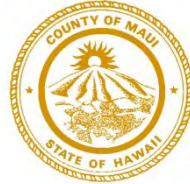


RICHARD T. BISSEN, JR.
Mayor

JOSIAH NISHITA
Managing Director



OFFICE OF THE MAYOR
COUNTY OF MAUI
200 SOUTH HIGH STREET
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TWELFTH EMERGENCY PROCLAMATION RELATING TO WILDFIRES

By the authority vested in me as Mayor of the County of Maui, by the Revised Charter of the County of Maui (1983), as amended, and the Constitution and laws of the State of Hawai'i, I, RICHARD T. BISSEN, JR., Mayor of the County of Maui of the State of Hawai'i, hereby determine, designate, and proclaim as follows:

WHEREAS, on August 8, 2023 I issued my Emergency Proclamation and declared an imminent danger of a state of emergency in all or any portion of the County of Maui; and

WHEREAS, on August 11, 2023, I issued my Second Emergency Proclamation; and

WHEREAS, on August 15, 2023, I issued my Third Emergency Proclamation; and

WHEREAS, on September 8, 2023, I issued my Fourth Emergency Proclamation; and

WHEREAS, on October 18, 2023, I issued my Fifth Emergency Proclamation; and

WHEREAS, on December 15, 2023, I issued my Sixth Emergency Proclamation; and

WHEREAS, on February 13, 2024, I issued my Seventh Emergency Proclamation; and

WHEREAS, on April 12, 2024, I issued my Eighth Emergency Proclamation; and

WHEREAS, on June 10, 2024, I issued my Ninth Emergency Proclamation; and

WHEREAS, on July 11, 2024, I issued my Tenth Emergency Proclamation; and

WHEREAS, on September 6, 2024, I issued my Eleventh Emergency Proclamation; and

WHEREAS, several large wildfires have devastated Lāhainā and parts of Kula, have caused the death of at least 102 persons, and have also caused catastrophic property damage in the Lāhainā area, as well as in portions of Kula and Olinda; and

WHEREAS, these fires have burned homes, burned thousands of acres, cut off communications, forced road and school closures, and caused evacuations of Lāhainā and portions of Upcountry; and

WHEREAS, the catastrophic conditions that continue during the debris removal process affect the health and safety of a large number of people, the need for immediate temporary housing for the thousands of persons who are displaced because of the fires, as well as the commencement of rebuilding homes in Lahaina and Kula make it necessary for me to supplement my emergency proclamation in order to ensure a continued and effective County-wide response to the conditions caused by the wildfires; and

WHEREAS, on July 10, 2024, a new fire, known as the “Crater Road Fire” in Kula, commenced in the early evening and has burned approximately 410 acres so far and imposes a serious and imminent danger to homes above Kekaulike Avenue and Haleakala Highway between Upper Kimo Drive and Waipoli Road, and continues to grow in acreage; and

WHEREAS, County of Maui Ordinance 5434 (Bill No. 21, CD2, FC2, (2022), Section 20.35.070 [*Exemptions*], subsection (B) exempts all outdoor lighting fixtures legally installed prior to enactment of Ordinance 5434 from subsections 20.30.060(D) and (E) of the ordinance for three years from July 1, 2023, the effective date of the Ordinance; and

WHEREAS, the replacement of outdoor street lighting damaged or destroyed by the Lahaina wildfire(s) is needed on an emergency basis to ensure the immediate public pedestrian, motorist, and traffic safety at night;

WHEREAS, Chapter 127A Hawai'i Revised Statutes (“Haw. Rev. Stat.”), provides for the establishment of County Organizations for emergency management and disaster relief with the Mayor having direct responsibility and authority over emergency management within the County; and

WHEREAS, due to the continued disaster that has caused property damage, death and/or bodily injury to residents of the County, and the need for government agencies and representatives from the private sector

to mobilize and provide immediate services to our island residents, a Civil Defense state of emergency is authorized pursuant to Chapter 127A, Haw. Rev. Stat., as amended; and

WHEREAS, there is need for government agencies and representatives from the private sector to mobilize and provide immediate services to County residents and to mitigate hazardous situations caused as a result of the wildfires; and

WHEREAS, pursuant to Haw. Rev. Stat. §127A-14(b), the Mayor is authorized to declare by proclamation whether an emergency or disaster has occurred, or there is an imminent danger or threat of an emergency or disaster and authorize actions under Haw. Rev. Stat. Chapter 127A, and the expenditure of funds thereunder; and

WHEREAS, pursuant to Haw. Rev. Stat. §127A-13(b)(2), the Mayor may suspend any County law that impedes or tends to impede, or that may be detrimental to the expeditious and efficient execution of, or to conflict with, emergency functions; and

WHEREAS, Haw. Rev. Stat. §127A-13(b)(5) further provides that the Mayor may exercise any additional emergency functions to the extent necessary to prevent hoarding, waste, destruction of materials, supplies, commodities, accommodations, facilities, and services to effectuate equitable distributions as the public welfare may require; and

WHEREAS, pursuant to Haw. Rev. Stat. §127A-12(a)(5), the Mayor may direct or control, as may be necessary for emergency management, alerts, warnings, notifications, and activations; warnings and signals for alerts and any type of warning device, system, or method to be used in connection therewith; partial or full mobilization of personnel in advance of or in response to an actual emergency or disaster; the conduct of civilians and the movement and cessation of movement of pedestrians and vehicular traffic during, before, and after alerts, emergencies, or disasters; and

WHEREAS, pursuant to Haw. Rev. Stat. §127A-12(c)(17), the Mayor may take any and all steps necessary or appropriate to carry out the purposes of Haw. Rev. Stat. Chapter 127A, notwithstanding that powers in Haw. Rev. Stat. §127A-13(b) may only be exercised during an emergency period.

