

COUNTY OF KAUAI
ADMINISTRATIVE RULES

Ordinance No. 262

**An Ordinance Regulating and Controlling Grading, Grubbing,
Stockpiling, and Soil Erosion and Sedimentation
Within the County of Kauai**

Sec. 22-6.3 Destruction Of Signs.

The removal, destruction, damaging or defacing of any sign placed on any government beach, reef or sandbar, giving notice that the taking of sand, coral, or rock therefrom for the purpose of sale or exportation, without the permission of the governmental authority vested by law with the control thereof, is prohibited. (Ord. No. 77, November 7, 1951; Sec. 27, C.O. 1971; Sec. 22-6.3, R.C.O. 1976)

Sec. 22-6.4 Penalty.

Any person convicted of violating any provisions of this Article shall be guilty of a misdemeanor and be fined not more than One Thousand Dollars (\$1,000) or imprisoned not more than one (1) year, or both for each offense. (Ord. No. 77, November 7, 1951; Sec. 27, C.O. 1971; Sec. 22-6.4, R.C.O. 1976)

ARTICLE 7. GRADING, GRUBBING AND STOCKPILING**Sec. 22-7.1 Purpose And Scope.**

The purposes of this Article are to provide standards to safeguard the public health, safety and welfare, to protect property, and to promote and preserve the environmental quality of the County of Kauai; setting forth the requirements governing grading, grubbing and stockpiling and establishing the administrative procedures, minimum requirements for issuance of permits and the enforcement of such requirements. (Ord. No. 262, July 23, 1975; Sec. 22-7.1, R.C.O. 1976; Sec. 22-7.1, 1978 Cumulative Supplement)

Sec. 22-7.2 Title.

This Ordinance shall be known as the "Grading Ordinance." (Ord. No. 262, July 23, 1975; Sec. 22-7.2, R.C.O. 1976)

Sec. 22-7.3 Application.

The provisions of this Article shall apply to all grading, grubbing and stockpiling in the County of Kauai and shall supersede all provisions of existing ordinances covering the same subject matter. (Ord. No. 262, July 23, 1975; Sec. 22-7.3, R.C.O. 1976)

Sec. 22-7.4 Definitions.

When used in this Article the following words or phrases shall have the meaning given in this Section unless it shall be apparent from the context that a different meaning is intended:

- (1) "County Engineer" means the County Engineer, Department of Public Works, County of Kauai.

(2) "Earth Material" means any rock, sand, natural soil or fill or combination thereof.

(3) "Engineer" means a person duly registered as a professional Engineer (Civil Branch) in the State of Hawaii.

(4) "Engineer's Soil Report" means a report on soils conditions prepared by an Engineer experienced in the practice of soils mechanics and foundations engineering.

(5) "Excavation" or "Cut" means any act by which earth material is cut into, dug or removed, and shall include the conditions resulting therefrom.

(6) "Fill" means any act by which earth materials are placed or deposited by artificial means, and shall include the resulting deposit of earth material.

(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 dislodged or uprooted from the surface of the ground.

(9) "Permittee" means the person or party to whom the permit is issued and shall be the owner or developer of the property whether a person, firm, corporation, partnership or other legal entity having legal or equitable title to the property and being responsible for the work.

(10) "Planning Director" means the Planning Director of the County of Kauai.

(11) "Stockpiling" means the temporary open storage of soil, sand, gravel, rock or other similar material in excess of five hundred (500) cubic yards upon any premises.

(12) "Surveyor" means a person duly registered as a professional land surveyor in the State of Hawaii. (Ord. No. 262, July 23, 1975; Sec. 22-7.4, R.C.O. 1976)

Sec. 22-7.5 Hazardous Conditions.

Whenever the County Engineer determines that existing grading, grubbing, or stockpiling is or will become a hazard to public health and safety, or endangers 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 or fill is located or other person in control of the property, upon receipt of notice in writing from the County Engineer shall correct the hazardous condition. The County Engineer is authorized to enter upon the property to investigate and to enforce the provisions stated in this Article at any time without the necessity of a warrant or other legal process. If the owner or occupant to whom the notice is directed fails to comply therewith, then the County Engineer may cause the hazardous condition to be corrected at the expense of the owner or occupant, and

if the owner or occupant within thirty (30) days thereafter fails, neglects, or refuses to pay the County the expense incurred thereby, the County shall have a prior lien for the expense on the property on which the hazardous condition was corrected. (Ord. No. 262, July 23, 1975; Sec. 22-7.5, R.C.O. 1976)

Sec. 22-7.6 Exclusions.

