

# REQUEST FOR LEGAL SERVICES

**D a t e:** October 22, 2025  
**F r o m:** Tom Cook, Chair  
Water and Infrastructure Committee

TRANSMITTAL

**Memo to:** DEPARTMENT OF THE CORPORATION COUNSEL  
Attention: Caleb P. Rowe, Esq.

**Subject:** BILL 156 (2025), AMENDING CHAPTER 12.52, MAUI COUNTY CODE, ON ENCROACHMENTS ON PUBLIC RIGHTS-OF-WAY (WAI-17)

**Background Data:** Please see the proposed CD1 version of Bill 156 (2025), incorporating revisions made at the 10/21/2025 Committee meeting and nonsubstantive revisions.

**Work Requested:**  FOR APPROVAL AS TO FORM AND LEGALITY  
 OTHER:

Requestor's signature  Tom Cook, Chair	Contact Person <u>Keone J. Hurdle</u> (Telephone Extension: <u>7659</u> )
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ROUTINE (WITHIN 15 WORKING DAYS)       RUSH (WITHIN 5 WORKING DAYS)  
 PRIORITY (WITHIN 10 WORKING DAYS)       URGENT (WITHIN 3 WORKING DAYS)

SPECIFY DUE DATE (IF IMPOSED BY SPECIFIC CIRCUMSTANCES): October 29, 2025, by 12:00 noon  
REASON: To submit for posting on the November 7, 2025, Council meeting agenda.

## FOR CORPORATION COUNSEL'S RESPONSE

ASSIGNED TO:	ASSIGNMENT NO.	BY:
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TO REQUESTOR:  APPROVED  DISAPPROVED  OTHER (SEE COMMENTS BELOW)  
 RETURNING--PLEASE EXPAND AND PROVIDE DETAILS REGARDING ITEMS AS NOTED

COMMENTS (NOTE - THIS SECTION NOT TO BE USED FOR LEGAL ADVICE): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DEPARTMENT OF THE CORPORATION COUNSEL

Date \_\_\_\_\_

By \_\_\_\_\_

(Rev. 7/03)

wai:ltr:017acc01:kjh

Attachment

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

BILL NO. 156, CD1 (2025)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 12.52, MAUI COUNTY CODE, RELATING TO ENCROACHMENTS ON PUBLIC RIGHTS-OF-WAY

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

SECTION 1. The County recognizes the historical character of Front Street in Lahaina and other streets in Maui County’s treasured towns where awnings, canopies, marquees, signs, and similar features were often built over sidewalks and other public rights-of-way. To prepare for the rebuilding of commercial areas damaged by the August 8, 2023 wildfires, this Ordinance’s purpose is to allow replacement of those historic features where public health and safety are protected and building code requirements are met.

SECTION 2. Section 12.52.020, Maui County Code, is amended by adding a new definition to be appropriately inserted and to read as follows:

“Replacement overhead encroachment” means the siting of an awning, canopy, marquee, sign, or other similar structure located partly or wholly over a public right-of-way that replaces a legally constructed overhead structure that was damaged or destroyed by an emergency or disaster.”

SECTION 3. Chapter 12.52, Maui County Code, is amended by adding a new section, to read as follows:

**“12.52.050 Replacement overhead encroachments permissible. A replacement overhead encroachment that is damaged or destroyed by an emergency or disaster proclaimed by the governor or mayor under section 127A-14, Hawai’i Revised**

Statutes, is permitted over a public right-of-way and may be repaired or replaced, subject to the following conditions:

1. The replacement overhead encroachment was legally constructed before the emergency or disaster proclamation.

2. The replacement overhead encroachment is repaired or reconstructed to the same size and scale as was legally constructed.

3. The replacement overhead encroachment is permitted under the building code.

4. Any replacement overhead encroachment with less than 15 feet of clearance above the finish grade beneath the encroachment does not interfere with public health and safety as determined by the director.

5. If any maintenance, repair, or improvement of the public right-of-way requires the modification or removal of the replacement overhead encroachment, the property owner will cooperate with the director's requests in a timely manner at their own cost and expense.

6. The property owner is responsible for the maintenance and repair of the replacement overhead encroachment.

7. Liability for any claims for injury or damage to persons or property arising out of, or in connection with, the replacement overhead encroachment is the property owner's responsibility."

SECTION 4. New material is underscored. In printing this bill, the County Clerk need not include the underscoring.

SECTION 5. This Ordinance takes effect on approval.

APPROVED AS TO FORM AND LEGALITY:

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Department of the Corporation Counsel  
County of Maui

wai:misc:017abill01:kjh

INTRODUCED BY:



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TOM COOK