

COUNCIL OF THE COUNTY OF MAUI
INFRASTRUCTURE AND
ENVIRONMENTAL MANAGEMENT
COMMITTEE

August 23, 2016

Committee
Report No. _____

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

Chair and Members:

Your Infrastructure and Environmental Management Committee, having met on March 16, 2015, March 14, 2016, July 11, 2016, and August 1, 2016, makes reference to County Communication 13-135, from Councilmember Mike White, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 16.26B.101, MAUI COUNTY CODE, TO ELIMINATE EXEMPTIONS IN THE BUILDING CODE OF THE COUNTY OF MAUI RELATING TO LANDS WITHIN THE CONSERVATION DISTRICT OR LANDS DESIGNATED AS HAWAIIAN HOME LANDS." The purpose of the proposed bill is to eliminate exemptions in the Building Code of the County of Maui relating to lands within the Conservation District and lands designated as Hawaiian Home Lands.

Your Committee notes Building Code exemptions for lands within the Conservation District and lands designated as Hawaiian Home Lands were established in Ordinance 2886 (2000).

Your Committee expressed concern with the exemptions because they allow owners of properties with these designations to avoid the building permit process, and this has resulted in the County having inaccurate property records.

A representative from the Department of Finance said without the building permit process the County is not notified when a building is constructed or improvements are made. The County is, therefore, unable to maintain adequate property records and assess property taxes.

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The representative said another concern is the lack of accurate records for these properties would reduce Federal relief funds available to the County, should a natural disaster occur.

Your Committee notes no other counties have exemptions for structures built within Conservation Districts or Hawaiian Home Lands.

Your Committee further notes the State Department of Land and Natural Resources provided written testimony in support of eliminating exemptions in the Building Code for lands within the Conservation District. The Department said the proposed bill would assist in implementing new rules related to construction on Conservation District lands and improve the management of natural resources.

Your Committee decided eliminating exemptions on Conservation District lands was appropriate.

Your Committee further decided against eliminating the exemptions on lands designated as Hawaiian Home Lands. Your Committee noted the State Department of Hawaiian Home Lands requires building structures or improvements made on Hawaiian Home Lands to meet building and zoning codes and other ordinances and regulations of the respective counties. In written testimony provided to your Committee, the Department of Hawaiian Home Lands stated the proposed amendment would not change the legal application of the building code for these lands.

Your Committee further noted a Memorandum of Understanding was developed between the Department of Hawaiian Home Lands and Hawaii County to clarify issues and the respective roles and relationships of both agencies.

In addition to the Building Code exemptions, the Director of Public Works recommended the elimination of similar exemptions in the Electrical Code and Plumbing Code to ensure consistency throughout Title 16, Maui County Code.

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Your Committee agreed with the elimination of the Electrical Code and Plumbing Code exemptions. It was noted these exemptions, similar to the Building Code exemptions, are no longer appropriate.

Your Committee is in receipt of correspondence dated July 20, 2016, from the Department of the Corporation Counsel, transmitting a revised proposed bill, approved as to form and legality, entitled "A BILL FOR AN ORDINANCE AMENDING TITLE 16, MAUI COUNTY CODE, TO ELIMINATE EXEMPTIONS IN THE ELECTRICAL CODE, PLUMBING CODE, AND BUILDING CODE OF THE COUNTY OF MAUI RELATING TO LANDS WITHIN THE CONSERVATION DISTRICT." The purpose of the revised proposed bill is to eliminate exemptions in the Electrical Code, Plumbing Code, and Building Code of the County of Maui relating to lands within the Conservation District.

The Director of Public Works and Director of Finance expressed support for the revised proposed bill.

Your Committee voted 5-0 to recommend passage of the revised proposed bill on first reading and filing of the communication. Committee Chair Cochran and members Baisa, Carroll, Crivello, and White voted "aye." Committee Vice-Chair Hokama and member Guzman were excused.

Your Infrastructure and Environmental Management Committee RECOMMENDS the following:

1. That Bill _____ (2016), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE AMENDING TITLE 16, MAUI COUNTY CODE, TO ELIMINATE EXEMPTIONS IN THE ELECTRICAL CODE, PLUMBING CODE, AND BUILDING CODE OF THE COUNTY OF MAUI RELATING TO LANDS WITHIN THE CONSERVATION DISTRICT," be PASSED ON FIRST READING and be ORDERED TO PRINT; and

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2. That County Communication 13-135 be FILED.

