

REQUEST FOR LEGAL SERVICES

RECEIVED

By Corporation Counsel at 8:25 am, Aug 16, 2016

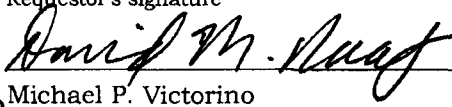
Date: August 15, 2016
From: Michael P. Victorino, Chair
Policy and Intergovernmental Affairs Committee

TRANSMITTAL
Memo to: DEPARTMENT OF THE CORPORATION COUNSEL
Attention: Edward S. Kushi, Jr., Esq.

Subject: **SMOKING PROHIBITIONS** (PIA-58)

Background Data: Bill has been revised to delete references to Chapter 13.04, Maui County Code, because of the enactment of Ordinance 4302 (2016).

Work Requested: FOR APPROVAL AS TO FORM AND LEGALITY
 OTHER:

Requestor's signature  Michael P. Victorino	Contact Person <u>Kim Willenbrink</u> (Telephone Extension: 7761)
--	---

ROUTINE (WITHIN 15 WORKING DAYS) RUSH (WITHIN 5 WORKING DAYS)
 PRIORITY (WITHIN 10 WORKING DAYS) URGENT (WITHIN 3 WORKING DAYS)

SPECIFY DUE DATE (IF IMPOSED BY SPECIFIC CIRCUMSTANCES): _____
REASON: _____

FOR CORPORATION COUNSEL'S RESPONSE

ASSIGNED TO: ESK	ASSIGNMENT NO. 2014-2966	BY: LUV
------------------	--------------------------	---------

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 9/7/16

By 
(Rev. 7/03)

pia:ltr:058acc01:cmn

Attachment

ORDINANCE NO. _____

BILL NO. _____ (2016)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 8.20, MAUI COUNTY
CODE, RELATING TO SMOKING PROHIBITIONS

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

SECTION 1. The purpose of this ordinance is to prohibit the smoking of a broader array of tobacco products, including the use of electronic smoking devices, in places where smoking is already prohibited, consistent with the expanded definition of “smoke’ or ‘smoking” under Section 328J-1, Hawaii Revised Statutes, which went into effect on January 1, 2016.

SECTION 2. Section 8.20.020, Maui County Code, is amended by amending the definition of “smoke’ or ‘smoking” to read as follows:

“Smoke” or “smoking” means inhaling, [or] exhaling, [upon,] burning, or carrying any [lit cigarette, cigar or pipe.] lighted or heated tobacco product, or plant product intended for inhalation in any manner or in any form. “Smoking” includes the use of an electronic smoking device.”

SECTION 3. Section 8.20.030, Maui County Code, is amended to read as follows:

“8.20.030 Prohibition in certain areas. No person shall smoke in the following areas:

A. Any enclosed or partially enclosed area or building owned, leased, operated, or maintained by the County, except for residential dwelling units, which shall be regulated herein as multifamily dwellings.

B. Elevators in buildings generally open to and used by the public, including elevators in apartments and other multi-unit residential buildings.

C. Patient rooms, wards, waiting rooms, lobbies, and public hallways of public and private health care facilities, including but not limited to, hospitals, clinics, and physician and dental offices.

D. Rooms, halls, or auditoriums that are primarily used for exhibiting motion pictures, stage dramas, dance, musical performances, or other similar performances during the time that such rooms, halls, or auditoriums are open to the public for such exhibition.

E. Museums, libraries, and galleries.

F. All areas open to the public in the following business establishments:

1. Food and grocery stores and supermarkets.
2. Drug stores.
3. Banks, savings and loan associations, financial services loan companies, and credit unions.
4. Day care nurseries during business hours.
5. Retail stores, except for retail tobacco stores.

G. Any restrooms open to the public in places specified in this section.

H. Any areas of any business or charitable establishment that have been designated by the owner, operator, manager, or other persons having control of such establishment as a no-smoking area and marked with signs described in section 8.20.035.

I. All enclosed or partially enclosed areas within multifamily dwellings that are open to the common use of all unit owners or residents, including but not limited to, lobbies, hallways, corridors, stairways, waiting areas, and recreation areas.

J. All enclosed or partially enclosed areas within commercial buildings not subject to the exclusive use and possession of a tenant and open to the common use of the tenants of the building and their employees and customers, other than bars, including but not limited to, common entrance areas, lobbies, malls, hallways, corridors, escalators, stairways, and waiting or rest areas within commercial buildings.

K. All of the areas set forth in subsections I and J in the event a building is both a multifamily dwelling and a commercial building.

L. All enclosed or partially enclosed areas within hotels that are open to the common use of the public, hotel guests, or hotel employees, other than bars, including but not limited to, lobbies, hallways, corridors, stairways, waiting areas, recreation areas, banquet halls, banquet rooms, and ballrooms.

M. All of the areas set forth in subsections J and L in the event a building is both a commercial building and a hotel.

N. All vehicles owned or leased by the County.

O. Any taxicab designated as a no-smoking taxicab by its owner or driver, provided that the no-smoking taxicab displays the international "no-smoking" symbol in the following locations:

1. Inside the taxicab on the glove compartment so that it is visible to any person seated in the front passenger seat area and on the back of the front seat so that it is visible to any passenger seated in the rear of the taxicab.

2. Outside the taxicab below each of the passenger door handles or affixed to the upper part of the windows of each passenger door. Such exterior symbols may be decals, magnetic, or painted directly on the vehicle doors or windows.

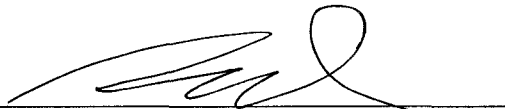
P. Any restaurant, including a bar area within a restaurant's premises.

Q. Any bus stop established pursuant to chapter 11.07 of this code. The area of the bus stop for which the smoking prohibition applies shall extend out from the bus stop sign and the footprint of the shelter in every direction by twenty feet. The footprint of the shelter is defined by vertical planes extending down from the outermost edges of the shelter overhang or roof, if any. [For purposes of this subsection, "smoke" or "smoking" means inhaling, exhaling, burning, or carrying any lighted or heated tobacco product or plant product intended for inhalation in any manner or in any form; "smoking" includes the use of an electronic smoking device.]

SECTION 4. 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 5. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM AND LEGALITY:



Department of the Corporation Counsel
County of Maui
2014-2966
PIA-58 2016-08-17 Chapter 8.20, MCC, Smoking
Prohibitions