drainage structures and their protective devices, completion of all planting showing a healthy growth in conformance with the approved plans and specifications, and the required reports have been submitted.

(n) **Report After Grading.**

(1) When grading involves cuts or fills for which an engineer's soils report was required, the permittee shall submit a

final report, prepared by an engineer, upon the completion of such work. This report shall contain:

(A) A description of materials used in the fill and its moisture content at the time of compaction, the

procedure used in depositing and compacting the fill, the preparation of original ground surface before

making the fill, but not limited to benching and subsurface drainage, and a plan or tabulation showing the

general location and elevation of compaction tests made in the fill together with a tabulation of relative

compaction densities obtained at each location, the location of subdrains and other pertinent features of

the fill necessary for its stability.

(B) A certification that the work was done in conformity to this chapter, the approved plans and

specifications and the engineer's soils report.

(2) Where a slope hazard evaluation and mitigation plan was required to be submitted with a grading permit

application, the permittee shall submit a final assessment report, prepared by an engineer, upon the completion of

site work, prior to building construction. The assessment report shall contain a verification that the prevention

measures and any stabilization measures called for in the engineering slope hazard report or construction plans

were done in conformity with this chapter, and the approved plans and specifications.

(o) As-Graded Plan. Upon completion of grading areas over one acre or areas graded under subdivision rules, an as-graded plan prepared by an engineer or land surveyor shall be submitted if required by the director of planning and permitting.

(Sec. 23-3.1, R.O. 1978 (1983 Ed.); Am. Ord 92-122, 04-27)

#### **Sec. 14-15.2 Special requirements.**

(a) Any person performing or causing to be performed any excavation or fill shall, at such 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 and 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 City and County of Honolulu and the maintenance and restoration of improvements of public utilities shall be in conformity with the standards of the public utility companies affected. At cuts fronting any street, a suitable and adequate barrier shall be installed to provide protection to the public.

(c) Any person depositing or causing to be deposited, any silt or other debris in ditches, watercourses, 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 48 hours after written notice, served upon such person, either by mail or by personal service, the chief engineer may proceed to remove the silt and other debris or to take any other action the chief engineer deems appropriate. The costs incurred for any action taken by the chief engineer shall be payable by such person.

(d) At any stage of the grading, grubbing or stockpiling work, if the chief engineer 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 chief engineer may require safety precautions, which may include but shall not be limited to the construction of flatter exposed 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; or may refer to the local soil and water conservation district for advice from the soil conservation service or other appropriate agencies on the planting or sodding of slopes and bare areas. All planted or sodded areas shall be maintained. An irrigation system or watering facilities may be required by the chief engineer.

(e) At any stage of the grading, grubbing or stockpiling operations, if the chief engineer 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 chief engineer 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.

(f) Hillside lots shall be graded in such a manner that any parcels which may be created therefrom, including all separate building sites which may be contained within said parcels, can be satisfactorily graded and developed as individual building sites.

(Sec. 23-3.2, R.O. 1978 (1983 Ed.))

#### **Article 16. Violations, Penalties and Liabilities for Grading, Grubbing and**

## **Stockpiling**

### **Sections:**

- 14-16.1 General.**
- 14-16.2 Notice of violation--Stop work.**
- 14-16.3 Criminal prosecution.**
- 14-16.4 Administrative enforcement.**
- 14-16.5 Liability.**
- 14-16.6 Rule-making powers.**
- 14-16.7 Decisions of the chief engineer.**

#### **Sec. 14-16.1 General.**

It is unlawful for any person to do any act forbidden, or to fail to perform any act required, by the provisions of Articles 13 through 16 of this chapter. Whenever a corporation violates any of the provisions of Articles 13 through 16 of this chapter, the violation shall be deemed to be also that of the individual directors, officers or agents of the corporation who in their capacity as directors, officers or agents of such corporation have authorized, ordered or done any of the acts constituting in whole or in part such violation. (Sec. 23-4.1, R.O. 1978 (1983 Ed.); Am. Ord. 90-71)

