

ORDINANCE NO. \_\_\_\_\_

BILL NO. 101 (2022)

A BILL FOR AN ORDINANCE AMENDING SECTION 16.26B.105, MAUI COUNTY CODE, RELATING TO FENCE HEIGHTS FOR AXIS DEER CONTROL

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

SECTION 1. The Council finds that measures are needed to protect local agricultural operations from damages caused by axis deer, including damages to pasture forage, native vegetation, and crops. The Council also finds the State of Hawai'i Department of Land and Natural Resources recommends fencing as one of the most effective ways to manage axis deer populations, and further recommends fences of at least eight feet in height. The Council further finds that any fences exceeding seven feet in height that were erected under the Governor's Emergency Proclamation, which was issued on March 23, 2022 and ended on May 21, 2022, would now be noncompliant with Maui County Code. Therefore, the Council finds that construction and existing use of fences over seven feet in height should be permitted for agricultural and axis deer management purposes without a building permit.

SECTION 2. Section 16.26B.105, Maui County Code, is amended by amending subsection 105.2 to read as follows:

**"105.2 Work exempt from permit.** Exemptions from permit requirements of this code [shall] may not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this

jurisdiction. Building permits [shall] will not be required for the following:

1. One-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed 120 square feet (11 m<sup>2</sup>).

2. Fences and walls not over 7 feet (2133.6 mm) high when measured from the lowest grade to the top of the fence or wall[.]; and non-masonry fences not over 10 feet high when measured from the lowest grade to the top of the fence and when used for the purpose of protecting agricultural operations from axis deer.

3. Oil derricks.

4. Retaining walls which do not have more than three feet of retainage between the finish grade on each side of the wall and not greater than 7 feet in total height measured from the lowest grade to the top of the wall, unless supporting a surcharge or impounding Class I, II or III-A liquids.

5. Water tanks supported directly on grade if the capacity does not exceed 15,000 gallons (56781 L) and the ratio of height to diameter or width does not exceed 1:2.

6. Sidewalks and driveways not more than 30 inches (762 mm) above adjacent grade, and not over any basement or story below and are not part of an accessible route.

7. Painting, papering, tiling, carpeting, cabinets, counter tops, installation of shelves and similar finish work.

8. Temporary motion picture, television and theater stage sets and scenery and temporary exhibits and other related structures as approved by the building official.

9. Prefabricated swimming pools accessory to a Group R-3 occupancy in which the pool walls are entirely above the adjacent grade and do not exceed 5,000 gallons (18925 L).

10. Detached shade cloth structures constructed for nursery or agricultural purposes within the county agricultural districts, not including service systems.

11. Playground equipment, including but not limited to, swings, merry-go-rounds, slides, jungle gyms, goals, chain-link fences, baseball backstops, dugouts, and other recreational structures as determined by the building official.

12. Window awnings supported by an exterior wall that do not project more than 54 inches (1372 mm) from the exterior wall and do not require additional support of Group R-3 and U occupancies.

13. Nonfixed and movable fixtures, cases, racks, counters and partitions not over 5 feet 9 inches (1753 mm) in height.

14. Work performed for any federal or state governmental agency when exemption is specifically requested in writing by that governmental agency and approved by the building official.

15. Site work on property, including but not limited to, sidewalks, curbs, parking lots, planter boxes, and water features less than 24 inches in depth.

16. One-story detached agricultural buildings 200 square feet or less in floor area within the county agricultural and rural districts.

17. Reroofing of Group R, Division 3 one and two family dwellings, and Group U occupancies accessory to these dwellings.

18. Street light standards, utility poles, not including wireless telecommunication towers, television antennas, or satellite dishes.

19. Repairs which involve only the replacement of component parts or existing work with similar materials for the purpose of maintenance and do not cost over \$5,000 per structure in any 12-month period.

20. Television and radio antennas and solar panels attached to roofs of Group R, Division 3 occupancy one and two family dwellings and U occupancy.

21. Temporary construction toolsheds, fences, and jobsite offices on the same property where construction is occurring under a valid building or grading permit.

22. Construction equipment used for work authorized by a valid permit or for work exempted from permit requirements.

23. Temporary tents or other coverings for uses other than private family parties or camping, provided that the temporary tents and other coverings [shall be] are:

[(1)] a. Removed daily and erected only between the hours of six a.m. to six p.m., or for 96 hours for events sponsored by an eleemosynary organization approved by the building official; or

b. Erected on property owned by or under the control of the County and administered by the department of parks and recreation and removed within seventy-two hours of the time of the installation of the tents or other coverings.

24. Work located in a right-of-way maintained by any federal, state, or county governmental agency.

25. Work by an electric or telecommunication utility operating under a franchise or charter granted by the State of Hawaii; provided, that the work which is not regulated by the Public Utilities Commission of the State of Hawaii [shall] will be subject to this code. If the utility claims an exemption under this provision, the utility [shall] will have the burden of demonstrating to the satisfaction of the building official that the work is regulated by the Public Utilities Commission.

26. Electrical, plumbing and mechanical equipment.

27. Motor vehicles with a valid certificate of registration.

28. Drainage structures.

Exemption from the building permit requirements of this code [shall] may not be deemed to grant authorization for any work to be done in any manner in violation of this code or any other laws or ordinances of this jurisdiction.”

SECTION 3. Material to be repealed is bracketed. New material is underscored. In printing this bill, the County Clerk need not include the brackets, the bracketed material, or the underscoring.

SECTION 4. This Ordinance takes effect on approval.

paf:ans:22-119a

INTRODUCED BY:

A handwritten signature in black ink, appearing to read "Shane M. Sinenci", written in a cursive style. The signature is positioned above a horizontal line.

SHANE M. SINENCI