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



ELLE COCHRAN, Chair

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ORDINANCE NO. _____

BILL NO. _____ (2016)

A BILL FOR AN ORDINANCE AMENDING TITLE 16, MAUI COUNTY CODE,
TO ELIMINATE EXEMPTIONS IN THE ELECTRICAL CODE, PLUMBING CODE,
AND BUILDING CODE OF THE COUNTY OF MAUI RELATING TO
LANDS WITHIN THE CONSERVATION DISTRICT

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

SECTION 1. Section 16.18B.090(2)(b), Maui County Code, is amended to
read as follows:

"16.18B.090(2)(b) - Subsection 90.2(B) amended.

Section 90.2 of the National Electrical Code is amended by
amending subsection 90.2(B) to read as follows:

(B) This Code shall not apply to the following:

(1) Installation in ships, watercraft other than
floating buildings, railway rolling stock, aircraft, or
automotive vehicles other than mobile homes and
recreational vehicles.

(2) Installations underground in mines and
self-propelled mobile surface mining machinery and its
attendant electrical trailing cable.

(3) Installations of railways for generation,
transformation, transmission, or distribution of power
used exclusively for operation of rolling stock or
installations used exclusively for signaling and
communications purposes.

(4) Installation of communications equipment
under the exclusive control of communications utilities
located outdoors or in building spaces used exclusively
for such installations, except electrical work to supply
power to such equipment.

(5) Electrical work by an electrical utility on
structures and facilities relating to the generation and
distribution of electricity. If a person or entity
requests an exemption for electrical work under this
provision, the person or entity shall have the burden of
demonstrating to the satisfaction of the director that
the person or entity is an electrical utility, as defined

in this Code, and that the electrical work complies with this section.

(6) Existing electrical installations that complied with the laws, ordinances, and regulations in effect when installed; provided that such installations shall be subject to the provisions of section 104-3 of this Code.

(7) Electrical work related to work regulated by chapter 397, Hawaii Revised Statutes, as amended, except electrical work for supply of power to the control panels of elevators, dumbwaiters, escalators, moving walks, and manlifts.

(8) Replacement or repair of devices and apparatus of air-conditioning and refrigeration systems, except electrical work on circuits, equipment, and overcurrent devices that are not part of the air conditioning or refrigeration equipment manufacturer's installation.

(9) Work performed on buildings or premises for any federal or state governmental agency, provided the federal or state agency requests an exemption in writing, on a form prescribed by the director for such purpose.

(10) Work located in a right-of-way owned or maintained by any federal, state, or [County] county governmental agency.

(11) Electrical work on property within the County that is designated [by the State Land Use Commission to be within the Conservation District or designated] as Hawaiian [Home Lands.] home lands."

SECTION 2. Section 16.20B.101.4.1, Maui County Code, is amended to read as follows:

"16.20B.101.4.1 - Section 101.4 amended. Section 101.4 of the Uniform Plumbing Code is amended to read as follows:

101.4.1 The provisions of this code shall apply to all plumbing work in the County, except as otherwise provided in this code. This code shall not apply to the following plumbing work:

1. In factory-built housing manufactured and certified in accordance with the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended, and related federal regulations. All factory-built homes installed within the County shall

bear the label of certification by the manufacturer verifying that the factory-built home complies with all applicable federal construction and safety standards. However, no person shall relocate any factory-built home, structure, or trailer on any property within the scope of this code, which requires plumbing work, or cause the same to be done, without first obtaining a plumbing permit. The manufacturer's plumbing installation in the factory-built dwelling shall be acceptable to the director if the certification is provided and no changes or additions have been made to the manufacturer's plumbing installation. Any changes or additions to the factory-built dwelling plumbing installation, including but not limited to, the installation of new fixtures and water and wastewater connections shall require a permit and be subject to this code.

2. In buildings or premises for any federal or state governmental agency, provided the federal or state agency requests an exemption in writing, on a form prescribed by the director for such purpose.

3. In a right-of-way owned or maintained by any federal, state, or county governmental agency.

4. On property within the County that is designated as Hawaiian home lands, [or designated by the state land use commission to be within the conservation district].

5. For plumbing delivering non-potable water not intended for human consumption or use, provided that gray, reclaimed, or recycled water shall not be deemed to be non-potable water for purposes of this exemption.

