

WATER AND INFRASTRUCTURE COMMITTEE
Amendment Summary Form

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Legislation: Bill 156 (2025), entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 12.52, MAUI COUNTY CODE, ON ENCROACHMENTS ON PUBLIC RIGHTS-OF-WAY."

Proposer: Tom Cook, Chair
Water and Infrastructure Committee.



Description: The proposed CD1 version:

1. Replaces the term "replacement encroachment" with "replacement overhead encroachment" and clarifies that the definition applies only to a structure located partly or wholly over a public right-of-way, including an awning, canopy, marquee, or sign.
2. In proposed Code Section 12.52.050, removes the phrase "to an extent of more than 50 percent of its replacement cost" and makes conforming amendments.
3. Removes language about zoning or other violations.
4. Incorporates nonsubstantive and technical revisions for clarity, consistency, and style.
5. Is approved as to form and legality by the Department of the Corporation Counsel.

Motion: Move to substitute Bill 156 (2025) with the attached proposed CD1 version.

Attachment: Proposed CD1 version of Bill 156 (2025).

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. In preparing 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 the following definition:

“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 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:

/s/ Michael J. Hopper

MICHAEL J. HOPPER
Department of the Corporation Counsel
County of Maui
paf:kjh:25-239a

PAF 25-239 2025-10-14 Amd Ch. 12.52 Encroachments on Public ROW

INTRODUCED BY:

A handwritten signature in black ink, appearing to read "Tom Cook", written in a cursive style.

TOM COOK