

ORDINANCE NO. 4804BILL NO. 117 (2017)
DRAFT 1A BILL FOR AN ORDINANCE ESTABLISHING A NEW CHAPTER 20.40, MAUI
COUNTY CODE, DECLARING A MORATORIUM ON SAND MINING OF
CENTRAL MAUI INLAND SAND

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

SECTION 1. Title 20, Maui County Code, is amended by adding a new chapter to be appropriately designated and to read as follows:

"Chapter 20.40**MORATORIUM ON SAND MINING
OF
CENTRAL MAUI INLAND SAND**

Sections:

- 20.40.010 Purpose.
- 20.40.020 Definitions.
- 20.40.030 Moratorium on sand mining of central Maui inland sand.
- 20.40.040 Penalty.
- 20.40.050 Administrative rules.
- 20.40.060 Adjustment by council.
- 20.40.070 Term.
- 20.40.080 Moratorium area map.

20.40.010 Purpose. The purpose of this chapter is to declare a moratorium on mining of central Maui inland sand to conduct further analysis required to establish regulations for mining inland sand to protect Maui's environment and limited natural resources and prevent the disturbance of Hawaiian historical, cultural, or archaeological sites, and unmarked human burial sites. The Maui Inland Sand Resource Quantification Study (2006) found the remaining inland sand inventory is limited to approximately 970,000 tons. Given the finite nature of this important natural resource, it is necessary to limit and regulate the mining of inland sand until such time as: 1) an ordinance regulating the mining,

RECEIVED AT GET MEETING ON 1/23/19
Richelle Thomson

extracting, or removing of inland sand is adopted, and 2) the Maui Inland Sand Resource Quantification Study (2006) is updated.

20.40.020 Definitions. Whenever used in this chapter, the following words shall have the meaning indicated:

“Central Maui inland sand” means inland sand classified Qdo by USGS located within the area shown on the map set forth in section 20.40.080.

“Director” means the director of public works.

“Inland sand” means “sand”, as defined in section 20.08.020 of this title, located inland (mauka) from the “shoreline area”, as defined in section 205A-41, Hawaii Revised Statutes.

“Lot” shall have the same meaning as set forth in section 19.04.040 of this code.

“Qdo” means older dune deposits (Holocene and Pleistocene).

“Sand mining” means extraction and removal of sand from a lot, except for the following:

1. Activities required to comply with county, state, or federal regulations.
2. Activities related to land management for agriculture, landscaping, and related uses as described in subsection 20.08.030(C) of this title where no inland sand is transported outside the same lot.
3. Activities conducted pursuant to a valid permit issued prior to the effective date of this ordinance.

20.40.030 Moratorium on sand mining of central Maui inland sand. Notwithstanding provisions in title 19 and chapter 20.08 of this code, no person shall conduct sand mining of central Maui inland sand.

20.40.040 Penalty. A. Any person who violates any provision of this chapter or rules relating thereto shall, for each day of violation, or portion thereof, be subject to a fine not exceeding \$1,000. In addition, that person shall be liable for any costs incurred by the County to correct the violation. In lieu of, or in addition to, enforcement by criminal prosecution, the director may prosecute violations administratively pursuant to 19.530.030 of this code or any other provision or rule adopted hereafter.

B. The remedies provided for in this chapter shall be cumulative and not exclusive. Nothing in this chapter shall impair the right of the County to seek enforcement by criminal prosecution, administrative proceeding, if any, or civil action, including filing suit for damages or injunction as provided by law.

20.40.050 Administrative rules. The director may adopt administrative rules to implement this chapter.

20.40.060 Adjustment by council. The council may, by resolution approved by two-thirds of its members, authorize a waiver of any provision of this chapter. To qualify for a waiver, the council must find:

