

Resolution

No. 23-237

REFERRING TO THE LĀNA'I, MAUI, AND
MOLOKAI PLANNING COMMISSION A
PROPOSED BILL ON THE USE OF SHIPPING
CONTAINERS AS INCIDENTAL STORAGE

WHEREAS, the Council is considering a proposed bill to amend the Comprehensive Zoning Ordinance on the use of shipping containers as incidental storage; and

WHEREAS, Sections 8-8.4 and 8-8.6 of the Revised Charter of the County of Maui (1983), as amended, require the appropriate planning commissions to review proposed land use ordinances and amendments and provide findings and recommendations to the Council; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That it refers the proposed bill, entitled "A BILL FOR AN ORDINANCE AMENDING THE COMPREHENSIVE ZONING ORDINANCE ON THE USE OF SHIPPING CONTAINERS AS INCIDENTAL STORAGE," a copy of which is attached as Exhibit "1," to the Lāna'i Planning Commission, Maui Planning Commission, and Molokai Planning Commission for findings and recommendations under Sections 8-8.4 and 8-8.6 of the Revised Charter of the County of Maui (1983), as amended;
2. That it respectfully requests the Lāna'i, Maui, and Molokai Planning Commissions transmit their findings and recommendations to the Council as expeditiously as possible; and
3. That certified copies of this resolution be transmitted to the Mayor, the Planning Director, the Lāna'i Planning Commission, the Maui Planning Commission, and the Molokai Planning Commission.

Resolution No. 23-237

APPROVED AS TO FORM AND LEGALITY:

/s/ Michael J. Hopper

Department of the Corporation Counsel
County of Maui

paf:jpp:23-114f

INTRODUCED BY:



TOM COOK

ORDINANCE NO. _____

BILL NO. _____ (2023)

A BILL FOR AN ORDINANCE AMENDING THE COMPREHENSIVE ZONING
ORDINANCE ON THE USE OF SHIPPING CONTAINERS AS INCIDENTAL
STORAGE

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

SECTION 1. This Ordinance's purpose is to allow the permanent use of shipping containers for incidental storage.

SECTION 2. Section 19.04.040, Maui County Code, is amended by adding a new definition to be appropriately inserted and to read as follows:

“Shipping container” means an unmodified, six-sided steel framed vehicle or intermodal container designed and constructed to contain or carry freight, construction, or building material. Excluded from this definition are mobile homes; manufactured homes; factory-built homes; travel trailers; other commercial coaches used for residential occupancy; and other metal storage boxes not built to International Organization for Standardization specifications for intermodal shipping containers.”

SECTION 3. Section 19.24.030, Maui County Code, is amended to read as follows:

“19.24.030 Accessory uses and structures. The following uses and structures, located on the same lot, are [deemed] accessory, customary, incidental, usual, and necessary to the [above] permitted uses in the district:

Uses	Notes and exceptions
Energy systems, small-scale	
Fences, walls, patios, decks, and other landscape features	

Garages, porte-cochere, mailboxes, ground signs, and trash enclosures	
[Security/watchman] <u>Security guard</u> or custodian outbuildings	
Subordinate uses and structures [which] <u>that</u> are determined by the planning director to be clearly incidental and customary to [the] <u>a</u> permitted [uses listed herein] <u>use</u>	
<u>Shipping containers</u>	<u>Must not be stacked on top of another shipping container; must not be used to store hazardous or flammable materials or solid waste; must be separated by at least five feet from all other structures except shipping containers; must not block or restrict access to fire hydrants, fire lanes, or required parking spaces; and must not be leased to third parties or used for the storage of personal property of any kind for purposes outside of commercial activities”</u>

SECTION 4. Section 19.25.030, Maui County Code, is amended to read as follows:

“19.25.030 Accessory uses and structures. The following uses and structures, located on the same lot, are [deemed] accessory, customary, incidental, usual, and necessary to the [above] permitted uses in the district:

