

REQUEST FOR LEGAL SERVICES

Date: June 24, 2024
From: Tom Cook, Chair
Water and Infrastructure Committee


TRANSMITTAL

Memo to: DEPARTMENT OF THE CORPORATION COUNSEL
Attention: Caleb P. Rowe, Esq.

Subject: BILL 96 (2024), AMENDING CHAPTER 16.25, MAUI COUNTY CODE, ON PERMIT EXEMPTIONS FOR SHIPPING CONTAINERS (WAI-24)

Background Data: Please see CD1 version of Bill 96 (2024). Please submit your response to WAI.committee@mauicounty.us with a reference to WAI-24.

Work Requested: FOR APPROVAL AS TO FORM AND LEGALITY
 OTHER:

Requestor's signature  Tom Cook, Chair	Contact Person <u>Jarret Pascual</u> (Telephone Extension: <u>7141</u>)
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- ROUTINE (WITHIN 15 WORKING DAYS)
- PRIORITY (WITHIN 10 WORKING DAYS)
- RUSH (WITHIN 5 WORKING DAYS)
- URGENT (WITHIN 3 WORKING DAYS)

SPECIFY DUE DATE (IF IMPOSED BY SPECIFIC CIRCUMSTANCES): June 26, 2024
REASON: For posting on the July 5, 2024, Council agenda.

FOR CORPORATION COUNSEL'S RESPONSE

ASSIGNED TO: MJH	ASSIGNMENT NO. 2023-0137	BY: GMR
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TO REQUESTOR: APPROVED DISAPPROVED OTHER (SEE COMMENTS BELOW)
 RETURNING--PLEASE EXPAND AND PROVIDE DETAILS REGARDING ITEMS AS NOTED

COMMENTS (NOTE - THIS SECTION NOT TO BE USED FOR LEGAL ADVICE):

DEPARTMENT OF THE CORPORATION COUNSEL

Date 6/27/24

By MJH

(Rev. 7/03)

wai:ltr:024acc01:jpp

Attachment

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

Department of the Corporation Counsel
County of Maui

wai:misc:024abill01:jpp

INTRODUCED BY:

TOM COOK

WAI Committee

From: Melody Andrion <Melody.Andrion@co.maui.hi.us>
Sent: Thursday, June 27, 2024 4:43 PM
To: WAI Committee
Cc: michael.hopper@co.maui.hi.us; Jarret P. Pascual
Subject: WAI-24 Bill 96, CD1 (2024) Amend Chapter 16.25 (resending)
Attachments: WAI-24 2024-06-27 RAFL Closing Bill 96 (2024) Amd Ch 16.25.pdf

See attached closing of RFLS received on 06/24/2024 e-signed Ordinance by Michael Hopper regarding the subject matter. Thanks!

For posting on the July 5, 2024 Council agenda.

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