

REQUEST FOR LEGAL SERVICES

Date: April 3, 2017
From: Riki Hokama, Chair
Budget and Finance Committee

TRANSMITTAL

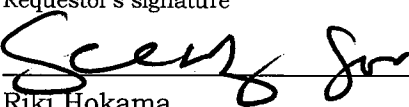
Memo to: DEPARTMENT OF THE CORPORATION COUNSEL
Attention: Patrick K. Wong, Esq.

Subject: Concessions and Sponsorships in County Parks and Recreational Facilities (BF-129)

Background Data: Review and approve revised proposed bill incorporating (1) amendments as recommended by the BF Committee, and (2) nonsubstantive revisions required because of the proposed repeal of section 13.04A.140, Maui County Code. A copy of the track-changes version of the bill is transmitted with this request. In your response, please provide an original, signed hard copy.

Work Requested: ☒ [X] FOR APPROVAL AS TO FORM AND LEGALITY

☐ [] OTHER:

Requestor's signature  Riki Hokama	Contact Person Traci Fujita (Telephone Extension: 7687)
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☐ [] ROUTINE (WITHIN 15 WORKING DAYS) ☐ [] RUSH (WITHIN 5 WORKING DAYS)
☐ [] PRIORITY (WITHIN 10 WORKING DAYS) ☐ [] URGENT (WITHIN 3 WORKING DAYS)

☒ [X] SPECIFY DUE DATE (IF IMPOSED BY SPECIFIC CIRCUMSTANCES): April 12, 2017

REASON: To meet posting deadline for April 21 Council meeting

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)

bf:ltr:129acc02:tntf

Attachments

ORDINANCE NO. _____

BILL NO. _____ (2017)

A BILL FOR AN ORDINANCE RELATING TO CONCESSIONS AND
SPONSORSHIPS IN COUNTY PARKS AND RECREATIONAL FACILITIES

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

SECTION 1. Purpose. The purpose of this ordinance is to establish a policy for the Department of Parks and Recreation's awarding and administering of concessions and sponsorships and the establishment of a fund for the deposit of all funds received from concessions and sponsorships.

SECTION 2. Section 13.04A.030, Maui County Code, is amended by adding new definitions to be appropriately inserted and to read as follows:

"Concession" has the same meaning as defined in section 3.40.030 of this code.

"Concessionaire" means a person or entity having a concession agreement with the County under this chapter.

"Sponsor" means a person or entity that provides value to the department and is recognized or acknowledged by the department in exchange for the contribution.

"Sponsorship agreement" means the document setting forth the terms of the agreement between the sponsor and the department."

SECTION 3. Chapter 13.04A, Maui County Code, is amended by adding a new article to be appropriately designated and to read as follows:

"Article VIII. Concessions, Sponsorships, and Donations.

13.04A.410 Policy. Concessions, sponsorships, and donations are to improve and enhance existing and future County parks and recreational facilities and to provide for maximum programming opportunities to increase the community benefit and overall use.

13.04A.420 Concessions. A. Concession awards and grants shall be processed in accordance with chapter 3.40 of this code.

B. Refreshment concessions. Refreshment concessions in parks or recreational facilities shall be administered by the director of finance as follows:

1. The director of finance, in consultation with the director and in conjunction with the requirements of subsection C, shall designate buildings within parks and recreational areas that are suitable for permanent refreshment concession facilities.

2. Permanent refreshment concession facilities shall be administered in accordance with chapter 3.40 of this code.

3. Temporary refreshment concessions may be authorized in accordance with section 3.40.190(A)(7) of this code by the director of finance in conjunction with a permit issued pursuant to this chapter for the use of parks and recreational facilities which are not designated as permanent refreshment concessions.

C. Facilities. Subject to written approval by the director of finance, on or before March 1 of each year, the director shall designate parks and buildings within the County parks and recreational areas that are suitable for concession facilities and sponsorships.

13.04A.430 Sponsorships. A. The director may enter into an agreement, exclusive or non-exclusive, with a sponsor, subject to the requirements of Chapter 102, Hawaii Revised Statutes, where applicable, that may include, but shall not be limited to:

1. Naming rights for a County park or recreational facility.

a. Naming rights shall enhance, not replace, the names designated in chapter 12.40 of this code.

b. Naming rights under a sponsorship shall be exempt from the requirements of chapter 2.98 of this code **except for section 2.98.040(C) establishing criteria and standards for naming parks and facilities.**

2. Advertising rights at or in a County park, recreational facility, program, or event. Advertising shall include, but not be limited to the following:

a. Sponsor signs and banners;

b. Sponsor logos on publicity materials, including programs, posters, advertisements, and tickets;

- c. Acknowledgment in news releases and media;
 - d. Verbal announcements;
 - e. On-site displays;
 - f. Product sampling and other merchandizing;
 - g. Exclusivity for product or service; or
 - h. Hospitality, including designated parking, seating, and tickets.
- 3. Sponsorship of a signature event or festival.
 - 4. Acknowledgement or recognition in media releases and promotional materials of a program or event.
 - 5. Recognition on the program or event website.
 - 6. Purchasing or providing funds for park components in return for acknowledgement or recognition.
 - 7. An adopt-a-park or adopt-a-facility program.