This Article shall not apply to the following:

(a) Work in a public street, sidewalk, alley, right-of-way or in an isolated, self-contained Government controlled area.

(b) Mining, quarrying or sanitary landfill operations regulated by the County, State or Federal Government.

(c) Excavation and backfill for the construction of basements and footings of a building, retaining wall, or other structure authorized by a valid building permit. This shall not exempt any fill made outside the building lines or the placing of fill material obtained from excavations on other premises.

(d) Grading and grubbing individual cemetery plots.

(e) Agricultural operations, including ranching incidental to or in conjunction with crop or livestock production that is being managed in accordance with soil conservation practices acceptable to the applicable soil and water conservation district directors and for which a comprehensive conservation program which does not alter the drainage pattern is being actively pursued.

(f) Excavation which does not alter the general drainage pattern with respect to abutting properties, does not exceed one hundred (100) cubic yards of material on any one (1) site, and does not exceed five (5) feet in vertical height at its deepest point, provided that the cut meets the cut slopes and the distance from the property lines requirements in Section 22-7.17.

(g) Fill which does not alter the general drainage pattern with respect to abutting properties, does not exceed one hundred (100) cubic yards of material on any one site and does not exceed five (5) feet in vertical depth at its deepest point; provided that the fill meets the fill slopes and distance from property lines requirements in Section 22-7.17.

(h) Grubbing which does not alter the general drainage pattern with respect to abutting properties and does not exceed a total area of one (1) acre.

(i) Exploratory excavations not to be incorporated in the anticipated project under the direction of an Engineer for the purpose of subsurface investigation provided that these excavations will be filled in a reasonable period of time and provided that the County Engineer is advised in writing prior to the start of the excavations.

(j) Trenching and backfilling for installation of utility and drainage conduits. (Ord. No. 262, July 23, 1975; Sec. 22-7.6, R.C.O. 1976)

Sec. 22-7.7 Recordation Of Decision Of The County Engineer.
Decisions of the County Engineer made in accordance with the provisions of this Article, and decisions involving variations from the standards referred to in this Article may be made a matter of record in the permit file. (Ord. No. 262, July 23, 1975; Sec. 22-7.7, R.C.O. 1976)

Sec. 22-7.8 Permit Required.

Unless excluded under Section 22-7.6 of this Article, no grading, grubbing or stockpiling shall be commenced or performed without a permit as prescribed in this Article. Grubbing may be commenced or performed in situations where necessarily included on land where grading permit has been issued. (Ord. No. 262, July 23, 1975; Sec. 22-7.8, R.C.O. 1976)

Sec. 22-7.9 Application For Permit.

(a) An applicant for a grading, grubbing, or stockpiling permit shall first file an application on a form furnished by the Department of Public Works, County of Kauai. 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.

(3) Show the names and addresses of the owner or owners of the property.

(4) Show the name of the permittee and the person who shall be responsible for the work to be performed by himself, his contractors and employees and for requesting the inspections required in this Article. A person signing the application for the permittee shall present evidence satisfactory to the County Engineer that he is authorized to act for the permittee.

(5) State the purpose of the work.

(6) State the dust control proposals to be utilized.

(b) Each application for a grading permit shall also be accompanied by plans and specifications, including:

(1) For all areas:

(A) A vicinity sketch map or plan adequately indicating the site location; property lines, easements and setbacks of the property on which the work is to be performed.

(B) Location of any buildings, structures and improvements on the property where the work is to be performed and location of any building or

structure on adjacent land which is within fifteen (15) feet of the property to be graded.

(C) Elevations showing the topography of the existing ground by contours or other means and extending fifteen (15) feet into adjacent property.

(D) Elevation, dimensions, location, extent and the slopes of all proposed grading shown by contours or other means.

(E) The area in square feet of the land to be graded; and the quantities of excavation and fill involved.

(F) Any additional plans, drawings or calculations required by the County Engineer.

(2) There shall be the following additional requirements for grading applications for areas of one (1) acre or more or where the land slope is greater than twenty per cent (20%) or more.

