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JOSIAH K. NISHITA
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Director

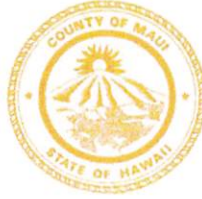
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January 19, 2024

Honorable Richard T. Bissen, Jr.
Mayor, County of Maui
200 South High Street
Wailuku, Maui, Hawaii 96793

APPROVED FOR TRANSMITTAL


Acting Mayor
1/19/24
Date

For Transmittal to:

Honorable Alice Lee, Chair and Members
of the Maui County Council
Maui County Council
200 South High Street
Wailuku, Maui, Hawaii 96793

Dear Chair Lee and Members:

SUBJECT: 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

The Department is transmitting a proposed bill entitled "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." The purpose of the proposed bill is to broaden the applicability of the emergency repair provisions and clarify the review and approval procedures for issuing emergency repair permits so to expedite the recovery of housing, public facilities, and businesses in Lahaina. The Department requests that this bill be scheduled for a hearing of the appropriate committee as soon as possible.

The existing language in the Maui County Code establishes the following process for emergency repair permits:

1. Modified permit application to prioritize and consolidate permits.

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A modified application is created to establish a special class of permit that is distinguishable from non-emergency applications. The modified application is the mechanism that enables the Department and the reviewing agencies to track the emergency repair applications and prioritize their reviews accordingly.

The modified application also allows for electrical and plumbing permits to be consolidated with the building permit application to reduce the number of permit applications that an applicant must submit.

2. Applicable to residential properties only.

Only one- and two-family dwellings that existed prior to the disaster may be repaired with an emergency repair permit. Repairs to commercial property are excluded and must be processed as a regular building permit.

3. Repairs are limited to restoring the previous condition.

Repairing damaged or destroyed homes is limited to restoring the previous structure within the previous building footprint according to permitting or real property tax records. Homeowners can only rebuild their former home and are excluded from undertaking further improvements such as rebuilding with an extra bedroom or adding an ohana unit. The footprint constraint also may reduce the usable area within older homes when they are rebuilt to comply with the current building codes.

4. Bypass agency review.

The building official is authorized to approve permits without agency review, except in the case of non-conforming dwellings. The agency reviews are not critical to an emergency repair permit because construction is limited to restoring the previous structures as they were, resulting in negligible change to land use and infrastructure needs.

5. Seven day auto-approval.

Upon receipt of all required information, an emergency repair permit is deemed approved if no action is taken by the building official within seven days or within 15 days for non-conforming structures.

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6. Deferral of permit fees.

Fees for emergency repair permits are not required at the time of permit application or issuance. Instead, fees can be paid up to two years after the date of the disaster declaration.

The language proposed by the Department seeks to modify the existing process for emergency repairs as follows:

1. Modified permit application may consolidate the department's other permits.

The modified application would be expanded to include other permits administered by the Department in addition to electrical and plumbing permits. This allows the consolidations of driveway and grading permits plus other permits that may become the responsibility of the Department.

2. Applicability expanded to commercial properties and vacant lands in the disaster area.

Commercial properties would be allowed to rebuild under the modified application in addition to residential properties. Commercial properties are the source for goods, services, and jobs that are needed by the community as they recover. Commercial properties also include apartments and multi-family structures that are a critical portion of the housing inventory needed for the survivors. Allowing the rebuilding of commercial property in the disaster area is a critical component to restoring the community.

Owners of vacant lands within the disaster area would also be eligible to undertake construction of new structures under the modified application. Given the immense housing need, allowing new construction on vacant parcels is a strategy to provide more housing opportunities for the Lahaina survivors.

3. Improvements beyond repairs allowed to support recovery.

Work proposed under a modified permit would be expanded to include the following:

- Repair of damaged structures that can still be occupied.
- Reconstruction of previously existing structures within or exceeding the previous building footprint to the extent permitted by the underlying zoning restriction and the building codes.

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- Construction of new dwellings, accessory dwellings, and commercial buildings to the extent permitted by the underlying zoning restriction and the building codes and subject to the availability of infrastructure services.

The reason for allowing rebuilt structures to exceed their previous footprint is to accommodate changes in the building footprint that may result from complying with the current building codes. The primary intent for allowing new construction is to encourage more owners to build ohana units and create more homes for survivors. Both strategies also provide flexibility to property owners so their rebuilds can better meet their recovery needs or the vision of the community.

4. Bypass agency review, except when review is deemed necessary.

Agency review is considered necessary when applications involve:

- Commercial structures.
- Lots that will contain more than two dwellings.
- Situations where an agency determines that review is necessary.

5. Fifteen-day approval, subject to limitations.

Once all required information is submitted, a property owner can request the Department to approve their application if no action is taken on the application within fifteen days. However, approvals may be withheld if disaster debris removal is not complete, essential services are not restored, an agency review is required, or a land use approval is pending. The current seven-day duration will be challenging to meet given the complexity of the current permit process and building codes. It is in the best interest of the property owner and the County to ensure a project complies with the applicable laws before construction begins as it is always much more expensive and timelier to fix errors after the work is complete. The additional time provides a more comfortable review period for the Department to conduct its reviews and lessen the risk to the property owner.

6. Deferral of permit fees until final inspection.

Fees for emergency repair permits will need to be paid once the structure is ready for final inspection. The Department is concerned that it will be difficult to collect permit fees after the structure is completed and the permit process is closed, which the current provisions allow. Instead, requiring fee payment at final inspection while the applicant is

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still engaged in the permit process will enable the Department to collect the fees more effectively.

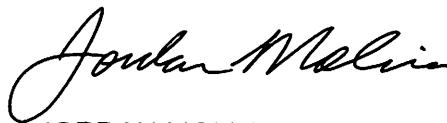
7. Re-issuance of permits and reduced permit fee for rebuilding recently built structures.

When rebuilding a destroyed structure that was built within five years prior to the date of the disaster, then the previous permits can be re-issued using the same construction plans that are on file. These projects are not so dated for there to be a need to re-review their permits. Additionally, re-issuing permits can be completed very quickly and lessens the demand for permitting services.

In the weeks following the Maui Wildfires, the County's permitting, public safety, and infrastructure agencies endeavored to assess their permit processes and the needs for rebuilding in Lahaina. In November, an Expedited Permitting Working Group was formed comprising representatives of the County reviewing agencies. The proposed revisions to emergency repair permit process were developed in collaboration among the agencies with the intent of expediting and facilitating the rebuilding and recovery of Lahaina's homes and businesses.

Thank you for your attention to this matter. Should you have any questions, please contact me at extension 7845.

Sincerely,



JORDAN MOLINA
Director of Public Works

JM:sec

Attachment

cc: Development Services Administration

s:\\PWADMIN\Jordan\Transmittals\Transmittal to Council Emergency Building Code Revisions 1.19.24.doc