NOW, THEREFORE, I, RICHARD T. BISSEN, JR., Mayor of the County of Maui, pursuant to the authority vested in me as the Mayor of the County of Maui as set forth above, in order to promote and protect the public health, safety, and welfare of the residents and visitors of the County of Maui, do hereby proclaim, determine, declare, and find that:

1. There is continued danger of a state of emergency in all or any portion of the County of Maui, as of the date and time of this Proclamation; and
2. Any public property of the County, real or personal, may be possessed, used, managed, controlled, or reallocated as I require for the purposes of emergency management functions under Haw. Rev. Stat. Chapter 127A, including parks, playgrounds, and other public or private buildings; and
3. The provisions, in whole or in part, of Haw. Rev. Stat. Chapter 103D and Haw. Rev. Stat. §§103-50, 103-53, 103-55, 105-1 to 105-10, and 464-4 that impede or tend to impede the expeditious discharge of the functions of emergency management, or that compliance therewith is impracticable due to existing conditions and, therefore, such provisions shall not apply to any such emergency management functions; and
4. Without regard to Haw. Rev. Stat. Chapters 76, 78, and 88, agencies, officials, officers, employees of the County and other persons may be ordered and directed as I deem necessary to carry out emergency management functions under Haw. Rev. Stat. Chapter 127A; and
5. Unless otherwise stated in the Rules Relating to Temporary Structures Pursuant to the Mayor's Twelfth Emergency Proclamation Relating to Wildfires, attached hereto, the following provisions of the Maui County Code, in whole or in part, shall be suspended: Title 10 (vehicles and traffic); Title 11 (public transit); Title 12 (streets, sidewalks and public places, except in the case of permitting for reconstruction of structures destroyed by the wildfires, in which case Chapter 12.08 shall be complied with unless otherwise directed by the director of Public Works); Title 14 (public services); Title 16 (buildings and construction, except in the case of permitting for reconstruction of structures destroyed by the wildfires, in which case the Hawaii State Energy Code shall be complied with unless otherwise directed by the director of Public Works); Title 19 (zoning); Title 20 with the following special provisions: (1) such suspension shall include emergency replacement of all outdoor streetlighting fixtures damaged or destroyed in the Lahaina wildfires with the same or like fixture, including either of the two type fixtures that were legally installed prior to enactment of Ordinance 5434, which fixtures are identified as M-250A2 Powr/Door™ with Cutoff Optics (M2AC) HPS fixture,

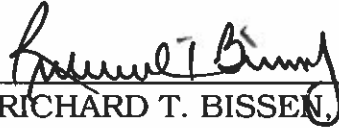
and G.E. Evolve LED ERL1 dimmed to 80% of the fixture's lumen output; and (2) In the case of permitting for reconstruction of structures destroyed by the wildfires, Chapter 20.08 shall be complied with unless otherwise directed by the director of Public Works); and Chapter 3.48 (payment of real property taxes), to the extent that they impede the expeditious discharge of emergency management functions as defined in Haw. Rev. Stat. §127A-2 and as directed or approved by a State, County, or Federal agency, in direct response to, and or management or remediation of the fire affected areas for the purpose of securing public health and safety, or when the compliance therewith is impracticable due to existing conditions; and

6. All County officers and employees shall be required to take all steps requested by the State of Hawai'i Director of Department of Health to qualify the County of Maui for reimbursement from the Federal Emergency Management Agency and for other state and federal relief as may be available to reimburse the County of Maui for the expenses it incurs in addressing this emergency; and
7. Pursuant to Haw. Rev. Stat. §§127A-12(a)(5), 127A-13(b)(3), and 127A-13(b)(4), the Administrator of the Maui Emergency Management Agency is, as may be necessary for emergency management, directed to take appropriate actions to direct or control:
 - a. Alerts, warnings, notifications, and activations;
 - b. Warnings and signals for alerts and any type or warning device, system, or method to be used in connection therewith;
 - c. Partial or full mobilization of personnel in advance of or in response to an actual emergency or disaster;
 - d. The conduct of civilians and the movement and cessation of movement of pedestrians and vehicular traffic before, during, and after alerts, emergencies, or disasters;
 - e. Shut off water mains, gas mains, electric power connections, or suspension of other services; and
 - f. Mandatory evacuation of the civilian population.
8. Pursuant to Haw. Rev. Stat. §127A-12(c), in order to provide emergency disaster relief, I hereby direct all County agencies and officers to cooperate with and extend their services, materials, and facilities as may be required to assist in all efforts to eliminate the danger; and

9. Pursuant to Haw. Rev. Stat. §§127A-12(a)(5)(D), 127A-12(c)(12), and 127A-25, entry to the Lāhainā wildfire disaster area is prohibited unless authorized. The “Lāhainā wildfire disaster area” includes the area delineated by government placed barriers; and


Violation of this Proclamation is a misdemeanor, subject to penalty pursuant to Haw. Rev. Stat. §127A-29.