(A) A contour map prepared by a surveyor or by an Engineer. This map shall include location and type of utility lines, structures, and dimensions and azimuths of property lines, easements and setbacks, name and location of street, roadways, and rights-of-way.

(B) A grading plan and specifications certified by an engineer. This plan shall show the location of all proposed structures, buildings, streets, utilities, permanent erosion control features, easements and other improvements where the grading work is to be performed, the contours of the land before grading and the finished conditions to be achieved by the proposed grading to be shown by contours, cross sections, spot elevations or other means.

(C) Where an area is proposed to be graded in increments, plans for the future development of the area.

(D) If the land is to be subdivided, the applicant shall obtain the tentative approval of the proposed subdivision from the Planning Commission and the tentative approval together with its date of approval shall be shown on the grading plan. The Planning Commission may make recommendations to the County Engineer pertaining to such elements of the grading relating to zoning, use and effect upon the optimum design or development of the area, the surrounding area, and the environment.

(E) A drainage and erosion control plan showing the scheme for controlling erosion and disposal of runoff water including details of temporary drainage control devices such as

terraces, berms, ditches, culverts, subsurface drains, sedimentation basins, and erosion control planting, mulching, sprigging, or sodding;

(F) A schedule of construction operation to accomplish temporary and permanent erosion control work. Where any operations are delayed for any reason, a revised schedule shall be submitted to the County Engineer together with a modification of the temporary drainage and erosion control plan as the County Engineer may require.

(3) The permittee shall submit an engineer's soils report under the following circumstances:

(A) On land with slopes exceeding twenty per cent (20%).

(B) In an area with highly plastic or expansive soil.

(C) Where fill is to be placed over a swamp, pond, gully or lake.

(D) Where the fill material is highly plastic.

(E) Where the fill will support buildings unless otherwise waived by the County Engineer.

The Engineer's soils report shall include:

(F) Data regarding the subsurface conditions at the site.

(G) The presence of ground water if detected.

(H) Recommended limits for the proposed grading.

(I) Recommended fill material and manner of placing it.

(J) Recommended heights and slopes of cut and fill sections.

(c) Each application for a grubbing permit shall also contain:

(A) A plot plan showing the location and property boundaries, easements and setbacks.

(B) An erosion and sediment control plan.

(C) A statement indicating the disposition of the grubbed material.

(d) An applicant for a stockpiling permit shall also furnish a plot plan showing the property lines, easements and setbacks and the location of the proposed stockpile, quantities, height of stockpile, life of stockpile, source of the material to be stockpiled and furnish any other information as may be required by the County Engineer, to control the creation of dust, drainage or sedimentation problems. Where stockpiling is for the purpose of surcharging to stabilize or consolidate an area, the County Engineer shall require the permittee to submit an engineer's soil report which

shall include data on the effect surcharging will have on adjacent building or structure.

(e) All grading, grubbing or stockpiling permits and operations shall conform to the erosion and sedimentation control standards and guidelines established by the Department of Public Works in conformance with Act 249, SLH 1974. (Ord. No. 262, July 23, 1975; Ord. No. 294, October 21, 1976; Sec. 22-7.9, R.C.O. 1976; Sec. 22-7.9, 1978 Cumulative Supplement)

Sec.22-7.10 Permit 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 County Engineer.

(b) Jurisdiction of other agencies. Permits issued under the requirements of this Article shall not relieve the owner of responsibility for securing required permits or approval for work to be done which is regulated by any other code, department or division of any government agency.

(c) Conditions of approval. In granting any permit under this Article, the County Engineer may attach the conditions as may be reasonably necessary to prevent creation of a nuisance or hazard to public or private property, health or welfare. The conditions may include, but shall not be limited to:

(1) Improvement of any existing grading to bring it up to the standards of this Article.

(2) Requirements for fencing of excavations or fills which otherwise would be hazardous.

(3) The route of travel over public streets so as to cause the least interference with general traffic and to cause the least damage to public streets.

(4) Cleaning up the area. (Ord. No. 262, July 23, 1975; Sec. 22-7.10, R.C.O. 1976)

Sec. 22-7.11 Permit Fees.

