

RICHARD T. BISSEN, JR.
Mayor

JOSIAH K. NISHITA
Managing Director

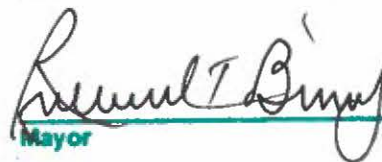


DEPARTMENT OF MANAGEMENT
COUNTY OF MAUI
200 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793
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October 22, 2024

Richard T. Bissen, Jr.
Mayor, County of Maui
200 South High Street
Wailuku, Hawaii 96793

APPROVED FOR TRANSMITTAL

 10-22-24
Mayor Date

For Transmittal to:

Honorable Shane Sinenci, Chair
Water Authority, Social Services, and Parks Committee
Maui County Council
200 South High Street
Wailuku, Hawaii 96793

Dear Chair Sinenci:

SUBJECT: **BILL 111 (2024), TO ESTABLISH PROCEDURES FOR THE
REMOVAL AND STORAGE OF PERSONAL PROPERTY IN PUBLIC
PLACES AND A RIGHT TO SHELTER (WASSP-13)**

This transmission is in response to your letter dated September 10, 2024, requesting review of the subject bill.

The administration appreciates and shares the concern for the issues of personal property and shelter raised in the bill. We are actively working on a process similar to that designated in the bill. It is important that the county establish a defined system by which to remove and store personal property, simultaneously helping and caring for those in need, while being able to maintain public access to public spaces, and enforcing public safety laws when a violation occurs.

We consider it our duty to offer services to the most vulnerable members of our community. In any situation involving property removal, the county's contracted service providers are regularly on-site months in advance, offering social services and access to shelter. Action is being taken to assist before any property removal is even planned to

take place, and we also recognize that long-term solutions are needed for individuals experiencing homelessness.

As a precursor to discussion of Bill 111, the administration recommends that the Council consider enacting legislation that defines removing property from county owned lands in broader terms than just legislation that addresses removal and storage of property from houseless encampments. The Decision in *Davis v. Bissen* requires that all property removed from county land be stored before being disposed of, not just property from encampments as addressed in this bill. The administration recommends looking at Article 19, Stored Property, of the City & County of Honolulu ordinances, specifically Chapter 13-19, which we suggest be used as an initial template for the discussion of this topic.

Regarding Bill 111, after a thorough interdepartmental review, the administration recommends that the Council consider amending the bill as follows:

- Include an on-site informational meeting at least four days before property removal to inform those involved of what is taking place. This gives all parties involved, including residents, those living on county land, and homeless advocates an opportunity to raise concerns and discuss the process with the county. The administration is implementing this practice.
- Require physical notices be posted whenever private property is removed and stored, even from impediments and immediate hazard encampments. The administration is also implementing this practice.
- Consider addressing Safe Parking in separate legislation. The administration would be happy to work with the Council on this item.

Sections of the bill of which implementation may be challenging include:

- The bill's 45 day wait period before removing property from encampments.
- The definition of encampment to be one or more tents. This would require the outlined process to be triggered for very minor incidents of a non-emergency nature.
- The bill may be interpreted as requiring available beds for every individual on the days that action is taken. In practice, a low percentage of individuals involved opt to take advantage of shelter space available, and shelter services are routinely offered and available leading up to property removal.
- The requirement that service providers be present during encampment clean-up is not considered a best practice by the county, nor by providers themselves.
- Treatment of vehicles as described in the bill would require the county to establish a permanent parking lot encampment on county land that vehicles could not be removed from.

The administration has attached a draft version of the bill that proposes solutions to the above concerns, and that makes the objectives in the bill more feasible for the county to implement. The draft also includes numerous minor edits not mentioned above. County staff and departments would be happy to discuss this further, and the administration appreciates the opportunity to provide comments on the proposed bill.

