

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

BILL NO. 21 (2024)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 16.25,  
MAUI COUNTY CODE, RELATING TO SECTION 105 PERMITS  
OF THE BUILDING CODE ADMINISTRATIVE  
AND SUPPLEMENTAL PROVISIONS

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

SECTION 1. Section 105 Permits, is amended by amending subsection  
105.2.2 to read as follows:

**“105.2.2 Emergency [alteration and repairs of one-and-two family dwellings and accessory structures.] alterations, repairs, reconstruction, and new construction of structures in disaster affected areas.** A. Applicability. Any existing [dwelling and its accessory structures that were legally erected and that have been damaged in] parcel affected by a disaster or civil defense emergency, recognized by the governor pursuant to chapters 127 or 128, Hawaii Revised Statutes, [can be repaired pursuant to this section.] may construct, alter, repair, or reconstruct new and existing structures pursuant to this section. The provisions of this section shall remain in effect for a [two-year period] four-year period, or as may be modified or extended by the mayor, beginning from the day the governor proclaims the state of disaster or emergency, and shall apply to those areas of the county covered by the governor's proclamation[.] and as declared by the mayor. For the purposes of this section:

1. “Residential structures” means single-family dwelling units or attached or detached accessory dwelling units (Group R-3 Occupancy) and their accessory structures (Group U Occupancy).

2. “Commercial structures” means all other structures that do not meet the definition of Residential structures as defined in this section.

3. “Recently built” means any existing dwelling or commercial structure constructed under a permit issued no

more than five years prior to the date of a disaster or civil defense emergency, except that permits for alterations or modification are excluded.

4. “Reviewing department” mean the state and county departments referenced in Section 16.25.105.3.1 that the building official may request review a permit application.

B. [Building] Modified permit application. The building official shall make available a modified building permit application specifically prepared for the issuance of permits under this section. [The modified application may be approved without review from other county agencies or any state agency, except that repair of a non-conforming dwelling or structure shall be reviewed by the planning department. All other state and county agencies that regulate the repair of structures shall be responsible for enforcing their regulations independently upon issuance of the building permit.] Modified applications for residential structures may consolidate the electrical, plumbing, and other permits that are associated with work and issued by the Department of Public Works. Permits for commercial structures may not be consolidated into a modified application unless authorized by the building official.

C. [Electrical and plumbing permits. The modified application may also be used for permits for electrical and plumbing work related to the repair work.] Review. The building official may review and approve the modified applications without sending the applications to other reviewing departments, except when review is deemed necessary by the building official. The owner must comply with all applicable laws of the state, county and United States governments and must submit verification of compliance when requested by the building official. Approval of a building permit pursuant to this section does not relieve the applicant of the requirement to comply with all applicable laws of the state, county and United State governments which may include obtaining other required permits prior to construction. Any owner proposing work under this section agrees to defend, indemnify and hold harmless the building official and the county for the owner’s failure to comply with any laws of the state, county or United States governments. The building official must obtain comments and concurrence from appropriate reviewing departments for any modified application that involves a commercial structure or causes a lot to contain more than two dwellings.

D. Construction drawings. An applicant for a modified permit shall submit construction drawings showing the location and scope of repair work, prepared by a registered design professional. The design professional, applicant and landowner are responsible for ensuring compliance with all laws governing the proposed construction. The construction drawings shall be reviewed and

approved by the building official. The building official may use all available records, including records of the real property tax division of the department of finance [shall be] as the basis for establishing the shape and size of structures prior to damage, provided that the structures were legally constructed. For the reconstruction of recently built residential structures or commercial structures, the previously approved construction plans may be submitted provided that the owner and the design professional authorize the use of the previously approved construction plans in writing to the building official.

E. Permit fees. The building official may defer all plan review and [building] permit fees upon written request by the applicant[.], expect that permit fees for commercial structures may not be deferred. The permit fee for the reconstruction of recently built residential structures or commercial structures using previously approved construction plans may be assessed at fifty percent of the permit fee.

F. Permit issuance. The building official shall be authorized to issue building and associated permits that are issued by the Department of Public Works based upon the modified application. [A copy of the approved modified application and construction drawing(s) shall be distributed to appropriate agencies immediately after the permit is issued.]

G. [Building inspections.] Processing. The building official shall be authorized to deputize additional staff and inspectors for the purpose of [conducting the inspections required by permits issued under] implementing the provisions of this section. [Repair] All work shall be performed in conformance with this code.

H. Illegal construction. Permits issued under this section shall not be interpreted to be an approval of any violation of federal, state, or county statutes, ordinances, or rules. The issuance of a permit shall not relieve the applicant and the property owner from complying with any applicable statutes, ordinances, or rules. Structures or portions thereof that were illegally erected or constructed shall not be repaired under this section.

I. Time extensions. Building, electrical and plumbing permits issued under this section may be extended in accordance with the provisions of the applicable code.

J. Approval by default. If the building official does not take action by either approving, approving with conditions, or denying the modified application within [seven] fifteen calendar days after submittal of all information required by the building official, then the application [shall be deemed approved; provided that the time period for the modified application for repair of a nonconforming building or structure that is subject to section 19.500.110, Maui County code, shall be fifteen calendar days.] is deemed approved

and the permit must be issued upon request by the land owner; except that the building official may withhold issuing a permit if removal of debris generated by the disaster is incomplete, essential services are not restored, concurrence from a reviewing department is required by the building official, or state and county land use approvals are not obtained.

K. Compliance. Work authorized under this section must comply with all laws of the state, county and United States government.”

SECTION 2. Section 105 Permits, is amended by amending subsection 105.2.2.1 to read as follows:

**“105.2.2.1 Deferred permit fee collection.** Deferred fees shall be paid prior to final inspection of the structure. If the deferred plan review and [building] permit fees, including any penalties, are not paid [within two years from the date the disaster declaration is made], then the building official shall have recourse to the remedies provided by law to recover unpaid fees.”

SECTION 3. Material to be repealed is bracketed. New material is underscored. In print this bill, the County Clerk need not include the brackets, the bracketed material, or the underscoring.

SECTION 4. This Ordinance takes effect on approval.

APPROVED AS TO FORM AND LEGALITY:

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MICHAEL J. HOPPER  
Department of Corporation Counsel  
County of Maui  
LF2023-2166  
2024-01-16 Ord Amd Ch 16.25

INTRODUCED BY:

A handwritten signature in cursive script, appearing to read "James R. Lee". The signature is written in black ink and is positioned above a horizontal line.

Upon the request of the Mayor.