

COUNCIL OF THE COUNTY OF MAUI

# WATER AND INFRASTRUCTURE COMMITTEE

July 5, 2024

**Committee  
Report No.** \_\_\_\_\_

Honorable Chair and Members  
of the County Council  
County of Maui  
Wailuku, Maui, Hawaii

Chair and Members:

Your Water and Infrastructure Committee, having met on June 20, 2024, makes reference to Bill 96 (2024), entitled “A BILL FOR AN ORDINANCE AMENDING CHAPTER 16.25, MAUI COUNTY CODE, ON PERMIT EXEMPTIONS FOR SHIPPING CONTAINERS.”

Bill 96’s purpose is to exempt shipping containers from building permit requirements in the County’s Industrial and Agricultural zoning districts, if the shipping containers:

1. Are unaltered and used only for storing construction materials;
2. Are not used for habitation or for storage of motor vehicles, hazardous materials, or personal property; and
3. Maintain a five-foot minimum clearance from other structures and are not stacked or placed within any lot’s setback.

Your Committee notes this exemption would apply to M-1 Light, M-2 Heavy, and M-3 Restricted Industrial Districts as established under the County’s Comprehensive Zoning Ordinance.

The Director noted the County Building Code exempts one-story detached accessory structures up to 120 square feet. A shipping container is defined as a “structure,” thus requiring a building permit.

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Your Committee notes the average shipping container is 40 feet long and eight feet wide. Under Bill 96, it would allow an exemption of up to 320 square feet.

The Director of Public Works expressed concern about potential enforcement challenges if Bill 96 was approved. He also suggested that the five-foot minimum clearance be extended to ten feet consistent with the minimum standard for maintaining fire separation distance to prevent fires from spreading between structures.

The Director further noted Section 46-88, Hawai'i Revised Statutes, exempts agricultural buildings, structures, and appurtenances not used as dwellings or lodging units from building permit and building code requirements. A declaration process is created to register these structures so the Department is aware of them.

He further said Bill 96 could provide relief to small businesses in the County Industrial zoning districts that are unable to afford warehouse space.

Your Committee agreed to amend Bill 96 by:

1. Applying this exemption to County Industrial zoning districts only;
2. Clarifying that shipping containers must only be used for storage;
3. Extending the five-foot minimum clearance to ten feet;
4. Requiring property owners to declare to the Department the size, type, and location of the shipping container, including a diagram showing the container's location on the property; and

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5. Granting a 90-day grace period for property owners who use a shipping container on their property before the ordinance's effective date to file the declaration.

Your Committee also agreed to amend Bill 96's effective date to occur 90 days after approval to allow the Department time to establish the declaration process.

Your Committee believes Bill 96 may help to:

- Increase building supply inventory by having stock available in the County;
- Lower costs for building supplies on end consumers; and
- Reduce the cost and time spent applying for a building permit.

Your Committee voted 7-0 to recommend passage of Bill 96, CD1 (2024), on first reading. Committee Chair Cook, Vice-Chair Sugimura, and members Johnson, Kama, Lee, Paltin, and Sinenci voted "aye." Committee members Rawlins-Fernandez and U'u-Hodgins were excused.

Your Committee is in receipt of Bill 96, CD1 (2024), approved as to form and legality by the Department of the Corporation Counsel, incorporating your Committee's recommended revisions and nonsubstantive revisions.

Your Water and Infrastructure Committee **RECOMMENDS** that Bill 96, CD1 (2024), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 16.25, MAUI COUNTY CODE, ON PERMIT EXEMPTIONS FOR SHIPPING CONTAINERS," be **PASSED ON FIRST READING** and be **ORDERED TO PRINT**.

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This report is submitted in accordance with Rule 8 of the Rules of the Council.



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TOM COOK, Chair

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

BILL NO. 96, CD1 (2024)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 16.25,  
MAUI COUNTY CODE, ON PERMIT EXEMPTIONS FOR  
SHIPPING CONTAINERS

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

SECTION 1. Section 16.25.105, Maui County Code, is amended by amending subsection 16.25.105.2 to read as follows:

**“105.2 Work exempt from permit.** Exemptions from permit requirements of this code [shall] will 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 not greater than 120 square feet in gross floor area, not used as a habitable space, storage of motor vehicles or hazardous materials, and does not block egress.
2. One-story detached agricultural buildings 200 square feet or less in gross floor area within the county agricultural and rural districts having a minimum 10 feet clear unobstructed space from other structures.
3. Detached shade cloth structures not exceeding 20,000 square feet for nursery or agricultural purposes within the county agricultural districts having a minimum building separation of 15 feet from other structures, not including service systems.
4. Water tanks supported directly on grade if the capacity does not exceed:
  - a. 5,000 gallons and the ratio of height to diameter or width does not exceed 2:1.
  - b. 15,000 gallons and the ratio of height to diameter or width does not exceed 1:2.
5. Detached unroofed decks 30 inches or less measured from adjacent grade to the deck floor.