A. The proposed activity would not affect a "burial site", as defined in section 6E-2, Hawaii Revised Statutes.

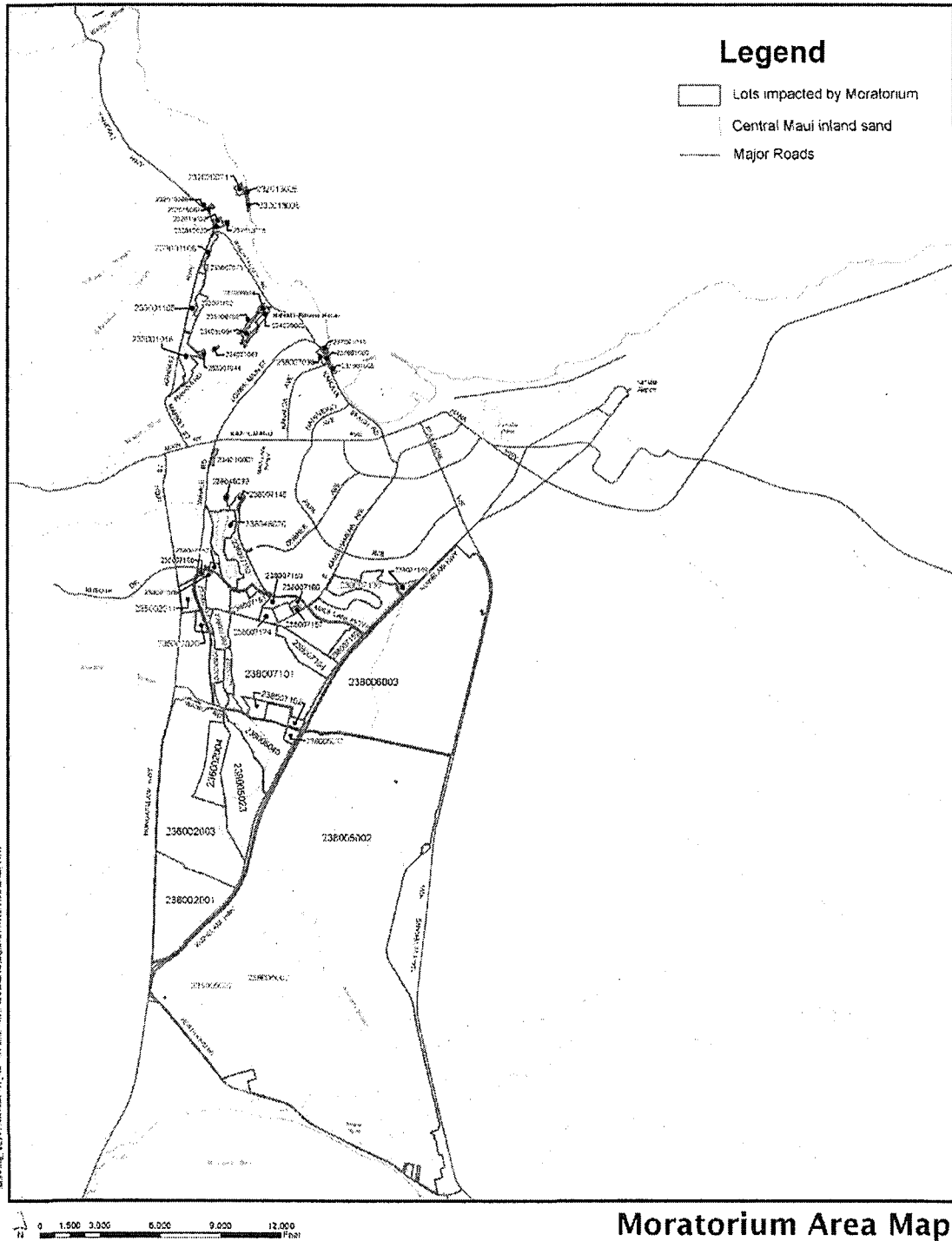
B. The proposed activity does not conflict with the purposes of this chapter.

20.40.070 Term. The ordinance codified in this chapter shall be repealed upon council's determination that the purposes established in section 20.40.010 have been satisfied, or six months after the effective date of this ordinance, whichever is sooner, unless reenacted by the council as provided by law.

20.40.080 Moratorium area map. The lots subject to the requirements and restrictions of this chapter are identified by tax map key number and shown on the following map. The area identified as "central Maui inland sand," as shown on the map, controls; all or part of a lot may be affected by the moratorium.

TMK	OWNER	Lot Area (Acres)
232013002	KA HOME MAHA MAU CEMETERY	3.47
232013005	COUNTY OF MAUI	2.081
232013018	KOREAN BENEVOLENT SOC	1.63
232013025	COUNTY OF MAUI	1.65
232013033	MAUI ELECTRIC CO	0.743
232019066	LEISURE LAND CORP	0.9578
232019067	LEISURE LAND CORP	0.5147
232020071	COUNTY OF MAUI	4.02325
233001016	RCFC PIIHANA LLC/DOWLING CO LLC	28.1
233001044	MAHALANI CEMETERY ASSN	2.62
233001102	GOODFELLOW BROS INC/et al	8.51
233001105	RCFC PIIHANA LLC/DOWLING CO LLC	25.056
233001106	MAUI ECONOMIC OPPORTUNITY, INC.	11.476
233006098	STATE DEPT OF HAWAIIAN HOME LANDS	3.27979
233006099	STATE DEPT OF HAWAIIAN HOME LANDS	3.579683
233007073	CJ PARK ENTERPRISES LLC	1.1475436
234010001	A&B HAWAII INC.	2.6405188
234030002	HALLER, MICHELE LEE/et al	6.358
234030004	STATE DEPT. OF LAND & NATURAL RESOURCES	10.228
234030007	COUNTY OF MAUI	0.82