Uses	Notes and exceptions
Energy systems, small-scale	
Fences, walls, patios, decks, and other landscape features	
Garages, porte-cochere, mailboxes, ground signs, and trash enclosures	

Office space related to the on-site permitted use	
Retail, or indoor product display area	Limited to 20% of gross floor area
[Security/watchman] <u>Security guard</u> or custodian outbuildings	
[Subordinate uses and structures which are determined by the planning director to be clearly incidental and customary to the permitted uses listed herein] <u>Shipping containers</u>	<u>Must not be stacked on top of another shipping container; must not be used to store hazardous and flammable materials or solid waste; must be separated by at least five feet from all other structures except shipping containers; must not block or restrict access to fire hydrants, fire lanes, or required parking spaces; and must not be leased to third parties or used for the storage of personal property of any kind for purposes outside of commercial activities</u>
<u>Subordinate uses and structures that are determined by the planning director to be clearly incidental and customary to a permitted use"</u>	

SECTION 5. Section 19.26.030, Maui County Code, is amended to read as follows:

"19.26.030 Accessory uses and structures. The following uses and structures, located on the same lot, are [deemed] accessory, customary, incidental, usual, and necessary to the [above] permitted uses in the district:

Uses	<u>Notes and exceptions</u>
Energy systems, small-scale	
Fences, walls, patios, decks, and other landscape features	

Garages, porte-cochere, mailboxes, ground signs, and trash enclosures	
[Security/watchman] <u>Security guard</u> or custodian outbuildings	
Subordinate uses and structures [which] <u>that</u> are determined by the planning director to be clearly incidental and customary to [the] <u>a</u> permitted [uses listed herein] <u>use</u>	
<u>Shipping containers</u>	<u>Must not be stacked on top of another shipping container; must not be used to store hazardous and flammable materials or solid waste; must be separated by at least five feet from all other structures except shipping containers; must not block or restrict access to fire hydrants, fire lanes, or required parking spaces; and must not be leased to third parties or used for the storage of personal property of any kind for purposes outside of commercial activities"</u>

SECTION 6. Section 19.30A.050, Maui County Code, is amended to read as follows:

"19.30A.050 Permitted uses. The following uses and structures are permitted in the agricultural district subject to compliance with all other applicable laws:

- A. Principal uses.
 - 1. Agriculture.
 - 2. Agricultural land conservation.
 - 3. Agricultural parks, [in accordance with] under chapter 171, Hawaii Revised Statutes.
 - 4. Animal and livestock raising, including animal feed lots, and sales yards.
 - 5. Private agricultural parks.

6. Minor utility facilities as defined in section 19.04.040.

7. Retention, restoration, rehabilitation, or improvement of buildings, sites, or cultural landscapes of historical or archaeological significance; this does not include zipline, canopy, and bungee jumping commercial operations that may be incorporated into the restoration of a historic site, which require a conditional permit under chapter 19.40.

8. Solar energy facilities, as defined in 19.04.040, and subject to the restrictions of chapter 205, Hawaii Revised Statutes, that are less than fifteen acres, occupy no more than 35 percent of the lot, and are compatible with existing agricultural uses; except that land with soil classified by the land study bureau's detailed land classification as overall (master) productivity rating class D or E need not be compatible with existing agricultural uses.

B. Accessory uses. Uses that are incidental or subordinate to, or customarily used in conjunction with, a permitted principal use, as follows:

1. Two farm dwellings per lot, one of which must not exceed one thousand square feet of developable area.

2. One farm labor dwelling per five acres of lot area. On the island of Maui, the owner or lessee of the lot must meet at least two of the following three criteria:

a. Provide proof of at least \$35,000 of gross sales of agricultural products per year, for the preceding two consecutive years, for each farm labor dwelling on the lot, as shown by state general excise tax forms and federal form 1040 Schedule F filings.

b. Provide certification by the department of water supply that agricultural water rates are being paid if the subject lot is served by the County water system.

c. Provide a farm plan that demonstrates the feasibility of commercial agricultural production.

