



A BILL FOR AN ORDINANCE

RELATING TO GRADING VIOLATIONS AND PENALTIES.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Purpose. The purpose of this ordinance is to strengthen enforcement actions and penalties for violations of grading, grubbing and stockpiling regulations for such violations.

SECTION 2. Section 14-16.4, Revised Ordinances Honolulu 1990, as amended, is amended to read as follows:

"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] director of planning and permitting determines that any person, firm or corporation is not complying with a notice of violation, the [chief engineer] director of planning and permitting 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] \$5,000.00 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] \$5,000.00 per day for each day in which the violation occurs, in the manner and at the time and place specified in the order.
 - (D) Restore the land affected by the violation to its original condition and obtain a certificate of completion from the director of planning and permitting. Restoration of the land must be completed within 30 days of the order becoming final.



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- (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) Recurring Violations.
- (1) Persons who have previously committed a violation under this chapter, in a 5-year period, may be required to pay initial and daily civil fines under subsection (b) hereof in amounts up to two times the fine amounts previously imposed by the director of planning and permitting for the immediately preceding violation.
- (2) Where a person commits a violation under this chapter, at the same location, more than one time in a 12-month period, the director of planning and permitting shall refer the finding of violation to the prosecuting attorney for initiation of a criminal prosecution pursuant to Section 14-16.3.
- [(c)](d) Judicial Enforcement of Order. The [chief engineer] director of planning and permitting may institute a civil action in any court of competent jurisdiction for the enforcement of any order issued pursuant to this section. If a violator does not pay the civil penalty assessed by the director of planning and permitting within 30 days after it is due, or does not request an administrative hearing to contest the violation within the time provided by the order, the director of planning and permitting shall request the corporation counsel to institute a civil action to recover the amount of the assessment. Where the civil action has been instituted to enforce the civil fine imposed by said order, the [chief engineer] director of planning and permitting 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.
- (e) Injunctive Relief. The director of planning and permitting may institute a civil action in any court of competent jurisdiction to enjoin any violation, or threatened violation of this chapter. The institution of an action for injunctive relief does not relieve any person from liability under the civil and criminal penalties for violations of this chapter.
- (f) Exception – At the discretion of the director, the owner and developer of the property or person or persons responsible for such grading shall be deemed to have not violated the provisions of Article 13 through 16 of this chapter by grading without a permit in cases of natural or manmade disasters.

For the purposes of this section, a "natural disaster" includes disasters caused by fire, flood, tidal waves, hurricanes, tsunamis, volcanic eruptions, earthquakes, or



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other natural causes; and a "man-made disaster" includes disasters caused by enemy attacks, sabotage, other hostile actions, or disasters to individual homes, or other disasters manufactured, created or constructed by mankind."

SECTION 3. Chapter 14, Article 16, Revised Ordinances of Honolulu 1990, as amended ("Violations, Penalties and Liabilities for Grading, Grubbing and Stockpiling"), is amended by adding a new section to be appropriately designated by the revisor of ordinances, and to read as follows:

"Sec. 14-16. Depository of Civil Penalties.

Payments of civil penalties are to be deposited into a special account of the general fund, to be appropriately named by the department of budget and fiscal services, and shall be used for expenses related to enforcement activities of the department of planning and permitting."

SECTION 4. Ordinance material to be repealed is bracketed. New ordinance material is underscored. When revising, compiling or printing this ordinance for inclusion in the Revised Ordinances of Honolulu, the revisor of ordinances need not include the brackets, the bracketed material, or the underscoring.



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SECTION 5. This ordinance takes effect upon its approval.

INTRODUCED BY:

Kymberly Pine

DATE OF INTRODUCTION:

April 9, 2014
Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Don S. Kitaoka
Deputy Corporation Counsel DON S. KITAOKA

APPROVED this 23rd day of October, 20 14.