TMK	OWNER	Lot Area (Acres)
235002011	EMMANUEL LUTHERAN CHURCH OF MAUI	25.263
235002020	WAIALE ROAD 201 LLC	10.365
236002001	WAIALE 905 PARTNERS LLC	284.826
236002003	WAIALE 905 PARTNERS LLC	521.4
236002004	COUNTY OF MAUI	100
237001003	STATE OF HAWAII	0.116
237001005	A&B HAWAII INC.	1.98
237001016	A&B HAWAII INC.	1.283
238005023	COUNTY OF MAUI	209.043
238005037	ALEXANDER & BALDWIN	10
238005040	ALEXANDER & BALDWIN	131.496
238006003	ALEXANDER & BALDWIN	1199.058
238007038	HAWAIIAN ISLANDS LAND TRUST	4.043
238007062	STATE OF HAWAII	0.002
238007071	KULAKANE LLC	20.921
238007092	COUNTY OF MAUI/WAILUKU AGRIBUSINESS	37.45
238007104	STATE OF HAWAII	65.378
238007105	ABC DEVELOPMENT COMPANY, LLC	8.552
238007109	HRT REALTY LLC	6.731
238007145	MAUI LANI PARTNERS	6.839
238007150	COUNTY OF MAUI	14.44
238007151	GENTRY MAUI DEVELOPMENT LLC	46.698
238007152	MAUI LANI 100, LLC	7.537
238007157	MAUI LANI PARTNERS	2.568
238007159	HRT REALTY LLC	30.89
238007160	HRT REALTY LLC	5.749
238007168	MAUI LANI VILLAGE CENTER INC	2.07
238007174	MAUI LANI 100 LLC	12.11
238046020	ALEXANDER & BALDWIN	76.932
238046032	COUNTY OF MAUI	1.578
238097076	MAUI LANI VILLAGE CENTER INC	2.208
235002001	HEONA INVESTMENTS LLC	34.357
235002017	KIHEI GARDENS LANDSCAPING COMPANY, LLP	24.982
238005002	ALEXANDER & BALDWIN	4388.77
238007101	ALEXANDER & BALDWIN	353.301
238007102	WAIKO INDUSTRIAL INVESTMENT, LLC	31.222
238007130	HRT REALTY LLC	148.634
238007153	MAUI LANI PARTNERS	62.581



SECTION 2. This ordinance shall take effect upon its adoption.

APPROVED AS TO FORM AND LEGALITY:



Department of the Corporation Counsel
County of Maui

paf:tntf:18-001
2018-1-9
LF2017-1578, 2018-0051

WE HEREBY CERTIFY that the foregoing BILL NO. 117 (2017), DRAFT 1


1. Passed FINAL READING at the meeting of the Council of the County of Maui, State of Hawaii, held on the 5th day of January, 2018, by the following vote:

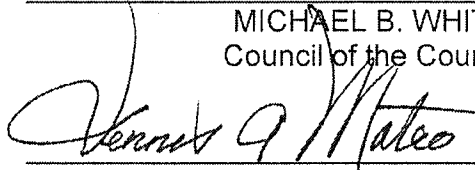
Michael B. WHITE Chair	Robert CARROLL Vice-Chair	Alika ATAY	Eleanora COCHRAN	S. Stacy CRIVELLO	Donald S. GUZMAN	G. Riki HOKAMA	Kelly T. KING	Yuki Lei K. SUGIMURA
Aye	Aye	Aye	Aye	Aye	Aye	No	Aye	No

2. Was transmitted to the Mayor of the County of Maui, State of Hawaii, on the 11th day of January, 2018.


DATED AT WAILUKU, MAUI, HAWAII, this 11th day of January, 2018.


RECEIVED
JAN 11 2018
COUNTY CLERK


MICHAEL B. WHITE, CHAIR
Council of the County of Maui

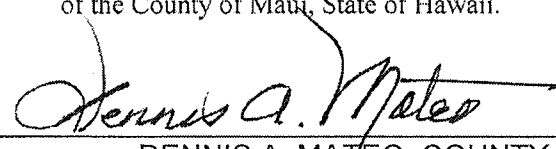

DENNIS A. MATEO, COUNTY CLERK
County of Maui

THE FOREGOING BILL IS HEREBY APPROVED THIS ²²~~18~~ 19 DAY OF January, 2018.


