

HOW TO FILE A DECLARATION OF COMPLIANCE WITH HRS 46-88 RELATED TO AGRICULTURAL STRUCTURES

NOTE: These instructions have been updated due to the approval of Act 70 by Governor David Ige on July 3, 2017. New requirements have been added.

- TIMING OF SUBMITTAL:
 - ▶ The *DECLARATION OF COMPLIANCE* form must be submitted for review and acceptance PRIOR TO THE START OF WORK. No after-the-fact declarations will be accepted. If work has already started on the structure, the structure must be removed or it must fully comply with building permit and code requirements.
 - ▶ The *DECLARATION OF COMPLIANCE* form must be signed by the **Planning Department** PRIOR TO SUBMITTAL TO THE DEPARTMENT OF PUBLIC WORKS.

Contact information for the Zoning Administration & Enforcement Division (ZAED), Planning Department:

One Main Plaza Building, Suite 335
2200 Main Street
Wailuku, HI 96793
Phone: (808) 270-7253

- SUBMIT THE FOLLOWING:
 - ▶ 1 - completed *DECLARATION OF COMPLIANCE* form
 - ▶ 1 - 8 ½" x 11" exhibit showing approximate location of structure, property lines, other structures, setbacks to other structures, dimensions of structure, and any other pertinent information. Attach extra sheets as necessary.

(SUBMIT HARD COPIES ONLY; NO EMAIL OR FAX SUBMITTALS)

- SUBMIT DECLARATION TO:

Building Permit Section
Development Services Administration
Department of Public Works
Kalana Pakui Building, 1st Floor, Room 110
250 South High Street
Wailuku, Hawaii 96793
Phone: (808) 270-7250

- PLUMBING AND ELECTRICAL PERMITS:

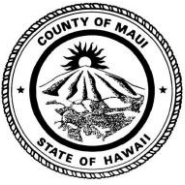
- ▶ HRS 46-88 does NOT provide exemptions from Plumbing and Electrical Permits. In order to apply for a Plumbing or Electrical Permit for an exempted structure, an applicant must first submit the *Declaration of Compliance* form and have it accepted by Public Works. An exemption declaration number (BX) will be issued upon acceptance. This declaration number must be referenced in any Plumbing or Electrical Permit application.
- ▶ Contact the Plumbing and Electrical Sections directly for detailed permit information.

Plumbing Section
Development Services Administration
Department of Public Works
86 Kamehameha Avenue
Kahului, Hawaii 96732
(808) 270-7368

Electrical Section
Development Services Administration
Department of Public Works
86 Kamehameha Avenue
Kahului, Hawaii 96732
(808) 270-7255

- POST CONSTRUCTION REQUIREMENTS:

- ▶ A *FINAL AS-BUILT NOTIFICATION FORM* must be submitted upon completion of construction. Failure to submit the form will cause the *DECLARATION OF COMPLIANCE* to be declared INVALID and shall VOID the building permit and/or code exemption. A single Final As-Built Notification Form must be submitted in compliance with both of the following deadlines:
 1. Submit form within 1 year of Declaration of Compliance acceptance date.
 2. Submit form within 30 days of completion, use, or occupancy of structure.
- ▶ If the as-built conditions of the structure have changed from what was indicated on the original declaration and/or site plan, Planning Department re-approval is required on the FINAL AS-BUILT NOTIFICATION form and a new site plan shall be submitted.



DEPARTMENT OF PUBLIC WORKS
<http://www.co.maui.hi.us>
 DEVELOPMENT SERVICES ADMINISTRATION
 250 SOUTH HIGH STREET
 WAILUKU, HAWAII 96793
 Ph: (808) 270-7250

COUNTY USE ONLY	
Temporary Routing #:	
Date Received:	
DECLARATION #	ACCEPTANCE DATE

DECLARATION OF COMPLIANCE

HRS SECTION 46-88 RELATING TO AGRICULTURAL STRUCTURES

PROJECT/PROPERTY INFORMATION

PROJECT NAME	
STATE LAND USE DESIGNATION	**For confirmation of State Land Use Designation, contact the Department of Planning at (808) 270-7253.
ADDRESS	
TAX MAP KEY	PROPERTY AREA (acres)

STRUCTURE INFORMATION

USE OF STRUCTURE	
EXEMPTION NO. (see list on following sheets)	STRUCTURAL SPAN (FOR EXEMPTIONS. 7 & 12 ONLY) (ft.) (must be less than 25 ft.)
DISTANCE FROM NEAREST STRUCTURE (ft.) (min. 15 ft.)	TOTAL FLOOR AREA (sq. ft.)
DIMENSIONS OF STRUCTURE (ft.) Length x (ft.) Width	
AGGREGATE FLOOR AREA OF ALL EXEMPTED STRUCTURES CLAIMED UNDER HRS 46-88 (SQ. FT.) (sq. ft.)	