(a) Full payment of the applicable fee listed below shall be made prior to issuing a permit:

(1) Excavation or fill whichever is greater based on volume measured from the plan on a common site:

Volume of Material	Permit Fee
0 - 100 cubic yards	\$2.00
101 - 1,000 cubic yards	\$2.00 for the first 100 cubic yards plus \$2.00 for each additional 200 cubic yards or fraction thereof.

Volume of Material	Permit Fee
1,001 - 10,000 cubic yards	\$20.00 for the first 1,000 cubic yards plus \$2.00 for each additional 1,000 cubic yards or fraction thereof.
10,001 cubic yards or more	\$38.00 for the first 10,000 cubic yards plus \$1.00 per 1,000 cubic yards or fraction thereof.

(2) Grubbing based on area measured from the plan:

Area	Fee
First acre	\$2.00
Each additional acre	\$1.00

(3) Stockpiling

Volume of Material	Fee
500 to 1,000 yards	\$5.00
Each additional 1,000 yards	\$1.00

(b) Fees for grading work for which inspectional fees are paid in conformance with the Subdivision Ordinance for the County of Kauai shall be a lump sum amount of Five Dollars (\$5).

(c) All fees are payable to the Department of Public Works, County of Kauai.

(d) Where work for which a permit is required by this Article has been commenced or has been accomplished without a permit, a permit shall be obtained retroactively, and double the fees specified above shall be assessed, provided that the work complies with or may be made to comply with the provisions of this Article. If the grading work accomplished or commenced cannot be made to comply with the provisions of this Article, the person or persons responsible for the initiation or accomplishment of the grading work shall restore the land as nearly as possible to its original condition and shall obtain a certificate of completion therefor from the County Engineer. The person or persons responsible for the grading shall have violated the provisions of this Article if the person or persons do not comply with the County Engineer's order.

Where the grading work accomplished or commenced without a permit cannot be made to comply with the provisions of this Article, the person or persons responsible shall post a restoration bond executed by an acceptable surety in an amount sufficient, as determined by

the County Engineer, to pay all costs of restoring the land as nearly as possible to its original condition in the event that the person or persons responsible do not satisfactorily perform the restoration. The restoration bond shall be maintained in force for a period of one (1) year after the restoration work has been completed and no certificate of completion for the work shall be issued by the County Engineer until one (1) year has elapsed after the physical work of restoration has been completed. (Ord. No. 262, July 23, 1975; Sec. 22-7.11, R.C.O. 1976)

Sec. 22-7.12 Expiration Of Permits.

(a) Every grading or grubbing permit shall expire and become void one (1) year after the date of issuance. Permits for projects which physically cannot be accomplished within the one (1) year period may be issued extensions by the County Engineer.

(b) Every grading or grubbing permit shall expire and become void unless the work permitted therein is started within six (6) months after the date of issuance, or if the work is suspended or abandoned at any time after the work is commenced for a period of ninety (90) days. Before the work can be recommenced, a new permit shall first be obtained to do so and the fee therefor shall be the fee as specified in Section 22-7.11(a). Permit fees for an expired permit even if no work had commenced shall not be refunded.

(c) Every stockpiling permit shall expire and become void one (1) year after the date of issuance and 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. Upon written application, the County Engineer may grant an extension or renewal for an expired stockpiling permit. In granting an extension or renewal, the County Engineer may attach conditions as appropriate to prevent the creation and maintenance of a nuisance or hazard to individuals and property. The permit fee for extension or renewal shall be the fee as specified in Section 22-7.11(a). (Ord. No. 262, July 23, 1975; Sec. 22-7.12, R.C.O. 1976)

Sec. 22-7.13 Denial Of Permit; County Liability.

If the County Engineer 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, he 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, dangerous geological conditions or flood hazards, undesirable surface water run-off, subsurface conditions such as the stratification and faulting of rock, nature and type of soil or rock. Failure of the County Engineer to

observe or recognize hazardous conditions or his failure to deny the grading, grubbing or stockpiling permit shall not relieve the permittee or his agent from being responsible, nor cause the County, its officers or agents, to be held responsible for the conditions or damages resulting therefrom. (Ord. No. 262, July 23, 1975; Sec. 22-7.13, R.C.O. 1976)

Sec. 22-7.14 Suspension Or Revocation Of Permit.

