

REQUEST FOR LEGAL SERVICES

Date: July 22, 2021
From: Kelly Takaya King, Chair
Climate Action, Resilience, and Environment Committee

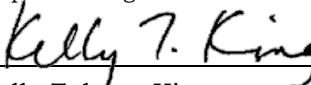
TRANSMITTAL

Memo to: DEPARTMENT OF THE CORPORATION COUNSEL
Attention: Keola Whittaker, Esq.

Subject: Integrated Pest and Environmental Management on County Property (CARE-23)

Background Data: Please see the attached bill as recommended by the CARE Committee for passage on first reading. Please submit the response to care.committee@mauicounty.us with a reference to CARE-23.

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

Requestor's signature  Kelly Takaya King	Contact Person Nicole Siegel or James Forrest (Telephone Extension: 8008 or 7137, respectively)
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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): July 28, 2021
REASON: For posting on the August 6, 2021, Council meeting agenda

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)

care:ltr:023acc01:nas

Attachment

ORDINANCE NO. _____

BILL NO. _____ (2021)

A BILL FOR AN ORDINANCE ESTABLISHING CHAPTER 2.50, MAUI COUNTY
CODE, RELATING TO PESTICIDE AND FERTILIZER USE ON COUNTY
PROPERTY

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

SECTION 1. Title 2, Maui County Code, is amended by adding a new
chapter to be appropriately designated and to read as follows:

“Chapter 2.50

PESTICIDE AND FERTILIZER USE ON COUNTY PROPERTY

Sections:

2.50.010	Purpose.
2.50.020	Definitions.
2.50.030	Administrative rules.
2.50.040	Pesticide and fertilizer use on County property.
2.50.050	Waiver.
2.50.060	No conflict with federal or state law.

2.50.010 Purpose. The purpose of this chapter is to exercise the County’s proprietary function, as a property owner and manager, by determining the categories of pesticide and fertilizer allowed for use on County property.

2.50.020 Definitions. Whenever used in this chapter, unless the context otherwise requires:

“County property” means the same as in section 13.04A.030 of this code, but does not include property subject to State executive order, County agricultural parks, or County property used for agricultural purposes.

2.50.030 Administrative rules. The director of public works may adopt administrative rules to implement this chapter.

2.50.040 Pesticide and fertilizer use on County property.

- A. The following are allowed for use on County property:
1. Pesticides and fertilizers listed as “allowed” on the National List of Allowed and Prohibited Substances as listed in title 7 Code of Federal Regulations 205.601, 205.603, 205.605, and 205.606.
 2. “Minimum risk pesticides” exempt from registration under the Federal Insecticide, Fungicide, and Rodenticide Act as provided in title 40 Code of Federal Regulations section 152.25(f).
 3. The following, when used in compliance with manufacturer specifications:
 - a. Disinfectants, germicides, bactericides, miticides, and virucides.
 - b. Insect repellents.
 - c. Rat and rodent extermination products.
 - d. Swimming pool supplies.
 - e. General use paints, stains, and wood preservatives, and sealants.
 - f. Citric acid.
- B. Unless a waiver is approved under section 2.50.050, use of pesticides and fertilizers on County property not allowed under section 2.50.040(A) is prohibited, except that otherwise prohibited pesticides may be used to control:
1. Mosquitoes.
 2. Animals or insects, such as fire ants or termites, that may cause damage to buildings and structures.
 3. Invasive species whose introduction does, or is likely to, cause economic or environmental harm or harm to human health.

2.50.050 Waiver. A. Agencies may apply to the council for a waiver from section 2.50.040 prior to the use of a prohibited pesticide or fertilizer.

- B. The waiver application must include:
1. A location map for the proposed usage area.
 2. A landscape plan.
 3. Photographs of areas and vegetation.
 4. A summary of the existing plants, soils, and environmental conditions for each area.
 5. A history of vegetation management practices, including fertilizer and pesticide application amounts and frequency.
 6. Cost estimates and a timeline.
 7. Information on how the public’s health and safety is threatened.

8. An evaluation and list of the results of alternative methods and materials.

9. An explanation of how the application of otherwise prohibited substances will, to the greatest extent practical, minimize the impact of the application on abutting properties, human health, and the environment.

C. The council may approve a waiver or waiver extension by resolution upon finding the following:

1. A situation exists that threatens the public's health and safety.

2. Alternative control methods and allowed substances have been evaluated and determined to be insufficient.

3. The application of otherwise prohibited substances will, to the greatest extent practical, minimize the impact of the application on abutting properties.

D. Waivers may be granted for a period of up to two years, and may include conditions such as signage to protect public health and safety.

E. Waiver extension requests must be submitted at least ninety days prior to the expiration date and must include the same information as a waiver application.

F. If the council fails to approve or disapprove a waiver application or waiver extension request by resolution within one hundred eighty days, the application or request will be automatically approved.

2.50.060 No conflict with federal or state law. Nothing in this chapter will be interpreted or applied so as to create any requirement or duty in conflict with any federal or state law.”

SECTION 2. This Ordinance takes effect one year after its approval, except for pesticides and fertilizers used at the Waiehu Municipal Golf Course, War Memorial Stadium Complex, and Ichiro “Iron” Maehara Baseball Stadium, which takes effect three years after its approval.

APPROVED AS TO FORM AND LEGALITY:

Department of the Corporation Counsel
County of Maui

care:misc:023abill01:nas