Chair Shane Sinenci
WASSP Committee
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Finally, the administration would like to acknowledge the costs associated with removal and storage of property as required by *Davis v. Bissen*. This should be factored in by Council during its review of the Fiscal Year 2026 budget.

We look forward to working with you. Should you have any questions or concerns, please do not hesitate to contact me at Ext. 7855.

Sincerely,



JOSIAH K. NISHITA
Managing Director

Attachments: Bill 111 (2024) with Department of Management Recommended Edits

ORDINANCE NO. _____

BILL NO. _____ (2024)

A BILL FOR AN ORDINANCE AMENDING TITLE 9, MAUI COUNTY CODE, TO
ESTABLISH PROCEDURES FOR THE REMOVAL AND STORAGE OF
PERSONAL PROPERTY IN PUBLIC PLACES AND A RIGHT TO SHELTER

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

SECTION 1. Title 9, Maui County Code, is amended by adding a new
chapter to be appropriately numbered and read as follows:

“CHAPTER 9.37

**ESTABLISHING PROCEDURES FOR THE REMOVAL AND
STORAGE OF PERSONAL PROPERTY FROM ENCAMPMENTS IN
PUBLIC PLACES AND A RIGHT TO SHELTER**

Sections:

9.37.020	Intent.
9.37.030	Definitions.
9.37.040	Removing impediments and immediate hazard encampments.
9.37.050	Encampment removal and notice requirements.
9.37.060	Identifying or providing alternative shelter before removing encampments.
9.37.070	Outreach for encampment removal.
9.37.080	Encampment removal and cleanup.
9.37.090	Post-encampment removal notice.
9.37.100	Storage of personal property removed from an encampment.
9.37.110	Recovering stored personal property.
9.37.120	Budgeting.
9.37.130	Administrative rules.

9.37.020 Intent. The County confirms the equal worth and
dignity of every individual and recognizes a human right to shelter.
Protecting our most vulnerable residents is one of the greatest

concerns of government and its people. The purpose and intent of this chapter is to provide the procedures to compassionately relocate people when necessary, including offering access to services and storage of personal property. In doing so, the County is mindful of the following ~~aspirations~~goals to be achieved through progressively implemented measures, consistent with available resources:

1. A safe place to sleep and keep one's belongings.
2. An ability to remain with one's spouse or domestic partner.
3. An ability to remain with one's companion animals in an environment that is habitable for all.
4. Access to services ~~necessary that allow someone to choose~~ to stabilize one's life and transition into supportive housing or permanent housing, including ~~pu'uhonua~~, behavioral-health support, substance-abuse treatment, and other services.

This section does not create any liabilities, public or private, or any vested interests on behalf of any individual or entity as a cause of action against the County.

9.37.030 Definitions. In this chapter, unless the context otherwise requires:

"Debris" means unimproved organic material including but not limited to wood chippings, leaves, grass, tree branches, soil, sand, rocks, used charcoal or ashes.

"Encampment" means ~~one-five~~ or more tents, structures, or an assembly of camping equipment or personal property located in an identifiable area within the County, which appears to be used for camping. Encampments do not include sites that are no longer in use for camping evidenced by all remaining items being garbage, debris, or hazardous materials.

"Garbage" means any object or material that has been discarded by any person, is no longer in use or reasonably intended to be used by any person having ownership or control over such object, or which cannot reasonably be considered to be of any value, including but not limited to food wrappings, used napkins and paper towels, loose papers, cardboard, or other items which appear to be uncared for, discarded or abandoned.

"Hazardous items" means combustible objects, weapons, controlled substances, drugs, drug paraphernalia, or items containing medical, human or biological waste. This includes but is not limited to:

- A. Items containing or having the odor of gasoline, propane, lighter fluid, kerosene, paint, paint thinner, motor oil, brake fluid, alcohol, nail polish remover, or transmission fluid.