(a) The County Engineer may in writing, suspend or revoke a permit issued under the provisions of this Article whenever the permit has been issued on the basis of incorrect information supplied by the permittee; or whenever the grading, grubbing or stockpiling is not being performed in accordance with the terms and provisions of the permit; or whenever it is determined that the permittee had not complied with this Article or any provision of any other applicable law, ordinance, rule or regulation of the State of Hawaii or the County of Kauai; or whenever the grading, grubbing or stockpiling discloses conditions that are objectionable or unsafe. Where a permit is revoked for any reason, there shall be no refund of any permit fee.

(b) When a permit has been suspended the permittee may submit detailed plans and proposals for compliance with the provisions of this Article, and any other applicable laws, ordinances, rules or regulations of the State of Hawaii, or the County of Kauai and for correcting the objectionable or unsafe conditions. Upon approval of the plans and proposals, the County Engineer may in writing authorize the permittee to proceed with the work.

(c) When a permit has been suspended and the permittee fails to take corrective action specified above within thirty (30) days following the suspension, the County Engineer may correct the objectionable or unsafe conditions and the permittee or his sureties shall be liable for the cost thereof. (Ord. No. 262, July 23, 1975; Sec. 22-7.14, R.C.O. 1976)

Sec. 22-7.15 Bond.

(a) Bond Required. A grading permit or stockpiling permit shall not be issued unless the permittee shall first post a bond conforming to the requirements of this Section, for the benefit of the County of Kauai, provided that if the proposed grading or stockpiling is to be performed under an approved subdivision final map and a subdivision agreement or bond or other security has been approved and accepted by the County under the Subdivision rules and regulations of the County of Kauai and which covers the grading or stockpiling work, then the County Engineer shall not require a bond for grading or stockpiling. A copy of the approved and accepted subdivision bond or other security shall be presented as evidence by the applicant for a grading or

stockpiling permit. At the option of the applicant, he may either file a bond guaranteed by a surety company duly authorized to transact business within the State of Hawaii, or he may deposit cash, certified check, certificate of deposit, stock or other securities, in lieu of a bond. No interest shall be paid by the County on cash deposit. The provisions in this Article relating to a surety bond shall be equally applicable to a cash deposit pledged as a bond.

(b) Amount of Bond. The amount of the bond shall be based upon the number of cubic yards of material in either excavation, fill or stockpiling, whichever is the greater volume. The amount of the bond shall be computed as set forth in the following table:

10,000 cubic yards or less	\$.50 per cubic yard
over 10,000 to 100,000 cubic yards	\$5,000.00 plus 25 cents per cubic yard for each additional cubic yard in excess of 10,000
over 100,000 cubic yards	\$27,500.00 plus 10 cents per cubic yard for each additional cubic yard in excess of 100,000

(c) Conditions. Each bond shall provide that the surety shall be held and firmly bound unto the County of Kauai for the performance of the work covered by the permit and payment therefor and the Surety Company shall not terminate or cancel the bond until notified in writing by the County Engineer.

(d) Period and Termination of Bond. The term of each bond shall begin upon the date of issuance of the permit and shall remain in effect for a period of one (1) year after the date of completion of the work. The completion shall be evidenced by a certificate signed by the County Engineer. Upon issuance of the certificate the County Engineer may authorize the reduction of the penal sum of the bond to an amount deemed by the County Engineer to insure the acceptability of the work. In the event of failure to complete the work or failure to comply with all of the conditions and terms of the permit, the County Engineer may enter in an agreement for the completion of any and all work to meet the requirements of the permit or to comply with this Article without termination of the bond. The surety and permittee shall be liable and shall pay for all necessary costs and expenses that may be incurred or expended by the County of Kauai in causing any and all of the required work to be done. (Ord. No. 262, July 23, 1975; Sec. 22-7.15, R.C.O. 1976)

Sec. 22-7.16 Inspection.

(a) Each permit issued under this Article shall be deemed to include the right to the County Engineer to enter upon and to inspect the grading, grubbing or stockpiling operations.

(b) The permittee shall notify the County Engineer at least five (5) days before the permittee or his agent begins any grading, grubbing or stockpiling. A copy of the permit, approved plans and specification for grading, grubbing or stockpiling shall be made available at the request of the inspector.