Kirk Caldwell
KIRK CALDWELL, Mayor
City and County of Honolulu

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII
CERTIFICATE

ORDINANCE 14-30

BILL 36 (2014), CD2, FD1

Introduced: 04/09/14 By: KYMBERLY PINE

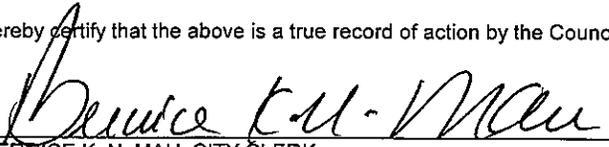
Committee: ZONING AND PLANNING

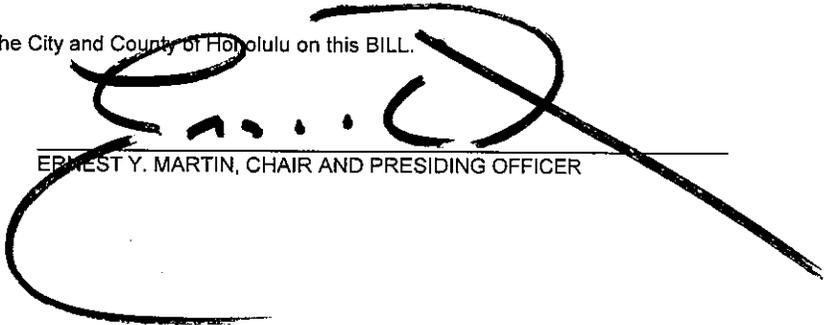
Title: A BILL FOR AN ORDINANCE RELATING TO GRADING VIOLATIONS AND PENALTIES.

Voting Legend: * = Aye w/Reservations

04/16/14	COUNCIL	BILL PASSED FIRST READING AND REFERRED TO COMMITTEE ON ZONING AND PLANNING. 9 AYES: ANDERSON, CHANG, FUKUNAGA, HARIMOTO, KOBAYASHI, MANAHAN, MARTIN, MENOR, PINE.
04/24/14	ZONING AND PLANNING	CR-125 - BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON SECOND READING AND SCHEDULING OF A PUBLIC HEARING AS AMENDED IN CD1 FORM.
04/26/14	PUBLISH	PUBLIC HEARING NOTICE PUBLISHED IN THE HONOLULU STAR-ADVERTISER.
05/07/14	COUNCIL/PUBLIC HEARING	CR-125 ADOPTED. BILL PASSED SECOND READING AS AMENDED, PUBLIC HEARING CLOSED AND REFERRED TO COMMITTEE ON ZONING AND PLANNING. 9 AYES: ANDERSON, CHANG*, FUKUNAGA*, HARIMOTO, KOBAYASHI, MANAHAN, MARTIN, MENOR, PINE.
05/13/14	PUBLISH	SECOND READING NOTICE PUBLISHED IN THE HONOLULU STAR-ADVERTISER.
05/22/14	ZONING AND PLANNING	BILL DEFERRED IN COMMITTEE.
09/18/14	ZONING AND PLANNING	CR-282 - BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON THIRD READING AS AMENDED IN CD2 FORM.
10/08/14	COUNCIL	NOTE: PROPOSED FD1 POSTED ON THE AGENDA WAS NOT CONSIDERED. BILL AMENDED TO HAND-CARRIED FD1. 9 AYES: ANDERSON, CHANG, FUKUNAGA, HARIMOTO, KOBAYASHI, MANAHAN, MARTIN, MENOR, PINE. CR-282 ADOPTED AND BILL 36 (2014), CD2, FD1 PASSED THIRD READING. 9 AYES: ANDERSON, CHANG, FUKUNAGA, HARIMOTO, KOBAYASHI, MANAHAN, MARTIN, MENOR, PINE.

I hereby certify that the above is a true record of action by the Council of the City and County of Honolulu on this BILL.


BERNICE K. N. MAU, CITY CLERK


ERNEST Y. MARTIN, CHAIR AND PRESIDING OFFICER