Provide minimum 8-1/2"x11" site plan showing approximate location of structure, property lines, other structures, setbacks to other structures, dimensions of structure, and any other pertinent information. Attach extra sheets, if necessary.

COMMENTS (for department use only):

DEPARTMENT OF PLANNING APPROVAL (Obtain approval signature prior to submittal of Declaration to Public Works)

The project is not required to comply with county, state, and federal floodplain management development standards, ordinances, codes, statutes, rules, and regulations pursuant to the National Flood Insurance Program requirements.

 Department of Planning

 Date

OWNERS CERTIFICATION/DECLARATION

- I declare this project to be exempt from applicable building permit/code requirements under the provisions of HRS Section 46-88. I have read and fully understand HRS 46-88 and certify that the project is in compliance.
- I understand that this exemption only applies to certain building permit/code requirements. I shall obtain all other required permits and approvals and shall comply with all applicable codes and laws associated with this development, which may include and not be limited to Special Management Area, Flood Hazard, electrical, plumbing, grading, driveway, work in County/State right of ways, fire, wastewater, and Department of Health requirements.
- I understand that the issuance of a declaration number by the County should not be taken to mean that compliance with HRS 46-88 has been confirmed, and that it is my sole responsibility to confirm compliance. The State or County shall not be liable for any claims arising from construction of buildings, structures, or appurtenances thereto exempt from the building code and permitting process as described in HRS 46-88.

Property Owner:

Address:

Phone No.:

Email:

Signature:

Printed Name:

POST CONSTRUCTION REQUIREMENTS:

A **FINAL AS-BUILT NOTIFICATION FORM** must be submitted upon completion of construction. Failure to submit the form will cause this **DECLARATION OF COMPLIANCE** to be declared **INVALID** and shall **VOID** the building permit and/or code exemption. A single Final As-Built Notification Form must be submitted in compliance with both of the following deadlines:

- Submit form within 1 year of Declaration of Compliance acceptance date.
- Submit form within 30 days of completion, occupancy, or use of structure.

EXERPTS FROM HRS 46-88 ARE PROVIDED BELOW. IT IS THE PROPERTY OWNER'S RESPONSIBILITY TO REVIEW AND UNDERSTAND THE ACTUAL LANGUAGE PROVIDED IN HRS 46-88 (AS AMENDED). A COMPLETE COPY OF HRS 46-88 (ACT 70) CAN BE VIEWED ON THE COUNTY WEBSITE: <http://www.co.maui.hi.us> (State website: <http://www.hawaii.gov>)

GENERAL EXEMPTION REQUIREMENTS:

1. The aggregate floor area of the exempted agricultural buildings shall not exceed:
 - a. Five thousand square feet per zoning lot for lots of two acres or less;
 - b. Eight thousand square feet per zoning lot for lots greater than two acres but not more than five acres;
 - c. Eight thousand square feet plus two percent of the acreage per zoning lot for lots greater than five acres; provided that each exempted agricultural building is compliant with applicable square foot area restrictions;
2. The minimum horizontal separation between each agricultural building, structure, or appurtenance thereto is fifteen feet;
3. The agricultural buildings, structures, or appurtenances thereto are located on a commercial farm or ranch and are used for general agricultural or aquacultural operations, or for purposes incidental to such operations;
4. The agricultural buildings, structures, or appurtenances thereto are constructed or installed on property that is used primarily for agricultural or aquacultural operations, and is two or more contiguous acres in area or one or more contiguous acres in area if located in a nonresidential agricultural or aquacultural park;
5. An owner or occupier that intends to utilize the exemptions under this section shall provide written notice to the appropriate county agency of the size, type, and location of the proposed building, structure, related appurtenances, or development. No work shall commence until the county agency has determined that a building permit for the proposed building, structure, related appurtenances, or development is not required for compliance with county, state, or federal floodplain management development standards, ordinances, codes, statutes, rules, or regulations pursuant to the National Flood Insurance Program requirements;
6. The appropriate county agency shall certify the building, structure, related appurtenances, or development within thirty calendar days upon the receipt of the written notice from the owner or occupier, pursuant to paragraph (5).
7. The owner or occupier shall provide a final as-built written notice to the appropriate county building permitting agency of the final as-built size, type, and locations of the building, structure, related appurtenances, or development. Such final as-built written notification shall be provided to the county agency within thirty calendar days of the completion, occupancy, or use of the building, structure, related appurtenances, or development. Failure to provide such written notice may void the building permit or building code exemption, or both, which voidance for such failure is subject to the sole discretion of the appropriate county building permitting agency;
8. No electrical power and no plumbing systems shall be connected to the building or structure without first obtaining the appropriate county electrical or plumbing permit, and all such installations shall be installed under the supervision of a licensed electrician or plumber, as appropriate, and inspected and approved by an appropriate county or licensed inspector or, if a county building agency is unable to issue an electrical permit because of the building or structure is permit-exempt, an electrical permit shall be issued for an electrical connection to a meter on a pole beyond the permit-exempt structure in accordance with the installation, inspection, and approval requirements in this paragraph;
9. Disposal of wastewater from any building or structure constructed or installed pursuant to HRS 46-88 shall comply with chapter 342D;
10. Permit exempt structures shall be exempt from any certificate of occupancy requirements;