(c) If the County Engineer finds that the work is not being done in conformance with this Article or the approved plans and in accordance with the accepted practices, he shall immediately notify the person in charge of the grading work of the non-conformity and of the corrective measures to be taken. Grading operations shall cease until corrective measures have been taken. (Ord. No. 262, July 23, 1975; Sec. 22-7.16, R.C.O. 1976)

Sec. 22-7.17 Specifications For Grading, Grubbing And Stockpiling.**(a) Slope Control:**

(1) Height. Where a cut or fill is greater than fifteen (15) feet in height, terraces or benches shall be constructed at vertical intervals of fifteen (15) feet except that where only one (1) bench is required, it shall be at the midpoint. The minimum width of the terraces or benches shall be at least eight (8) feet and provided with drainage provisions to control erosion on the slope face and bench surface.

(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. One-half (1/2) horizontal to one (1) vertical in unweathered rock or mudrock.

One (1) horizontal to one (1) vertical in decomposed rock.

One and one-half (1-1/2) to one (1) vertical in soils of low plasticity, cuts of any height in highly plastic soils shall be as recommended in the Engineer's soil report.

(3) Fill Slopes. Fill using non-expansive material shall not be steeper in slope than the ratio of two (2) horizontal to one (1) vertical, or one and one-half (1-1/2) horizontal to one (1) vertical in areas recommended in the Engineer's soil report.

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

Height of cut or fill	Distance from adjoining property line (in feet)
Zero feet to four (4) feet	2
More than four (4) feet to eight (8) feet	4
More than eight (8) feet to fifteen (15) feet	6
More than fifteen (15) feet	8

(5) Modifications. These requirements may be modified by the County Engineer 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 modifications, or when warranted by additional engineering data.

(b) Area opened. The maximum area of land that may be opened for grading or grubbing is twenty (20) acres. The area of land that may be opened may be increased by the County Engineer or reduced to control pollution and minimize storm damage. Additional areas shall not be opened for grading or grubbing until measures to prevent dust or erosion problems in the area already graded or grubbed have been completed.

(c) Fills. The requirements of paragraphs (1), (2), and (3) below may be modified if the permittee submits an Engineer's soils report recommending criteria for the proposed fill for its intended use, and the modifications are approved by the County Engineer.

(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 trees, timber, plants, shrubbery, grass, and woody vegetation matter.

(2) Preparation of ground surface. Before placing fill or stockpiling, the natural ground surface shall be prepared by removing the vegetation and, if required by the County Engineer, shall be notched by a series of benches or have subsurface drains installed, or both. No fill shall be placed over any water spring, marsh, refuse dump, nor upon a soft, soggy or springy foundation.

(3) Placement and compaction. Fill materials shall be spread and compacted in a series of eight (8) inch layers (maximum) when compacted. Except for slopes, the fill shall be compacted to ninety per cent (90%) of maximum density as determined by the most recent ASTM Soil Compaction Test D1557 or AASHTO T180.

(d) Vegetation. Whenever feasible, natural vegetation and top soil shall be retained. Trees, timber, plants, shrubbery and other woody vegetation, when displaced shall

not be stored or deposited along the banks of any stream, river or natural water course. After being displaced, the vegetation shall be disposed of or removed from the site at the earliest reasonable time, conforming to State Health Department Regulations and availability of County refuse facilities as they exist at that time.

(e) 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. Proper drainage shall be provided to prevent the unwanted accumulation or retention of surface water. The County Engineer may require the 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. The flow of any existing and known natural underground or surface drainage shall not be impeded or changed so as to cause damage to surrounding properties.

(f) Debris prohibited. No person shall perform any grading operations so as to cause falling rocks, soil or debris in any form to fall, slide or flow onto adjoining properties.

(g) Hours of operation. No work shall be done between the hours of 6:00 P.M. and 6:00 A.M. on any day and no work shall be done on Saturdays, Sundays and holidays without the prior written permission of the County Engineer.

(h) Water and air quality standards. All operations shall be performed in conformance with the applicable provisions of the Water and Air Pollution Control and Water and Air Quality Standards contained in the Public Health Regulations, Department of Health, State of Hawaii, on Water Pollution Control and Water Quality Standards.