B. Car batteries, stand-alone lithium batteries, fireworks or fertilizer.

C. Guns, ammunition, exposed razor blades, or shards of broken glass.

D. Non-prescription drugs, controlled substances, syringes, needles, or drug paraphernalia as defined in section 329-1 of the Hawaii Revised Statutes.

E. Urine, feces, vomit, used feminine products, used condoms, used toilet paper, used tissue paper or objects containing those items.

F. Other items the County is prohibited from storing pursuant to state or federal law.

"Immediate hazard encampment" means an encampment in which people living outdoors: (A) Are at risk of serious injury or death that exceeds the risks normally associated with exposure to the elements; or (B) Create a risk of serious injury or death to others.

"Impediment" means tents, personal property, garbage, debris, or other objects at or near an encampment that: are in a County park or on a public sidewalk; interfere with the pedestrian or transportation purposes of public rights-of-way; or interfere with areas that are necessary for or essential to the intended use of a public property or facility.

"Outreach provider" means an entity or person who provides services supporting houseless individuals, including:

A. Case managers who provide shelter or housing.

B. Case managers who provide substance-abuse treatment.

C. Case managers who provide behavioral-health support.

D. The Department of Veterans Affairs case managers.

E. The State department of human services' benefit, employment, and support services division.

F. The Maui Humane Society, Hawaii Animal Rescue Foundation, and other animal-welfare organizations.

G. Legal Aid Society of Hawaii and other legal-service providers.

H. The State department of human services' child and adolescent mental health division.

I. The State department of education social workers.

~~J. All other organizations providing legal, compassionate care to those who are unsheltered, including individuals, groups, and faith-based organizations and those providing meals, clothing, and other necessities.~~

"Pu'uhonua" "Kauhale" means a temporary place of refuge, sanctuary, and asylum designated by the ~~County~~State, including a safe place where temporary shelter and basic necessities are provided, including showers, bathrooms, garbage removal, animal care, and safe storage of personal property and vehicles. Pu'uhonuaKauhale may be staffed with relevant human services, including:

- A. A triage area where individuals are quickly assessed for their most urgent needs.
- B. Licensed medical staff, including street-medicine providers.
- C. Outreach providers.
- D. Representatives of housing providers to screen, intake, and facilitate those who are unsheltered in obtaining appropriate shelter or other housing, including:
 - 1. Emergency shelter.
 - 2. Temporary housing.
 - 3. Behavioral-health facilities and services.
 - 4. Domestic-violence shelters.
 - 5. Substance-abuse treatment.
 - 6. Senior housing.
 - 7. Subsidized housing.

9.37.040 Removing impediments and immediate hazard encampments. A. The County may remove impediments and immediate hazard encampments immediately, ~~if the police chief or fire chief determines a need to do so and informs the mayor, managing director, or director of human concerns.~~ Sections 9.37.050, 9.37.060, and 9.37.070 do not apply to removing impediments and immediate hazard encampments.

B. ~~If removal is not started within two hours the discovery of an impediment or immediate hazard encampment, a~~ If personal property is relocated, notice must be ~~affixed~~ posted at the removal site as soon as reasonably possible. The notice must state:

- 1. The date the notice was posted.
- 2. That the impediment or immediate hazard encampment ~~must be immediately removed and is~~ subject to removal without further notice.
- 3. Where How any removed personal property ~~will be stored, how it~~ may be claimed, including a telephone number to call, and the duration of storage before final disposition.

C. If the impediment or immediate hazard encampment is determined to be under the control of an individual who is present, verbal notice to immediately remove their personal property must be given to the individual, if possible.

D. Personal property must be removed and stored as provided in section 9.37.100 and may be recovered as provided in section 9.37.110.

E. The County may immediately remove and dispose of garbage, debris, and hazardous items.

F. Upon removing an impediment or immediate hazard encampment, the County must post a notice as provided in section 9.37.090.