11. Exemptions in HRS 46-88 shall not apply to buildings or structures otherwise exempted from building permitting or building code requirements by applicable county ordinance;
12. HRS 46-88 shall not be construed to supersede public or private lease conditions;
13. HRS 46-88 shall not apply to development on land in the state land use urban district;
14. The State or any county shall not be liable for claims arising from the construction of agricultural buildings, structures, related appurtenances, or other development exempt from the building code and permitting process as described in HRS 46-88, unless the claim arises out of gross negligence or intentional misconduct by the State or county;
15. HRS 46-88 shall not apply to buildings or structures used to store pesticides or other hazardous material unless stored in accordance with federal and state law;
16. HRS 46-88 does not exempt any new or existing agricultural buildings, structures, related appurtenances, or other development from building permit requirements and other requirements of county, state, or federal floodplain management development standards, ordinances, codes, statutes, rules, or regulations, pursuant to National Flood Insurance Program requirements.
17. Failure to comply with the conditions of HRS 46-88 shall result in penalties consistent with county building department provisions.

AGRICULTURAL BUILDING AND STRUCTURE EXEMPTION LIST:

STRUCTURES 1,000 SQUARE FEET AND UNDER (The following agricultural buildings, structures, and appurtenances thereto that are not used as dwellings or lodging units are exempt from building permit and building code requirements, provided that they comply with all applicable state and county zoning codes) HRS Section 46-88 (a)

1. Nonresidential manufactured pre-engineered commercial buildings and structures.
(An exemption under this item number cannot be claimed since no preapprovals have been granted by the County.)
2. Single stand alone recycled ocean shipping or cargo containers that are used as nonresidential commercial buildings and are properly anchored.
3. Notwithstanding the 1,000 square foot floor area restriction, agricultural shade cloth structures, cold frames, or greenhouses not exceeding 20,000 square feet in area per structure; provided that where multiple structures are erected, the minimum horizontal separation between each shade cloth structure, cold frame, or greenhouse is fifteen feet.
4. Aquacultural or aquaponics structures, including above-ground water storage or production tanks, troughs, and raceways with a maximum height of six feet above grade, and in-ground ponds and raceways, and piping systems for aeration, carbon dioxide, or fertilizer or crop protection chemical supplies within agricultural or aquacultural production facilities.
5. Livestock watering tanks, water piping and plumbing not connected to a source of potable water or separated by an air gap from such a source.
6. Non-masonry fences not exceeding ten feet in height and masonry fences not exceeding six feet in height.

7. One-story masonry or wood-framed buildings or structures with a structural span of less than twenty-five feet and a total square footage of no more than 1,000 square feet, including farm buildings used as:
 - a. Barns;
 - b. Greenhouses;
 - c. Farm production buildings including aquaculture hatcheries and plant nurseries;
 - d. Storage buildings for farm equipment or plant or animal supplies or feed;
 - e. Storage or processing buildings for crops; provided that the height of any stored items shall not collectively exceed twelve feet in height and the storage of any hazardous materials shall comply with any and all applicable statutes, regulations, and codes,
8. Raised beds containing soil, gravel, cinders, or other growing media or substrates with wood, metal, or masonry walls or supports with a maximum height of four feet.
9. Horticultural tables or benches no more than four feet in height supporting potted plants or other crops.
10. Nonresidential indigenous Hawaiian hale that do not exceed 500 square feet in size and have no kitchen or bathrooms, and are used for traditional agricultural activities or education.