6. Underground tanks, utility vaults, [Individual] individual wastewater systems, and similar structures not below an occupiable building.

7. 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.

8. Reroofing (roof replacement and roof recover) of Group R-3 one- and two-family dwellings and Group U [Occupancies] occupancies accessory to these dwellings where the structural components are not adversely affected.

9. Television and radio antennas and solar panels attached to roofs.

10. Window awnings in Group R-3 and Group U occupancies[,] 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 and comply with fire separation distance requirements of this code or the International Residential Code.

11. Painting, papering, tiling, carpeting, cabinets, [counter tops,] countertops, installation of shelves, and similar finish work.

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

13. Replacement of [Electrical,] electrical, plumbing, and mechanical systems, not including commercial kitchen hood and ventilation systems, fire and standpipe systems, and other systems [effecting] affecting fire resistive elements or assemblies or systems, and equipment requiring structural reinforcement.

14. 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 fences, as defined in section 19.04.040, not over ten feet high when measured from the lowest grade to the top of the fence and when used for the purpose of protecting agricultural operations, conservation areas, cultural sites, and public roadways from axis deer. The height of fences and walls [shall] must be measured separately from retaining walls when the fence or wall foundation is separate from the retaining wall structure.

15. Retaining walls which do not have more than [three] 3 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 slope steeper than 3 (horizontal) to 1 (vertical) or another retaining wall within a distance of twice the height of retainage.

16. Drainage structures.
17. Site work on property, including [but not limited to,] sidewalks, curbs, parking lots, driveways, planter boxes, and water features less than 24 inches (610 mm) in depth and other landscaping structures as determined by the building official.
18. Recreational and public safety structures, including [but not limited to,] swings, merry-go-rounds, slides, jungle gyms, goals, [life guard] lifeguard stands and towers, and other recreational structures as determined by the building official.
19. Street light standards, utility poles, not including wireless telecommunication towers, or television antennas (dishes) over 7 feet in overall height.
20. Temporary construction tool sheds, fences, and jobsite offices on the same property where construction is occurring under a valid building, plumbing, electrical, grading permit, or approved by the building official. These temporary structures [shall] must be removed promptly after work has been completed or deemed complete by the building official.
21. Construction equipment used for work authorized by a valid permit or for work exempted from permit requirements.
22. Temporary tents or other coverings for private family parties or camping.
23. Temporary tents or coverings for uses other than private family parties or camping, up to a duration of 10 days.
24. Temporary motion picture, television, and theater stage sets and scenery, and temporary exhibits and other related structures as approved by the building official.
25. Repairs which involve only the replacement of component parts of existing permitted work with similar materials for the purpose of maintenance and do not cost over \$15,000 per structure in any 12-month period.
26. Work performed for any federal or State of [Hawaii] Hawai'i governmental agency except where permits are specifically requested by the agency.
27. Work by an electric or telecommunication utility operating under a franchise or charter granted by the State of [Hawaii;] Hawai'i, provided[,], that the work which is not regulated by the public utilities commission of the State of [Hawaii shall] Hawai'i will be subject to the provisions of this [Code.] code. If the utility claims an exemption under this provision, the utility [shall have] has the burden of demonstrating to the satisfaction of the building official that the work is regulated by the public utilities commission.

28. Motor vehicles and trailers with a valid certificate of registration from the ~~[Division of Motor Vehicles & Licensing.]~~ division of motor vehicles and licensing. Land use requirements enforced by the ~~[Planning]~~ department of planning, and fire and life safety requirements enforced by the ~~[Fire Prevention Bureau shall]~~ fire prevention bureau must be complied with.

29. Shipping containers within the county industrial zoning districts that are unaltered if:

a. The shipping containers are used only for storage, except the storage of motor vehicles, hazardous materials, or personal property;

b. The shipping containers are not used for habitation;

c. A ten-foot minimum clearance is maintained between the shipping containers and other structures, and the shipping containers are not stacked or placed within any lot's setback; and

d. Before placing the shipping container on the property, the property owner provides the department with a declaration, in a form prescribed by the department, stating the size, type, and location of the shipping container, along with a diagram showing the container's location on the property."

SECTION 2. 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 3. This Ordinance takes effect 90 days after approval, except that property owners using a shipping container on their property before this ordinance's effective date will have an additional 90-day grace period from the effective date to file the declaration required by subsection 16.25.105.2.29.d.

APPROVED AS TO FORM AND LEGALITY:

/s/ Michael J. Hopper

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Department of the Corporation Counsel  
County of Maui

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INTRODUCED BY:

A handwritten signature in blue ink, appearing to read "Tom Cook", written over a horizontal line.

TOM COOK