

REQUEST FOR LEGAL SERVICES

RECEIVED
CORPORATION COUNSEL

Date: February 20, 2018

From: Don S. Guzman, Chair

2018 FEB 21 AM 7: 56

Parks, Recreation, Energy, and Legal Affairs Committee

TRANSMITTAL

Memo to: DEPARTMENT OF THE CORPORATION COUNSEL
Attention: Jerrie Sheppard, Esq.

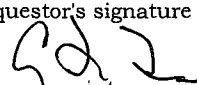
Subject: **WAIEHU MUNICIPAL GOLF COURSE OPERATIONS AND IMPROVEMENTS** (PRL-30)

Background Data: Please review and, if appropriate, approve as to form and legality, the attached revised proposed bill. A signed, hard copy is requested.

Work Requested: FOR APPROVAL AS TO FORM AND LEGALITY

OTHER:

RECEIVED
2018 FEB 21 AM 11: 42
OFFICE OF THE
COUNTY COUNCIL

Requestor's signature  Don S. Guzman	Contact Person <u>Maggie Clark</u> (Telephone Extension: <u>7661</u>)
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- 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): February 23, 2018

REASON: For possible distribution at the February 27, 2018 Committee meeting.

FOR CORPORATION COUNSEL'S RESPONSE

ASSIGNED TO: <u>JLQ</u>	ASSIGNMENT NO. <u>2017-0099</u>	BY: <u>ktw</u>
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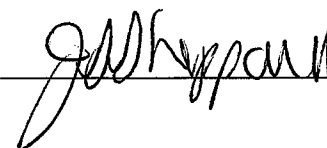
TO REQUESTOR: APPROVED DISAPPROVED OTHER (SEE COMMENTS BELOW)
 RETURNING--PLEASE EXPAND AND PROVIDE DETAILS REGARDING ITEMS AS NOTED

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

Changes approved/signed.

DEPARTMENT OF THE CORPORATION COUNSEL

Date 2/21/2018

By  (Rev. 7/03)

prl:ltr:030acc03

Attachment

ORDINANCE NO. _____

BILL NO. _____ (2018)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 13.16,
MAUI COUNTY CODE, RELATING TO THE
WAIEHU MUNICIPAL GOLF COURSE

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

SECTION 1. Chapter 13.16, Maui County Code, is amended to read as follows:

“Chapter 13.16

WAIEHU MUNICIPAL GOLF COURSE

Sections:

- 13.16.010 Definitions.
- [13.16.015 Club no-show fee.]
- 13.16.030 [Playing fee.] Fees.
- [13.16.032 Tournament fees.]
- 13.16.035 Fee exemptions.
- [13.16.037 Replacement card fee.]
- 13.16.040 Golf course special fund.
- 13.16.050 Operation.
- 13.16.055 Authority of the director—[Exceptional] exceptional conditions.

“13.16.010 Definitions. For the purpose of this chapter, certain words and phrases are defined as follows:

“Club” means an organized group of golf players identifiable by a club name.

“Council” means the council of the County of Maui.

“County” means the County of Maui.

[“Daily rate” means the rate charged for the privilege of playing eighteen holes or a fraction thereof at the golf course if play begins from the time the golf course opens until 1:00 p.m.]

“Department” means the department of parks and recreation.

“Director” means the director of the department of parks and recreation [of the County of Maui.] or the director’s authorized representative.

“Disability” means a physical or mental impairment that substantially limits one or more major life activities.

“Golf course” means the Waiehu Municipal Golf Course at Waiehu, Maui, Hawaii.

“Golf pro” means the person who has been awarded the pro-shop concession at the golf course.

“Group” means one or more golfers assigned an identical starting time.

“Hawaii resident” means a person who possesses a current, valid State of Hawaii driver’s license.

“Holiday” means all days on which a holiday is observed by the County regardless of the date of the actual holiday.

“Major tournament” means any event that [involves players statewide, or is a locally sponsored event consisting of one hundred thirty-eight players or more.] consists of a minimum of one hundred forty-four confirmed players.

“Marshal” means any authorized golf course personnel patrolling the course to ensure smooth play and compliance with golf course rules and regulations.

“Maui County resident” means a person who has [applied to the department of parks and recreation for residency status, who has provided documentary proof that the person filed a Hawaii resident income tax return within the year preceding the application, and who has resided in the County for the entire year immediately preceding the application. Application materials shall be available in the following alternative formats upon request: large format braille, audiotape, and simplified language.] a current, valid, State of Hawaii driver’s license containing a County of Maui address.

A person unable to qualify under the foregoing provision may apply to the director [of parks and recreation] for a determination of residency and, upon the submittal of evidence which the director deems adequate proof that the person has been a resident of the County for the entire year immediately preceding the application, the director may qualify the person as a resident; provided, however, that the director shall retain for at least four years a record of the names of persons qualifying under this provision and the type of evidence submitted for each person qualifying for the purpose of making the record available for reasonable public inspection.

Once a person has qualified as a resident under the foregoing provisions, the person may requalify by applying to the department, and by providing proof that the person had played at the golf course at least nine months of the year immediately preceding the application.

A person who has qualified or requalified as a resident under any of these provisions shall remain qualified for two years.

["Maui County resident card" means the card that allows County residents to play at the County resident rate as set forth in the annual budget.

"Nine-hole rate" means the rate charged for the privilege of playing nine holes or a fraction thereof at the golf course if play begins after 3:00 p.m.