6. For temporary sprinkler systems utilizing potable water, provided that a listed atmospheric break vacuum breaker is installed between the domestic system and the sprinkler system in accordance with the manufacturer's installation instructions.

101.4.1.1 Repairs and Alterations.

101.4.1.1.1 In existing buildings or premises in which plumbing installations are to be altered, repaired, or renovated, deviations from the provisions of this code are permitted, provided such deviations are found to be necessary and are first approved by the director.

101.4.1.1.2 Existing building sewers and building drains may be used in connection with new buildings or new plumbing and drainage work only when they are found on examination and test to conform in all respects to the requirements governing new work, and the director shall notify the owner to make any changes necessary to conform to this code. No building, or part thereof, shall be erected or placed over any part of a drainage system that is constructed of materials other than those approved elsewhere in this code for use under or within a building.

101.4.1.1.3 All openings into a drainage or vent system, excepting those openings to which plumbing fixtures are properly connected or which constitute vent terminals, shall be permanently plugged or capped in an approved manner, using the appropriate materials required by this code.

101.4.1.2 Maintenance. The plumbing and drainage system of all premises shall be maintained in a sanitary and safe operating condition by the owner or the owner's agent.

101.4.1.3 Existing Construction. No provision of this code shall be deemed to require a change in any portion of a plumbing or drainage system or any other work regulated by this code in or on an existing building or lot when such work was installed and is maintained in accordance with law in effect prior to the effective date of this code, except when any such plumbing or drainage system or other work regulated by this code is determined by the director to be in fact dangerous, unsafe, insanitary, or a nuisance and a menace to life, health, or property.

101.4.1.4 Conflicts Between Codes. If there are two or more conflicting provisions in this code, or conflict between this code and any other ordinance, statute, or rule covering the same subject matter, the provision which provides the greater safety to life, property, or public welfare, as determined by the director, shall prevail."

SECTION 3. Section 16.26B.101, Maui County Code, is amended to read as follows:

"16.26B.101 – Section 101 amended. Section 101 of the International Building Code is amended to read as follows:

101.1 Title. These regulations shall be known as the *Building Code* of the County of Maui, hereinafter referred to as "this code."

101.2 Scope. This code shall apply to the construction, alteration, movement, enlargement, replacement, repair, use and occupancy, location, maintenance, removal, and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures within the County, except those lands within the County that are [designated by the State Land Use Commission to be within the conservation district boundaries or] designated as Hawaiian Home Lands.

Exceptions:

1. Detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories above grade plane in height with a separate means of egress and their accessory structures shall be permitted to comply with [Chapter] chapter 16.08A, Maui County Code, as amended.

2. Existing State-owned buildings undergoing repair, alterations or additions and change in occupancy shall be permitted to comply with the International Existing Building Code, provided the extent of work does not exceed [50%] fifty percent of the appraised value of the building.

3. Work in a county or state public way and public utility towers and poles.

101.2.1 Appendices. Provisions in the appendices shall not apply unless specifically adopted.

101.3 Intent. The purpose of this code is to establish the minimum requirements to safeguard the public health, safety, and general welfare through structural strength, means of egress facilities, stability, sanitation, adequate light and ventilation, and safety to life and property from fire and other hazards attributed to the built environment and to provide safety to fire fighters and emergency responders during emergency operations.

101.4 Referenced codes. The other codes referenced elsewhere in this code shall be considered guidelines of this code to the prescribed extent of each such reference.

101.4.1 Conflicts with other codes. If a referenced code conflicts with another applicable law of the jurisdiction, then said applicable law shall prevail over the guideline in the referenced code.

101.4.2 Fire prevention. Wherever the provisions of the International Fire Code are referenced, chapter [16.04B,] 16.04C, Maui County Code, as amended, shall apply to matters affecting or relating to structures, processes, and premises from the hazard of fire and explosion arising from the storage, handling, or use of structures, materials, or devices; from conditions hazardous to life, property, or public welfare in the occupancy of structures or premises; and from the construction, extension, repair, alteration,

or removal of fire suppression and alarm systems or fire hazards in the structure or on the premises from occupancy or operation.

101.4.3 Flood Hazard Area. Flood hazard area provisions shall be regulated by the planning department. The structural design of buildings and structures shall be in accordance with this code and standards referenced in this code.”

SECTION 4. 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 5. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM AND LEGALITY:



Department of the Corporation Counsel
County of Maui
2014-3081
IEM-9 2016-07-18 Ordinance Title 16