

# REQUEST FOR LEGAL SERVICES

RECEIVED  
CORPORATION COUNSEL

Date: November 21, 2018

From: Yuki Lei K. Sugimura, Chair

2018 NOV 21 PM 1:48

Policy, Economic Development, and Agriculture Committee

TRANSMITTAL

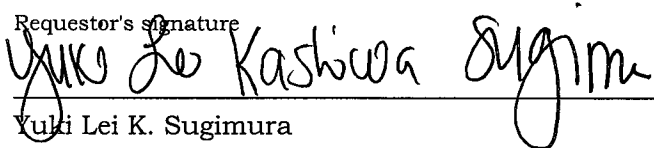
Memo to: DEPARTMENT OF THE CORPORATION COUNSEL  
Attention: Edward S. Kushi, Jr., Esq.

Subject: **SMOKING PROHIBITIONS** (PEA-13)

Background Data: Please approve as to form and legality the attached revised proposed bill incorporating a revision made at the November 20, 2018 PEA Committee meeting.

Work Requested:  FOR APPROVAL AS TO FORM AND LEGALITY

OTHER:

Requestor's signature  Yuki Lei K. Sugimura	Contact Person Shelly Espeleta (Telephone Extension: 7134)
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RECEIVED  
OFFICE OF THE  
COUNTY COUNCIL  
2018 NOV 26 AM 9:42

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

SPECIFY DUE DATE (IF IMPOSED BY SPECIFIC CIRCUMSTANCES): 11/29/2018  
REASON: To submit for posting on the 12/11/2018 Council meeting agenda.

### FOR CORPORATION COUNSEL'S RESPONSE

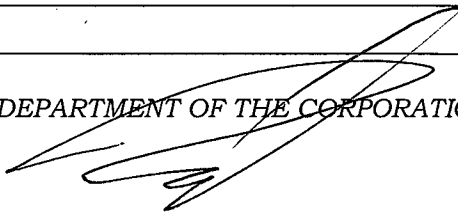
ASSIGNED TO: <u>ESK</u>	ASSIGNMENT NO. <u>2017-0098</u>	BY:
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TO REQUESTOR:  APPROVED  DISAPPROVED  OTHER (SEE COMMENTS BELOW)  
 RETURNING--PLEASE EXPAND AND PROVIDE DETAILS REGARDING ITEMS AS NOTED

COMMENTS (NOTE - THIS SECTION NOT TO BE USED FOR LEGAL ADVICE): \_\_\_\_\_

\_\_\_\_\_

Date 11/23/18

DEPARTMENT OF THE CORPORATION COUNSEL  
By 

(Rev. 7/03)

ORDINANCE NO. \_\_\_\_\_

BILL NO. \_\_\_\_\_ (2018)

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

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

SECTION 1. The purpose of this ordinance is to better protect the public from secondhand smoke by regulating the use of electronic smoking devices in the same manner as the smoking of tobacco and other plant products.

SECTION 2. Section 8.20.010, Maui County Code, is amended to read as follows:

**“8.20.010 Purpose.** Because smoking of tobacco or any other plant [is a positive danger] and the use of electronic smoking devices are known dangers to health and a cause of material annoyance, inconvenience, discomfort and a health hazard to those County employees and members of the public who are present in confined places; and in order to serve public health, safety and welfare, the declared purpose of this chapter is to prohibit the smoking of tobacco or any other plant and the use of electronic smoking devices in certain areas in the County. The terms of this chapter shall be liberally construed to effectuate the purpose stated in this section, and shall be read in conjunction with applicable state laws regarding smoking in the workplace and public places.”

SECTION 3. 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 4. 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.

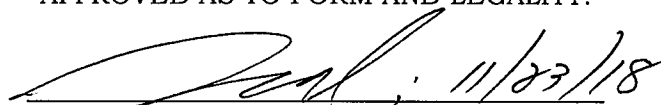
Q. Any bus stop established pursuant to chapter 11.07 of this code. The area of the bus stop for which the smoking prohibition applies shall extend out from the bus stop sign and the footprint of the shelter in every direction by twenty feet. The footprint of the shelter is defined by vertical planes 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.]

R. Any motor vehicle operated on a public roadway, or a private roadway open to the public, whenever occupied by a person under eighteen years of age. [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 5. 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 6. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM AND LEGALITY:

Handwritten signature of Edward S. Kushi, Jr. dated 11/23/18.

EDWARD S. KUSHI, JR.  
Department of the Corporation Counsel  
County of Maui  
2018-1379  
2018-10-05 Ordinance