G. Any agency or contractor storing personal property must notify the department of human concerns of the storage ~~on the same day within one business day that~~ the personal property is stored. The department of human concerns must ~~post notice maintain on its website a telephone number to call to retrieve of the stored personal property, on a designated County website where notices are maintained and available for public inspection.~~

H. The County must video record and photograph the removal of impediments and immediate hazard encampments.

9.37.050 Encampment removal and notice requirements.

A. An initial notice must be posted in the general vicinity of an encampment that is subject to removal stating:

1. The date the notice was posted.
2. The date and time range the removal is scheduled.

~~3. Where any removed personal property will be stored and for how long.~~

4. How any stored personal property may be claimed by its owner.

~~35.~~ Contact information for outreach providers who can assist with shelter alternatives and other services.

4. Date, time, and location of an informational meeting to be held according to Paragraph D of this section.

B. If individuals are present at the encampment, verbal notice must be given, if possible, that the encampment is subject to removal as provided in the posted notice.

C. An initial notice in the general vicinity of an encampment must be posted at least ~~forty five~~fourteen calendar days before an encampment removal starts ~~and at least fifty days before the encampment removal is projected to end.~~ If the action to physically remove the encampment is not started within the date range provided in the initial notice, the initial notice ~~of the encampment removal~~ must be reposted before removal may occur.

D. An informational meeting must take place at the site at least four calendar days prior to removal to inform individuals of the impending cleanup and an opportunity for the public to ask questions relating to the impending action. ~~final notice containing~~

~~the information set forth above must be affixed to any tent, structure, or vehicle subject to removal two days prior to removal.~~

E. ~~Both initial and final notices must be printed in Hawaiian, English, Chuukese, Tagalog, Ilocano, Spanish, and any other language that would further the notice's purposes~~Translation of the notice may be provided upon request.

F. Removal of a large encampment may occur over a period of days, so long as each day's operations start during the period identified in the notice.

G. The County must video record or photograph all notices at the time of posting. Photos of the notices must be made available upon request. ~~uploaded to a designated County website where notices are maintained and available for public inspection.~~

9.37.060 Identifying or providing alternative shelter before removing encampments. A. Prior to removing an encampment, the County must identify alternative locations for encampment occupants, such as available housing, shelter accommodations with or without day programs, or authorized managed encampments or kauhale ~~“no barrier” shelters and pu‘uhonua.~~ The county must also provide information regarding access to substance-abuse treatment, and behavioral-health support. Information about t~~The~~ alternatives must be available to the encampment occupants starting on the date an encampment removal notice is posted and must continue to be available until the encampment removal is completed. The County, or its designee, must maintain an updated list of alternative shelter locations on the department of human concerns' website.

9.37.070 Outreach for encampment removal. A. Outreach providers contracted with the county must be notified of ~~and be present at~~ every scheduled encampment removal within one business day of the posting of the initial notice. ~~when available, between the time that notice of removal is posted and the completed removal date, or until their services are no longer required.~~

B. If the need for a police response arises during an encampment removal, the ~~C~~county must make every a reasonable effort to ensure at least one female police officer responds, if a woman or girl is present, and that aa majority of responding t least one police officers ~~are-is~~ certified in crisis intervention team training.

9.37.080 Encampment removal and cleanup. A. All necessary County personnel, contractors, outreach providers, and other required personnel ~~must be present at the start of an~~should be available during encampment removal and cleanup.

~~BA.~~ New tents, structures, or vehicles that ~~were not previously posted with a notice under this chapter but are in the immediate encampment area may be removed if the tents, structures, or vehicles~~ were placed in the immediate encampment area after the notice was posted may be removed.

~~GB.~~ The County must take reasonable steps to segregate personal property from material that is not personal property, so long as the segregation does not pose a danger to the individual segregating the personal property from the other material.

~~DC.~~ Personal property must be stored as provided in section 9.37.100 and may be recovered as provided in section 9.37.110.