ALAN M. ARAKAWA, MAYOR
County of Maui


~~KEITH A. REGAN~~
~~ACTING MAYOR, COUNTY OF MAUI~~

I HEREBY CERTIFY that upon approval of the foregoing BILL by the Mayor of the County of Maui, the said BILL was designated as ORDINANCE NO. 4804 of the County of Maui, State of Hawaii.


DENNIS A. MATEO, COUNTY CLERK
County of Maui

Passed First Reading on December 15, 2017.
Effective date of Ordinance January 19, 2018

I HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. 4804, the original of which is on file in the Office of the County Clerk, County of Maui, State of Hawaii.

Dated at Wailuku, Hawaii, on

County Clerk, County of Maui

RECEIVED
10 JAN 19 PM 2:39
OFFICE OF THE
COUNTY CLERK

ORDINANCE NO. _____

BILL NO. 127 (2016)
Draft 2

A BILL FOR AN ORDINANCE ESTABLISHING A
NEW CHAPTER 20.26, MAUI COUNTY CODE,
RESTRICTING THE USE AND SALE OF
POLYSTYRENE FOAM FOOD SERVICE CONTAINERS

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

SECTION 1. Due to its lightweight nature and ability to break down into smaller fragments that persist for decades, polystyrene foam has significant negative impacts on the environment, and contributes to the potential death of marine animals and avian populations through ingestion.

The council finds and declares that, to protect the County's unique environment and the health and welfare of its marine and avian life, polystyrene foam food service containers must be regulated.

SECTION 2. Title 20, Maui County Code, is amended by adding a new chapter to be appropriately designated and to read as follows:

"Chapter 20.26

POLYSTYRENE FOAM FOOD SERVICE CONTAINERS

Sections:

20.26.010	Purpose.
20.26.020	Definitions.
20.26.030	Administration.
20.26.040	Prohibitions.
20.26.050	Exemptions.
20.26.060	Violation and penalties.
20.26.070	Public information.
20.26.080	No conflict with federal or state law.

20.26.090 Council review.

20.26.010 Purpose. The purpose of this chapter is to promote public health, reduce litter, and limit harmful materials from entering the environment by the regulation and limiting of the use of polystyrene foam food packaging by food providers; and encourage the use of environmentally preferred alternatives, such as containers made from recyclable and compostable materials.

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

"Affordable" means purchasable for not more than 40 percent more than the purchase cost of an equivalent polystyrene foam food service container.

"ASTM Standard" means the American Society for Testing and Materials (ASTM) International Standard.

"Compostable" means materials that are able to undergo biological decomposition or become part of usable compost in a safe and timely manner, either in an appropriate composting program or facility, or in a home compost pile or device. To qualify as compostable, such food service containers must meet ASTM Standard D6400 for Compostable Plastics, as amended.

"Department" means the department of environmental management.

"Director" means the director of environmental management.

"Food provider" means any entity or person providing prepared food for consumption within the County, including any store, shop, sales outlet, restaurant, bar pub, coffee shop, cafeteria, caterer, convenience store, liquor store, grocery store, supermarket, delicatessen, food truck, catering vehicle or cart, or roadside stand.

"Food service container" means all plates, trays, cups, bowls, cartons, and hinged or lidded containers (clamshells) on or in which any foods or beverages are placed or packaged or intended to be placed or packaged and designed for one-time use.

"Polystyrene foam" means blown polystyrene and expanded and extruded foams that are thermoplastic petrochemical materials utilizing a styrene monomer and processed by techniques including fusion of polymer spheres (expandable bead polystyrene), injection molding, foam molding, and extrusion-blown molding (extruded foam polystyrene). Polystyrene foam does not include clear or solid polystyrene (oriented polystyrene).

"Prepared food" means any food or beverage prepared for consumption using any cooking, packaging, or food preparation

technique, including chopping, slicing, mixing, brewing, freezing, or squeezing, and or otherwise prepared for consumption.

"Recyclable" means used or waste materials that can be treated or processed to be made suitable for reuse, whether in their original form or with minimal alterations. For the purposes of this chapter, recyclable materials do not include polystyrene foam.

20.26.030 Administration. A. The director shall administer this chapter and adopt administrative rules pursuant to chapter 91, Hawaii Revised Statutes, within two hundred seventy days from the date of adoption of this ordinance.

B. On or before September 1 of each anniversary of the effective date, the director shall submit to the council a report detailing compliance with this ordinance, including the number and type of exemptions granted.