I FURTHER DECLARE that this Proclamation supersedes Mayor Richard T. Bissen Jr.'s September 6, 2024 Eleventh Emergency Proclamation. This Proclamation of Emergency is effective October 7, 2024, and shall terminate on the first to occur of (1) sixty (60) days after the date of this Twelfth Proclamation, or (2) issuance of a Declaration of Termination of Emergency issued by the undersigned, whichever occurs first. Pursuant to this Twelfth Proclamation, I hereby exercise any and all powers listed in Haw. Rev. Stat. Chapter 127A.



RICHARD T. BISSEN, JR., Mayor
County of Maui
October 7, 2024

APPROVED AS TO FORM AND LEGALITY:



MIMI DESJARDINS
First Deputy Corporation Counsel
LF2023-1216
2024-10-07 Twelfth Emergency Proclamation

RULES RELATING TO TEMPORARY STRUCTURES PURSUANT TO THE MAYOR'S TWELFTH EMERGENCY PROCLAMATION RELATING TO WILDFIRES

§1 PURPOSE AND AUTHORITY

§2 DEFINITIONS

§3 REQUIREMENTS FOR THE CONSTRUCTION OF TEMPORARY STRUCTURES

§1. Purpose and Authority. These rules are adopted pursuant to §127A-25, Hawai'i Revised Statutes ("HRS"), and have the force and effect of the law. They are promulgated for the purpose of providing requirements that must be established in relation to the erection or construction of temporary buildings in response to the wildfires in Lāhainā, Kula, and Olinda.

§2. Definitions. For purposes of these rules, and in addition to the definitions set forth in Haw. Rev. Stat. §127A-2, the following definitions apply:

"Project" means the plans for the development of temporary structure(s).

"Temporary structure" includes, but is not limited to structures, motor vehicles, trailers, and recreational vehicles used for housing, schools, medical facilities, financial institutions, and food distribution sites which may include food and service provider vendors, and has been approved for processing under these rules by the Office of Recovery.

§3. Requirements for the construction of temporary structures. Projects seeking approval for the construction of any temporary structure must comply with the following:

A. All ground altering activities shall comply with Maui County Code ("MCC") Chapter 20.08, or as directed by the Director of Public Works.

B. For Projects that will be connected to an already existing septic system, full compliance with all applicable State of Hawai'i, Department of Health rules and regulations.

C. For Projects containing structures that are not certified by the United States Department of Housing and Urban Development (HUD) or compliant with MCC 16.26C (Building Code), a certification shall be

executed by a licensed professional, on a form provided by the Department of Public Works, verifying that the structure is constructed in a safe manner, is properly anchored and does not pose a life safety or fire safety hazard. Certified structures do not need to be removed during severe weather. No certificate of occupancy shall be provided.

D. For projects that will be connected to the County of Maui's wastewater system, approval by the Wastewater Reclamation Division and State of Hawai'i, Department of Health for verification of compliance with all applicable rules and regulations.

E. For Projects containing structures and other site work that are not certified by the United States Department of Housing and Urban Development (HUD) or compliant with MCC 16.18B (Electrical Code) and 16.20C (Plumbing Code), certifications shall be executed by appropriate licensed professionals and licensed contractors, on a form provided by the Department of Public Works, verifying that the electrical and plumbing work is safe and ready for use. Electrical and plumbing permits shall not be required, except that projects requiring a connection to a gas system shall obtain a plumbing permit. The electrical contractor shall be responsible for providing appropriate certifications to the electric utility provider when requesting service.

F. For upcountry proposed Projects subject to MCC Chapter 14.13, the Project's water demand must be within the existing water meter's capacity and must have adequate fire flow demand for the use. For all other locations, temporary construction meters may be issued if approved by the Department of Water Supply, and includes temporary waiver of the water system development fee, provided the existing system has adequate fire flow demand for the use or shall make appropriate improvements to the system to meet the fire requirements. For all areas, the use of water source credits may be allowed to issue a temporary water meter, subject to the Department of Water Supply approval.

G. If a proposed Project is within the Shoreline Management Area, a Flood Hazard Zone, Historic Districts 1, 2 or 3, the National Historic Landmark Boundary, planned developments, or a project district, the Planning Department shall require additional review and the Project may require relevant permit approvals.

H. All proposed Projects shall comply with MCC 20.16.050, except Sections B and C, and no certificate of occupancy shall be required. The director of Environmental Management shall have the discretion to impose other conditions if necessary.

I. Construction of any Temporary Structure requires that a building permit be obtained from the Department of Public Works.

J. Any project that is constructed under this Proclamation shall terminate all use within 120 days and be removed within 180 days of the end of this Proclamation.