On the islands of Molokai and Lanai, the owner or lessee of the lot must meet both of the criteria provided by subsections 19.30A.050(B)(2)(a) and 19.30A.050(B)(2)(b).

3. A maximum of two commercial agricultural structures per lot, subject to parking requirements of chapter 19.36B.

4. Storage, wholesale and distribution, including barns; greenhouses; storage facilities for agricultural supplies, products, and irrigation water; farmer's cooperatives; and similar structures customarily associated with one or more of the permitted principal uses or, for the

purpose of this section, are associated with agriculture in the County.

5. Processing of agricultural products, the majority of which are grown in the County.

6. Energy systems, small-scale.

7. Small-scale animal-keeping.

8. Animal hospitals and animal board facilities; if conducted on the island of Molokai, [such] the uses must have been approved by the Molokai planning commission as conforming to the intent of this chapter.

9. Riding academies; if conducted on the island of Molokai, [such] the uses must have been approved by the Molokai planning commission as conforming to the intent of this chapter.

10. Open land recreation as follows: hiking; noncommercial camping; fishing; hunting; equestrian activities; rodeo arenas; arboretums; greenways; botanical gardens; guided tours that are accessory to principal uses, such as farm or plantation tours, petting zoos, and garden tours, excluding zipline, canopy, and bungee jumping conducted for commercial purposes; hang gliding; paragliding; mountain biking; and accessory restroom facilities. If hiking, fishing, hunting, equestrian activities, rodeo arenas, hang gliding, paragliding, or mountain biking are conducted for commercial purposes on the island of Molokai, [such] the uses must have been approved by the Molokai planning commission as conforming to the intent of this chapter. Open land recreation uses or structures not specifically permitted by this subsection, subsection 19.30A.060(A)(7), or chapter 19.40, are prohibited; certain open land recreation uses or structures may also be required to obtain a special permit in accordance with chapter 205, Hawaii Revised Statutes.

11. Except on Molokai, bed and breakfast homes permitted under chapter 19.64 that are:

a. Operated in conjunction with a bona fide agricultural operation that produced \$35,000 of gross sales of agricultural products for each of the preceding two years, as shown by state general excise tax forms and federal form 1040 Schedule F filings; or

b. In compliance with all of the following criteria, except that the bed and breakfast home is not subject to a condominium property regime [pursuant to] under chapter 514A or chapter 514B, Hawaii Revised Statutes:

i. The lot was created prior to November 1, 2008.

ii. The lot is comprised of five acres or less.

iii. An approved farm plan has been fully implemented and is consistent with chapter 205, Hawaii Revised Statutes; or

c. Located in sites listed on the State of Hawaii register of historic places or the national register of historic places.

12. Short-term rental homes permitted under chapter 19.65, except that an approved farm plan has been fully implemented and is consistent with chapter 205, Hawaii Revised Statutes.

13. Parks for public use, not including golf courses, and not including commercial uses, except when under the supervision of a government agency in charge of parks and playgrounds.

14. Family child care homes as defined in section 46-15.35(b), Hawaii Revised Statutes, that are registered [in accordance with] under chapter 346, Hawaii Revised Statutes, and located in a legally permitted farm dwelling.

[15. Other uses that primarily support a permitted principal use; however, the uses must be approved by the appropriate planning commission as conforming to the intent of this chapter.]

15. Shipping containers that are:

a. Not stacked on top of another shipping container.

b. Not used to store hazardous and flammable materials or solid waste.

c. Separated by at least five feet from all other structures except shipping containers.

d. Not blocking or restricting access to fire hydrants, fire lanes, or required parking spaces.

e. Not leased to third parties or used for the storage of personal property of any kind for purposes outside of commercial activities.

16. Other uses that primarily support a permitted principal use; however, the uses must be approved by the appropriate planning commission as conforming to this chapter's intent."

SECTION 7. 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 8. This Ordinance takes effect on approval.

APPROVED AS TO FORM AND LEGALITY:

Department of the Corporation Counsel
County of Maui

paf:jpp:23-114e

INTRODUCED BY:



TOM COOK