

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

BILL NO. 28 (2025)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 16.29, MAUI COUNTY CODE, RELATING TO FLOOD HAZARD AREAS

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

SECTION 1. The purpose of this Ordinance is to amend Chapter 16.29 of Title 16 of the Maui County Code for allowing additional flood-prone areas, not delineated on the FEMA flood insurance rate map (FIRM), to be defined within the special flood hazard area.

SECTION 2. Section 16.29.040, Maui County Code, is amended to read as follows:

**“16.29.040 Special flood hazard areas. A. Applicability.**

1. This chapter must apply to all land within the special flood hazard areas and corresponding areas of special flood hazard delineated on the FIRM, as prepared by FEMA.

The following special flood hazard areas are established:

- a. Floodway area (floodway in zone AEF).
- b. Flood fringe area (zones AE, AH, AO).
- c. Coastal high hazard area (zones V, VE).
- d. General floodplain area (zones A, D, V).

B. Identification of special flood hazard areas. The flood insurance rate map and flood insurance study effective September 25, 2009, and any subsequent revisions and amendments, are adopted and declared to be part of this section, and will be on file at the County of Maui, department of public works.

1. The special flood hazard areas delineated on the FIRM may be supplemented by additional flood-prone areas, as determined by the director. No map delineating additional flood-prone areas will take effect until the map is adopted by ordinance by the Maui county council. The director must publish maps of the modified special flood hazard areas to be kept on file at the County of Maui, department of public works.

C. Abrogation and greater restrictions. This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another title or chapter of this code, easement, covenant, or deed restriction conflict, the more stringent restrictions prevail.

D. Interpretation. All provisions of this chapter must be considered as minimum requirements and liberally construed in favor of the County. This chapter neither limits nor repeals any powers granted under State statute.”

SECTION 3. Section 16.29.050, Maui County Code is amended to read as

follows:

**“16.29.050 Administration.** A. Special flood hazard area development permit. A special flood hazard area development permit must be obtained from the director before construction of any development begins within any special flood hazard area, flood-related erosion hazard area, or mudslide area. Application for a permit must be made on forms furnished by the director that may require plans in duplicate drawn to scale showing the nature, location, dimensions, and elevation of the area in question, existing or proposed structures, fill, stockpiles, and drainage facilities. The application must require the following:

1. Proposed elevation, in relation to mean sea level of the lowest floor, including basement of all structures. In zone AO, elevation of highest adjacent grade and proposed elevation of lowest floor of all structures.

2. Proposed elevation, in relation to mean sea level, to which any structure will be floodproofed.

3. All appropriate certifications required under section 16.29.060.

4. Description of any anticipated watercourse alteration or relocation as a result of the proposed development.

B. Permit review. The director will review all special flood hazard development permit applications to determine the following:

1. That the requirements of this chapter have been satisfied.

2. That the site is reasonably safe from flooding.

3. That where base flood elevations have been determined but a floodway has not been designated, the cumulative effect of the proposed development, as certified by an engineer, when combined with all other existing and anticipated development will not increase the water surface

elevation of the base flood at any point.

4. That all necessary permits have been received from those governmental agencies from which approval is required by federal or State law, including under the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334, section 404.

5. That for proposed building sites in flood-prone areas where special flood hazard areas have not been defined, water surface elevations have not been provided, and there is insufficient data to identify the floodway or coastal high hazard areas, but the director has determined that there are verifiable physical indications that hazards are present, all new construction and substantial improvements, including the placement of manufactured homes, must be:

a. Designed and adequately anchored to prevent flotation, collapse, or lateral movement.

b. Constructed of flood-resistant materials.

c. Constructed by methods and practices that minimize flood damage.

d. Constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed or located at least one foot above the base flood elevation to prevent water from entering or accumulating within the components during conditions of flooding.

e. Constructed so that new and replacement utilities will comply with the requirements of subsection 16.29.060(B).

C. Use of other base flood data. Where base flood elevations have not been determined, the director must obtain, review, and reasonably use any base flood elevation and floodway data available from a federal or state agency, or other source, in administering section 16.29.060.

1. Where a federal or state agency, or other source has provided flood advisory maps, base level engineering, or other base flood data outside of the special flood hazard areas delineated on the FIRM, the director must recommend additional flood-prone areas to supplement the FIRM in accordance with subsection 16.29.040(B).

D. Flood map revisions. Whenever the director determines that base flood elevations may increase or decrease due to a proposed development in a special flood hazard area, the owner of the property must obtain a conditional letter of map revision from FEMA before the approval or issuance of any development permit, as follows:

1. If a floodway is not designated within the subject

special flood hazard area, any development in the subject special flood hazard area requires a conditional letter of map revision.

2. If a floodway is designated within the subject special flood hazard area and the development will cause a rise in the base flood elevation, a conditional letter of map revision is required. Development within the floodway fringe does not require a conditional letter of map revision.

A letter of map revision must be obtained from FEMA whenever a development has increased or decreased the base flood elevation within any special flood hazard area. An application for a letter of map revision must be submitted to FEMA no later than six months after the completion of a development.

E. Watercourse alteration. Whenever a watercourse is to be altered or relocated, the director will:

1. For riverine situations, require the applicant to notify the State of Hawai'i department of land and natural resources, commission on water resource management, before alteration or relocation, and submit evidence of the notification to the Federal Insurance Administration and FEMA.

2. Require that the flood-carrying capacity of the altered or relocated portion of the watercourse be maintained.

F. Certifications. The director will obtain and maintain for public inspection the certifications required under section 16.29.060.

G. Boundary determinations. The director must determine, where needed, the exact location of boundaries of special flood hazard areas, including where there appears to be a conflict between a mapped boundary and actual field conditions.

1. Where interpretation is needed as to whether or not a development lies within a special flood hazard area or as to the base flood elevation affecting a development, a request for interpretation must be submitted to the director. The request must include a description of the development site, a location plan showing the property lines and dimensions of the development, and a copy of the tax map showing the parcel on which the development is proposed to be constructed. The director must, where interpretation is possible from the information shown on the FIRM, issue written determination of the specific area boundaries and the base flood elevation.

2. Where, in the opinion of the director, interpretation is not possible from the information shown on the FIRM, the director must require the applicant to provide more detailed information concerning the request for

determination of flood boundaries and the base flood elevation. The additional information must be submitted to the director and must contain a recommendation certified by an engineer as to the flood area and base flood elevation that should apply to the proposed development and must include three sets of documents certified by the engineer containing adequate data consistent with this chapter, such as flood and hydrology studies, project site and location plans, property maps showing lines and dimensions, tax maps, and topographic data including contours or spot heights based upon mean sea level. After review, the director must, in writing:

a. Inform the applicant that the detailed request contains inadequate data to determine flood area boundaries and base flood elevations, and specify the specific lack of data needed to resolve the question and decline to make a determination; or

b. Based on the supporting data submitted with the request for interpretation and other available data, determine the flood area boundaries and the base flood elevations affecting the development.

H. Fees. Except for applications filed by County agencies and for homes being rebuilt in the burn zone of the August 2023 wildfires, application fees shall be required in the amounts specified in the annual budget ordinance.”

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 will take effect upon its approval.

APPROVED AS TO FORM AND LEGALITY:

/s/ Michael J. Hopper

MICHAEL J. HOPPER  
Deputy Corporation Counsel  
Department of the Corporation Counsel  
County of Maui  
LF2025-0220  
Ch 16.29 Flood Ord Amd 2025-02

INTRODUCED BY:

A handwritten signature in cursive script, appearing to read "John Doe", is written above a horizontal line.

Upon the request of the Mayor.