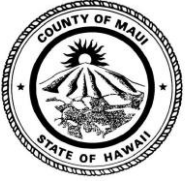
STRUCTURES OVER 1,000 SQUARE FEET (The following buildings, structures, and appurtenances thereto shall be exempt from building permit requirements when compliant with relevant building codes or county, national, or international prescriptive construction standards)

HRS Section 46-88 (b) 1 & 2 are exemptions 11 and 12.

11. Nonresidential manufactured pre-engineered and county pre-approved commercial buildings and structures consisting of a total square footage greater than 1,000 square feet but no more than 8,000 square feet.

(An exemption under this item number cannot be claimed since no preapprovals have been granted by the County.)

12. One-story wood framed or masonry buildings or structures with a structural span of less than twenty-five feet and a total square footage greater than 1,000 square feet but no more than 8,000 square feet constructed in accordance with county, national, or international prescriptive construction standards, including buildings used as:
 - a. Barns;
 - b. Greenhouses;
 - c. Farm production buildings, including aquaculture hatcheries and plant nurseries;
 - d. Storage buildings for farm equipment, plant or animal supplies, or feed;
 - e. Storage or processing buildings for crops; provided that the height of any stored items shall not collectively exceed twelve feet in height.



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 DEVELOPMENT SERVICES ADMINISTRATION
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 WAILUKU, HAWAII 96793
 Ph: (808) 270-7250

DECLARATION #

FINAL AS-BUILT NOTIFICATION

HRS SECTION 46-88 RELATING TO AGRICULTURAL STRUCTURES

*****THIS FORM MUST BE SUBMITTED UPON COMPLETION OF CONSTRUCTION.*****

FAILURE TO SUBMIT THE FORM WILL CAUSE THE HRS 46-88 DECLARATION OF COMPLIANCE TO BE DECLARED INVALID AND SHALL VOID THE BUILDING PERMIT AND/OR BUILDING CODE EXEMPTION. A SINGLE AS-BUILT NOTIFICATION FORM MUST BE SUBMITTED IN COMPLIANCE WITH BOTH OF THE FOLLOWING DEADLINES:

- 1. SUBMIT FORM WITHIN 1 YEAR OF DECLARATION OF COMPLIANCE ACCEPTANCE DATE.**
- 2. SUBMIT FORM WITHIN 30 DAYS OF COMPLETION, OCCUPANCY, OR USE OF STRUCTURE.**

PROJECT/PROPERTY INFORMATION

PROJECT NAME

ADDRESS

TAX MAP KEY

AS-BUILT CONDITIONS OF STRUCTURE

USE OF STRUCTURE

DISTANCE FROM NEAREST STRUCTURE (ft.) (min. 15 ft.)	TOTAL FLOOR AREA (sq. ft.)
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DIMENSIONS OF STRUCTURE (ft.) Length x	(ft.) Width	
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AGGREGATE FLOOR AREA OF ALL EXEMPTED STRUCTURES CLAIMED UNDER ACT 70 (SQ. FT.)	(sq. ft.)
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OWNERS CERTIFICATION/DECLARATION

- I certify that the as-built conditions of the structure are in full compliance with the requirements and provisions of HRS Section 46-88.

CHECK THE APPLICABLE BOX BELOW:

- The as-built location of the structure is as shown in the original site plan.
- The as-built location of the structure has changed from what is shown in the original site plan. If this box is checked, you must do the following:
- Provide minimum 8-1/2"x11" site plan showing the as-built location of structure, property lines, other structures, setbacks to other structures, dimensions of structure, and any other pertinent information. Attach extra sheets, if necessary.
 - Obtain Department of Planning re-approval of as-built structure. Approval signature below must be obtained prior to submitting this form to Public Works.

Property Owner:

Address:

Phone No.:

Email:

Signature:

Printed Name:

DEPARTMENT OF PLANNING RE-APPROVAL (Re-approval only required if as-built conditions of structure have changed from original declaration.)

The project is not required to comply with county, state, and federal floodplain management development standards, ordinances, codes, statutes, rules, and regulations pursuant to the National Flood Insurance Program requirements.

Department of Planning

Date