

# REQUEST FOR LEGAL SERVICES

**Date:** July 18, 2022  
**From:** Gabe Johnson, Chair  
Affordable Housing Committee

**TRANSMITTAL**

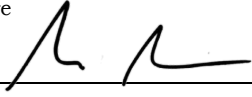
**Memo to:** DEPARTMENT OF THE CORPORATION COUNSEL  
Attention: Mimi Desjardins, Esq.

**Subject:** A BILL FOR AN ORDINANCE AMENDING CHAPTER 10.76 AND SECTION 13.04A.070, MAUI COUNTY CODE, RELATING TO USE OF VEHICLES FOR PURPOSES OF HUMAN HABITATION AT COUNTY PARKING LOTS (AH-32)

**Background Data:** Please see the attached bill.

**Work Requested:** ☒ FOR APPROVAL AS TO FORM AND LEGALITY

☐ OTHER:

|  |  |
|--|--|
| Requestor's signature<br><br>Gabe Johnson | Contact Person<br><u>Alison Stewart</u><br>(Telephone Extension: <u>7661</u> ) |
|  |  |

☐ 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: | ASSIGNMENT NO. | BY: |
|--------------|----------------|-----|

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)

apt:ltr:032acc01:ans

Attachment

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

BILL NO. 108, CD1 (2022)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 10.76 AND SECTION 13.04A.070, MAUI COUNTY CODE, RELATING TO USE OF VEHICLES FOR PURPOSES OF HUMAN HABITATION AT COUNTY PARKING LOTS

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

SECTION 1. The 2016 Hawaii Housing Planning Study (“Study”) states the Homeless Point-In-Time count for the County of Maui was 1,137, an 18.6 percent increase from the year before. In addition, the Study identifies 5.8 percent of households in the County of Maui as “hidden homeless” households where someone living in the household does not have the resources to buy or rent their own place, and an additional 23.9 percent of households are at risk of being homeless.

Sweeps of homeless encampments merely shift people from one place to another. Multiple solutions are needed to address the growing homeless population. The purpose of this bill is to enact an ordinance in accordance with Section 291C-113, Hawaii Revised Statutes (“HRS”), to establish a pilot project allowing homeless people to temporarily use their vehicles for purposes of human habitation on County of Maui property. Without this enabling ordinance, use of any vehicle for human habitation between the hours of 6:00 p.m. and 6:00 a.m. while the vehicle is parked on any roadway, street, highway, or other public property is prohibited by Section 291C-112, HRS.

SECTION 2. Chapter 10.76, Maui County Code, is amended by adding a new section to be appropriately designated and to read as follows:

**“10.76.076 County parking lots used for human habitation.** A. Definitions. Whenever used in this section, unless the context otherwise requires:

“Department” means a department established under chapter 2.12.

“Director” means the director of a department established under chapter 2.12.

“Purposes of human habitation” includes use of a vehicle as a dwelling place, living abode, or sleeping place.

B. People can use their vehicles for purposes of human habitation within the area designated by the director at parking lots managed by the department, subject to the following:

1. Human habitation within vehicles is permitted from 7:00 p.m. to 7:00 a.m., or such hours depending on the location so as not to interfere with the parking lot’s open hours for the general public.

2. Vehicles must enter and exit from the parking lot in accordance with the hours designated in subsection (B)(1), or as authorized by the director.

3. At least one gates to the parking lot must remain unlocked.

4. Each person within the vehicle must register with department staff or other personnel authorized by the director upon entering the parking lot.

5. No cooking, including on a grill or hibachi, is permitted.

6. Department staff, or other personnel authorized by the director, must monitor the parking lot during the hours designated in subsection (B)(1).

7. All county, state, and federal laws, rules, and regulations must be complied with, including section 13.04A.070, relating to general prohibitions applicable to all parks and recreation facilities.

C. The council must review this section within twelve months after the commencement of a pilot project in accordance with this section.”

SECTION 3. Section 13.04A.070, Maui County Code, is amended by amending subsection B to read as follows:

“B. Except as otherwise authorized by permit, license, lease, or contract issued in accordance with this code, within the limits of any park or recreational facility, it is unlawful for any person to:

1. Be present during designated closed hours for that park or recreational facility, or between the hours of 10:00 p.m. and 6:00 a.m., or when closed to the public [pursuant to] under section 13.04A.040(B)(1)[.], except as authorized under chapter 10.76.

2. Distribute, post, or place any commercial handbill, circular, notice, or other advertising material.

3. Wash, polish, or repair cars or other vehicles.

4. Store, repair, or condition any boat, canoe, raft, or other vessel.

5. Park or operate any vehicle on grassed or sand areas with the exception of a personal mobility device.

6. Use or operate loudspeakers.

7. Dance on any gymnasium floor.

8. Engage in archery.

9. Kindle, build, maintain, or use any fire other than in a grill or hibachi.

10. Display or set off fireworks.

11. Engage in commercial activity, including catering or other commercial food distribution.

12. Provide classes, lessons, teaching, or instruction.

13. Bring into, possess, or dispose of any human or animal remains.

14. Feed any animal or animals, or stage any food or water for any animal or animals, except as provided in subsection D.

15. Manage feral animal colonies. Any colony management authorized by a permit, license, lease, or contract issued in accordance with this code must be designed to reduce and eliminate the colony.

16. Consume any intoxicating liquor:

- a. Between the hours of 10:00 p.m. and 6:00 a.m.

- b. At any time in any public restroom.

- c. Within a one thousand five hundred foot radius of the boundary of any public or private preschool, kindergarten, elementary, intermediate, middle, secondary, or high school, or youth center, between the hours of 6:00 a.m. and 10:00 p.m., except on weekends[,] and State and County holidays.”

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 takes effect on approval.

APPROVED AS TO FORM AND LEGALITY:

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Department of the Corporation Counsel  
County of Maui

ah:032abill01

INTRODUCED BY:

*Kelly T. King*

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KELLY TAKAYA KING