"Non-Maui County resident" means a person who does not qualify as a Maui County resident as defined in this section, but who possesses a valid Hawaii State driver's license.]

"Nonresident" means a person who does not qualify as a Maui County resident or a [non-Maui County] Hawaii resident as defined in this section.

"Playing fee" means the fee paid for the privilege of playing at the golf course.

"Registration" means and consists of checking in, paying of fees, and being assigned a starting time prior to going onto the course.

"Senior citizen" means any person who has attained the age of sixty years and is a [permanent] Maui County or Hawaii resident [of the State.] as defined in this chapter.

"Special event" means any permitted event or activity on golf course property that meets the requirements of the permitting process outlined in chapter 13.04A of this code.

"Starter" means the person in charge of assigning starting times.

"Student" means a person who is attending school on a full-time basis and is no more than [eighteen] nineteen years of age.

"Superintendent" means the superintendent of the golf course, or [his] the superintendent's duly authorized representative.

"Twilight rate" means the rate charged for the privilege of playing eighteen holes or a fraction thereof at the golf course [if play begins] for play that may begin after 1:00 p.m. [but by 3:00 p.m.]

[13.16.015 Club no-show fee. A fee shall be paid by a club for the failure by one or more of its members to appear at an assigned club starting time. The fee shall be set forth in the annual budget.]

[13.16.030 [Playing fee.] Fees. [No person shall be permitted to play at the golf course unless the appropriate playing fees are paid at the rates set forth in the annual budget.] No person, organization, tournament, club, event, or activity shall be permitted to play or use the golf course or any of its facilities, amenities, or

property unless the appropriate fees are paid. Fees are set forth in the annual Budget Ordinance.

[13.16.032 Tournament fees. The tournament fees rate shall be set forth in the annual budget. No major tournament shall be permitted at the golf course unless the appropriate tournament fees are paid. The tournament fees shall be paid in lieu of playing fees.]

13.16.035 Fee exemptions. Professional golfers and other golf officials who are bona fide members of the Professional [Golfer's] Golfers' Association or Golf Course [Superintendent's] Superintendents Association of America shall be exempt from paying any playing or tournament fees.

[13.16.037 Replacement card fee. A fee for a replacement Maui County resident card shall be assessed as set forth in the annual budget.]

13.16.040 Golf course special fund. The proceeds from [playing fees, tournament fees, club no-show fees,] all fees, permits, rental income, and fees from golf course concessions shall be deposited into a golf course special fund. These proceeds shall be used for the operation, maintenance, and timely improvement of the golf course, to the end that the golf course shall be self-supporting. No moneys from the general fund shall be expended for these purposes, except that the council may supplement these proceeds by specific appropriations to the golf course special fund.

13.16.050 Operation. A. The golf course shall be open for play [everyday] every day except Christmas Day and New Year's Day and when unusual climatic or other circumstances require its closing.

[B. The starting hours of play on both the first and tenth tee shall be from 7:00 a.m. to 5:00 p.m. on weekdays, and from 6:00 a.m. to 5:00 p.m. on weekends and holidays.

C. Within six months after the effective date of the ordinance codified in this chapter, the department of parks and recreation shall consult with the golf course superintendent and shall establish internal management regulations to ensure the efficient operation of the golf course. Once established, the department may revise these regulations as it deems necessary.]

[D.]B. The [department of parks and recreation shall adopt] director may promulgate administrative rules pursuant to the Hawaii Administrative Procedures Act relating to hours of operation, reservations, club play, starting times, groupings, special events,

recreation programming, course closures, and regular and tournament play.

[E.]C. The [golf course] superintendent is authorized to enforce all internal management regulations and administrative rules.

[F.]D. No practice golfing shall be allowed on the golf course except on the driving range and the practice putting green.

13.16.055 Authority of the director—[Exceptional exceptional conditions. A. In the event of major repair or renovation work to the golf course or the existence of conditions which substantially limit the normal use of the golf course, the director is authorized to adjust the playing fees charged and the hours of operation, as in the director's best judgment, is warranted under the conditions. Any adjustment to the playing fees charged and the hours of operation shall be limited in duration to sixty days. Such [sixty day] sixty-day period may be extended by adoption of a resolution by the council.

B. The director shall provide written notification to the council within ten days of the effective date of any adjustment to the playing fees and hours of operation.

C. The director shall submit a written status report regarding any adjustment to the playing fees and hours of operation to the council within thirty days after said adjustment [are] is imposed upon the golf course. Such status shall include at least the following information:

1. The factual basis for the adjustment to the playing fees and hours of operation; and
2. The anticipated duration of the adjustment to the playing fees and hours of operation.

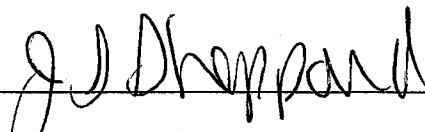
D. Prior to adjusting the playing fees and hours of operation, the director shall notify the public of the adjustments in the following manner:

1. When the adjustments are to be effective for thirty days or more, notice shall be by publication in a newspaper of general circulation in the County; posting on the County website; and in the following alternative formats upon request: large format, braille, audiotape, and simplified language[; or].
2. When the adjustments are to be effective for less than thirty days, notice shall be by posting in a visible area at the golf course; posting on the County website; and in the following alternative formats upon request: large format, braille, audiotape, and simplified language.”

SECTION 2. 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 3. This ordinance shall take effect on July 1, 2018.

APPROVED AS TO FORM AND LEGALITY:



Department of the Corporation Counsel
County of Maui

prl:misc:030abill03:mcc