~~ED.~~ The County may remove and dispose of garbage, debris, and hazardous items.

~~FE.~~ ~~Vehicles that are being used as a primary shelter must not be considered abandoned or derelict. The County must assist in the towing of inoperable vehicles to a previously designated area.~~ All ~~other~~ vehicles tagged leading up to the cleanup should ~~be~~ treated as abandoned or derelict and removed in accordance with sections 10.48.200 and 20.20.060.

9.37.090 Post-encampment removal notice. A. A notice must be prominently posted for a minimum of ten calendar days in the general vicinity of a removed encampment following such removal.

B. The notice must state:

1. The name and contact information for the agency that organized the cleanup.

2. The date the cleanup was performed.

~~3. Where any personal property is being stored by the County.~~

34. How any stored personal property may be claimed by its owner, including a telephone number to call to get information about retrieving property.

45. Contact information for outreach providers who can assist with shelter alternatives, kauhale, ,pu'uhonua, and other services.

C. The agency that organized the cleanup must, within two five business days of the cleanup, send electronic documentation of the cleanup to the department of human concerns and the Mayor's Office and the managing director in the format required for posting on a designated County website where documentation is maintained and available for public inspection.

9.37.100 Storage of personal property removed from an encampment. A. All personal property that is unable to be moved

or stored by its owner must be stored at a location in the County and personal property must be accessible by public transportation.

B. The County must maintain a log of personal property removed from an encampment. The log must document each group of items by owner or specific location collected from. ~~The log does not need to identify each individual item.~~ ~~Each item~~ The personal property must be kept until it the personal property is recovered by its owner or the property is discarded as permitted under this chapter.

C. Personal property that is not ~~recovered~~ claimed after for ninety-thirty days after the property was stored may be discarded or donated by the County.

9.37.110 Recovering stored personal property. A. Individuals or their authorized agents claiming personal property that has been removed from an encampment may contact the County or -at designee at a designated phone number and email address.

B. Individuals or their authorized agents claiming personal property must describe the items with particularity. No identification is required for an individual to recover the property. The log of personal property must indicate who received the recovered property.

C. Personal property may be recovered by individuals or their authorized agents at the location where the property is stored, or a separate accessible location designated by the county.

~~D. The council may establish in the annual budget ordinance a fee for the storage and recovery of personal property. Individuals unable to pay must be provided a form to request a waiver of any fees, and the county must grant the request upon a showing of reasonable cause.~~

9.37.120 Budgeting. The council must make appropriations required to implement this chapter in the annual budget ordinance.

9.37.130 Administrative rules. The ~~managing director~~ county may adopt administrative rules to implement this chapter."

SECTION 2. This Ordinance takes effect on July 1, 2025.

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APPROVED AS TO FORM AND
LEGALITY:

CALEB P. ROWE

Department of the Corporation
Counsel

County of Maui

PAF 2024-059 Recommended Right
to Shelter Language
2024-1032

paf:dmr:24-059c

INTRODUCED BY:

GABE JOHNSON

DRAFT

WASSP Committee

From: Michelle Santos <Michelle.Santos@co.maui.hi.us>
Sent: Tuesday, October 22, 2024 4:08 PM
To: WASSP Committee
Cc: Cynthia Sasada; Josiah Nishita; Noah Jackson; Kelii Nahooikaika
Subject: MT#10833 Bill 111
Attachments: MT#10833-WASSP Committee.pdf

NOTE: PLEASE DO NOT FORWARD MY EMAIL TO ANYONE OUTSIDE OF THE COUNTY OF MAUI. YOU MAY CLICK ON THE ATTACHMENT ITSELF AND CREATE YOUR OWN EMAIL TO FORWARD THE DOCUMENT TO ANOTHER PERSON OUTSIDE OF THE COUNTY.

Michelle L. Santos

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Office of the Mayor

County of Maui

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