[CE1]B. All messages conveyed by sponsors, in relation to sponsorship agreements, shall not include:

- 1. Political campaign speech;
- 2. Religious speech that advocates or opposes a religion or religious belief; or
- 3. Entities that practice or promote discrimination based on race, color, creed, religion, sex, national origin, sexual orientation, gender identity, disability, marital status, socioeconomic status, or age.

C. Unless authorized in accordance with law, sponsors shall not use the County name, seal, or other insignia.

D. Sponsorships and all messages conveyed shall be consistent with the image, values, and objectives of the County.

E. Value. Sponsorship agreements shall be valued by the director in an amount commensurate with the relative value of the benefit conferred upon the sponsor.

F. Approval. All sponsorship agreements shall be subject to review by the corporation counsel and those with a value in excess of \$5,000 shall be subject to council approval by resolution. Notwithstanding the foregoing, all sponsorship agreements involving naming rights shall be subject to **criteria and standards set forth in section 2.98.040(C) and shall be by two-thirds** council approval by resolution.

G. All advertising shall comply with all applicable laws, including those relating to signs and shall be submitted to the director prior to approval in sufficient detail to determine content and final general appearance.

H. Reports. On or before March 1 of each year, the director shall provide to the council a detailed report on the financial

activities, revenues, and status of each sponsorship award during the prior year.

13.04A.440 Donations. Notwithstanding the requirements of chapter 3.56 of this code, the director may accept donations with a value not exceeding \$5,000. All donations valued in excess of \$5,000 shall be subject to council approval by resolution.

13.04A.450 Indemnity; Insurance. All concessionaires and sponsors shall be required to execute an indemnity agreement with the County and maintain insurance policies with coverage in amounts determined by the County.

13.04A.460 County parks special revolving fund. A. There is established and created a fund to be known as the “County parks special revolving fund,” into which all proceeds received by the department under this article shall be deposited.

B. Notwithstanding the general budget provisions of the annual budget ordinance relating to special purpose revenues, all proceeds collected by the department under this article shall require council approval to expend for purposes relating to the implementation of this chapter, such as the provision of salaries, operations, the purchase of equipment, payment of debt service, and the maintenance of County property.

13.04A.470 No right to use. Nothing in this article shall be construed as conveying a right to use any real or personal property under the control and management of the department.”

SECTION 4. Section 3.40.010, Maui County Code, is amended to read as follows:

“3.40.010 Establishment of policy. Pursuant to section 8-4.3.10, Revised Charter of the County of Maui (1983), as amended, the following is declared to be the policy of the County governing the leasing, renting, and letting of real property and the awarding of concessions of the [county,] County, except as otherwise provided in [section 13.04A.140.] article VIII of chapter 13.04A of this code.”

SECTION 5. Section 13.04A.030, Maui County Code, is amended by amending the definition of “community class permit” to read as follows:

““Community class permit” means lessons, instruction, or classes offered to the general public and conducted by an instructor approved by the department. Class participation charges or fees are allowed within the limits established by the department. Temporary refreshment concessions in accordance with section [13.04A.140] 13.04A.420(B) are prohibited.”

SECTION **46**. Section 13.04A.140, Maui County Code, is repealed.

[13.04A.140 Refreshment concessions. Refreshment concessions in parks or recreational facilities shall be administered by the director of finance as follows:

A. The director of finance shall designate buildings within parks and recreational areas that are suitable for permanent refreshment concession facilities.

B. Permanent refreshment concession facilities shall be administered in accordance with chapter 3.40.

C. Temporary refreshment concessions may be authorized in accordance with section 3.40.190(A)(7), by the director of finance in conjunction with a permit issued pursuant to this chapter for the use of parks and recreational facilities which are not designated as permanent refreshment concessions.]

SECTION **57**. Material to be repealed is bracketed. New material is underscored. In printing this bill, the County Clerk need not include the brackets, the bracketed material, or the underscoring.

SECTION **68**. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM AND LEGALITY:

JEFFREY UEOKA
Department of the Corporation Counsel
County of Maui
~~2016-0665/2017-0093~~
~~BF 129~~ 2017-03-17
~~Ordinance~~**bf:misc:129**~~abill03~~