(i) Report after grading. When grading involves cuts or fills for which an Engineer's soils report is required, the permittee shall submit a certification that the work was done in conformity to this Article and the Engineer's soils report. The report after grading shall contain information including but not limited to the following: engineering data of the fill material used; how it was placed and compacted; moisture during compaction; compacted density; preparation of the ground to be filled on; subdrains and other pertinent features of the cut or fill necessary for its stability.

(j) Notification of completion. The permittee or his agent shall notify the County Engineer or his representative when the grading operation is ready for final inspection. Final approval shall be given upon completion and inspection of all work including installation of all drainage structures and their protective devices, completion of all planting in conformance with the approved plans and specifications, and the submission of the required reports and as-graded plans whenever the completed work contains

approved deviations from the original plans. Final approval shall not be construed as relieving permittee from any of the requirements set out in Section 22-7.15. (Ord. No. 262, July 23, 1975; Sec. 22-7.17, R.C.O. 1976)

Sec. 22-7.18 Special Requirements.

(a) Any person performing or causing to be performed any excavation or fill shall, at his 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) The permittee shall be responsible for the maintenance or restoration of street pavements, sidewalks and curbs, and public utility facilities which may be affected by grading operations. The maintenance or restoration of street pavements, sidewalks and curbs shall be performed in accordance with the requirements of the County of Kauai and the maintenance and restoration of public utility facilities shall be in conformity with the standards of the public utility 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 the silt or other debris. In case the person shall fail, neglect or refuse to comply with the provisions of this Section within twenty-four (24) hours after written notice, served upon him, either by mail or by personal service, the County Engineer may proceed to remove the silt and other debris or to take any other action he deems appropriate. The costs incurred for any action taken by the County Engineer shall be payable by the person or his sureties.

(d) At any stage of the grading, grubbing or stockpiling work, if the County Engineer finds that further work as authorized by an existing permit is likely to create soil erosion problems or to endanger health, safety or property, he 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; removal of rocks, boulders, debris and other dangerous objects, if dislodged, are likely to cause injury or damage; and the construction of fences or other suitable protective barriers.

(e) At any stage of the grading, grubbing or stockpiling operations, if further work as authorized by an existing permit is likely to create dust problems which may jeopardize health, property or the public welfare as determined by the State Department of Health in consideration of the air pollution control standards and regulations, the County 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 items like sprinkling water, applying mulch treated with bituminous material, applying hydro mulch. (Ord. No. 262, July 23, 1975; Sec. 22-7.18, R.C.O. 1976)

Sec. 22-7.19 Penalties.

(a) It shall be unlawful for any person to do any act forbidden, or to fail to perform any act required, by the provisions of this Article. Any person convicted of violating any provision of this Article shall be punished by a fine not exceeding Five Hundred Dollars (\$500), or by imprisonment not exceeding sixty (60) days, or by both for each offense. A separate offense is committed upon each day during or on which a violation occurs or continues. (Ord. No. 262, July 23, 1975; Sec. 22-7.19, R.C.O. 1976)

Sec. 22-7.20 Liability.

The provisions of this Article shall not be construed to relieve or alleviate the liability of any person or damages resulting from performing, or causing to be performed, any grading, grubbing or stockpiling operation. The County and 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 this Article. (Ord. No. 262, July 23, 1975; Sec. 22-7.20, R.C.O. 1976)

ARTICLE 8. PROHIBITION OF SMOKING IN DESIGNATED AREAS

Sec. 22-8.1 Declaration Of Legislative Intent And Purpose.

The Council desires to protect the health, comfort and safety of the residents of the County of Kauai attending public meetings and activities, transacting business and visiting within premises under the jurisdiction and control of the County of Kauai. Therefore, pursuant to the power granted in Article II of the County Charter and Section 62-34, H.R.S., to protect health, life and property and to protect the general welfare and safety of the inhabitants of the County, this Article prohibiting smoking and carrying of lighted objects in certain designated areas in the County is enacted to insure that smoking and carrying of lighted objects in the designated areas will cease. The terms of this Article shall be liberally construed to effectuate the purpose stated in this Section. (Ord. No. 274, February 9, 1976; Sec. 22-8.1, R.C.O. 1976)

Sec. 22-8.2 Smoking Prohibited In Certain Areas.

No person shall smoke or carry a lighted cigar, cigarette, pipe or match, or use any spark, flame or fire-