ORDINANCE NO. _____

BILL NO. 156 (2025)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 12.52, MAUI COUNTY CODE, ON 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 encroachment" means the siting of an awning, canopy, marquee, sign, or other similar structure partly or wholly within a public right-of-way that replaces a legally constructed 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 encroachments permissible.** A. A building or structure that is damaged or destroyed to an extent of more than 50 percent of its replacement cost by an emergency or disaster proclaimed by the governor or mayor under section 127A-

14, Hawai'i Revised Statutes, may include replacement encroachments.

B. A building or structure may be repaired or reconstructed with a replacement encroachment on a public right-of-way and will not be a basis for a zoning or other violation subject to the following conditions:

1. The awning, canopy, marquee, sign, or other similar structure was legally constructed before the emergency or disaster proclamation.

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

3. The repair or reconstruction 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 substantially or materially interfere with public health and safety.

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

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

7. Liability for any claims for injury or damage to persons or property arising out of or in connection with the replacement 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:

Department of the Corporation Counsel
County of Maui

paf:kjh:25-239a

INTRODUCED BY:

TOM COOK