#### **Sec. 14-16.2 Notice of violation--Stop work.**

- (a) Whenever any person, firm or corporation violates any provision of Articles 13 through 16 of this chapter, the chief engineer shall serve the person, firm or corporation with a notice of violation which shall require the person, firm or corporation responsible to correct the violation.
- (b) The notice of violation shall include but not be limited to the following information:
  - (1) The date of issuance of the notice;
  - (2) The name and address of the person or entity notified and the location of the violation;
  - (3) The section number of the ordinance, code or rule which has been violated;
  - (4) The nature of the violation; and
  - (5) An order to stop work if deemed necessary by the chief engineer; and
  - (6) The deadline for correction of the violation.
- (c) If the chief engineer deems it necessary for work to stop, the work shall cease upon receipt of the notice and shall not resume until corrective measures satisfactory to the chief engineer have been taken. If the notice includes a stop work order, the chief engineer shall notify and transmit a copy to the chief of police concurrently with the issuance of the notice. The chief of police shall have the power to enforce the stop work order pursuant to Section 6-1604, Revised Charter of Honolulu, 1973, as amended.  
(Added by Ord. 90-71; Am. Ord. 91-07)

#### **Sec. 14-16.3 Criminal prosecution.**

Any person, firm or corporation violating any of the provisions of Articles 13 through 16 of this chapter shall be deemed guilty of a misdemeanor for each and every day or portion thereof during which any violation of any provisions of this chapter is committed and, upon conviction of any such violation, such person shall be punishable by a fine of not more than \$1,000.00 or by imprisonment for not more than one year, or by both fine and imprisonment. (Added by Ord. 90-71)

#### **Sec. 14-16.4 Administrative enforcement.**



(a) In lieu of or in addition to enforcement pursuant to Section 14-16.3, if the chief engineer determines that any person, firm or corporation is not complying with a notice of violation, the chief engineer may issue an order to the person or entity responsible for the violation, pursuant to this section.

(b) Contents of Order.

(1) The order may require the party responsible for the violation to do any or all of the following:

(A) Correct the violation within the time specified in the order;

(B) Upon compliance with the provisions of HRS Chapter 91, pay a civil fine not to exceed \$1,000.00 in the manner, at the place and time specified in the order; and

(C) Upon compliance with the provisions of HRS Chapter 91, pay a civil fine not to exceed \$1,000.00 per day for each day in which the violation occurs, in the manner and at the time and place specified in the order.

(2) The order shall advise the party responsible for the violation that the order shall become final 30 calendar days after the date of its delivery.

(c) Judicial Enforcement of Order. The chief engineer 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 imposed by said order, the chief engineer need only show that the notice of violation and order were served, that a civil fine was imposed, the amount of the civil fine imposed and that the fine imposed has not been paid.

(Added by Ord. 90-71)

#### **Sec. 14-16.5 Liability.**

The provisions of Articles 13 through 16 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 city, its officers and employees shall be free from any liability, cost or damage which may accrue from any grading, grubbing or stockpiling or any work connected therewith, authorized by Articles 13 through 16 of this chapter. (Sec. 23-4.2, R.O. 1978 (1983 Ed.); Am. Ord. 90-71)

#### **Sec. 14-16.6 Rule-making powers.**

The chief engineer shall be empowered to promulgate rules and regulations pursuant to HRS Chapter 91, for the implementation of the provisions of Articles 13 through 16 of this chapter. (Sec. 23-4.3, R.O. 1978 (1983 Ed.); Am. Ord. 90-71)

#### **Sec. 14-16.7 Decisions of the chief engineer.**

Decisions of the chief engineer made in accordance with the provisions of Articles 13 through 16 of this chapter, and/or decisions involving variations from the standards referred to herein shall be made a matter of record in the permit file. (Sec. 23-4.4, R.O. 1978 (1983 Ed.); Am. Ord. 90-71)

### **Article 17. Excavation and Repairs of Streets and Sidewalks**

#### **Sections:**

14-17.1 Permit required--Application--Insurance--Bond--Permit fee.

14-17.2 Notice of commencement, prosecution of work and inspection.

14-17.3 Trench excavation, backfill and pavement restoration.

14-17.4 Repairs by city.