20.26.040 Prohibitions. Except as provided in section 20.26.050:

A. Food providers shall not sell, use, provide, or offer the use of polystyrene foam food service containers.

B. Polystyrene foam food service containers shall not be sold, used, provided, or offered for use at any County facility, County-authorized concession, County-sponsored or County-permitted event, or County program.

C. Polystyrene foam food service containers shall not be offered for sale or sold in the County.

20.26.050 Exemptions. This chapter shall not apply to any of the following:

A. Polystyrene foam food containers used for raw or butchered meats, poultry, fish, or eggs unless provided for consumption without further food preparation (e.g., sashimi and poke).

B. Polystyrene foam coolers and ice chests specifically designed and manufactured for multiple re-use.

C. Foam blocks or pieces used as protective packaging during shipping (e.g., packing peanuts).

D. Packaging in situations unique to the type of food, where there are no reasonable alternatives to polystyrene foam food service containers, provided the food provider applies for an exemption and such exemption is granted by the director.

E. Packaging in situations unique to the food provider, where compliance with this chapter would cause significant hardship and there is no affordable alternative to polystyrene foam

food service containers, provided the food provider applies for an exemption and such exemption is granted by the director.

F. Packaging in any situation deemed by the County to be an emergency requiring the immediate preservation of life, health, property, safety, or essential public services. This exemption shall be in place until the emergency has ceased or the mayor has determined the exemption is no longer applicable to the situation.

20.26.060 Violation and penalties. A. Violations of this chapter shall be subject to the civil penalties and enforcement procedures of section 19.530.030 of this code.

B. Fines collected pursuant to this chapter shall be deposited into the solid waste management fund.

20.26.070 Public information. Restrictions in this chapter on the use of polystyrene foam food service containers shall be set forth on all application forms for permits relating to County facilities, County-managed concessions, County-sponsored or County-permitted events, or County programs.

20.26.080 No conflict with federal or state law. Nothing in this ordinance shall be interpreted or applied so as to create any requirement or duty in conflict with any federal or state law.

20.26.090 Council review. The council shall review this ordinance in 2021."

SECTION 3. This ordinance shall take effect on December 31, 2018.

APPROVED AS TO FORM
AND LEGALITY:



RICHELLE THOMSON
Deputy Corporation Counsel
LF2016-1832

WE HEREBY CERTIFY that the foregoing BILL NO. 127 (2016), Draft 2

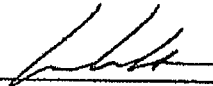
1. Passed FINAL READING at the meeting of the Council of the County of Maui, State of Hawaii, held on the 18th day of May, 2017, by the following vote:

Michael B WHITE Chair	Robert CARROLL Vice-Chair	Alika ATAY	Elcanora COCHRAN	S. Stacy CRIVELLO	Donald S. GUZMAN	G. Riki HOKAMA	Kelly T. KING	Yuki Lei K. SUGIMURA
Aye	Aye	Aye	Aye	Aye	Aye	Aye	Aye	Aye

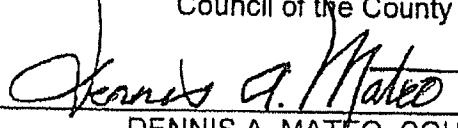
2. Was transmitted to the Mayor of the County of Maui, State of Hawaii, on the 23rd day of May, 2017.

DATED AT WAILUKU, MAUI, HAWAII, this 23rd day of May, 2017.

RECEIVED
2017 MAY 23 PM 2:03
CLERK'S OFFICE

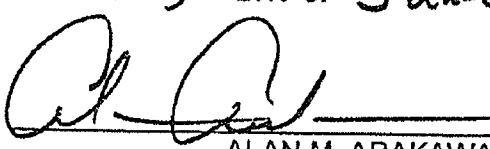


MICHAEL B. WHITE, CHAIR
Council of the County of Maui



DENNIS A. MATEO, COUNTY CLERK
County of Maui

THE FOREGOING BILL IS HEREBY APPROVED THIS 5 DAY OF June, 2017.



ALAN M. ARAKAWA, MAYOR
County of Maui

I HEREBY CERTIFY that upon approval of the foregoing BILL by the Mayor of the County of Maui, the said BILL was designated as ORDINANCE NO. _____ of the County of Maui, State of Hawaii.

DENNIS A. MATEO, COUNTY CLERK
County of Maui

Passed First Reading on December 16, 2016
Effective date of Ordinance

RECEIVED
2017 JUN -5 PM 4:24
OFFICE OF THE
COUNTY CLERK

I HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. _____, the original of which is on file in the Office of the County Clerk, County of Maui, State of Hawaii.

Dated at Wailuku, Hawaii, on

County Clerk, County of Maui

NOTICE OF PUBLIC HEARING

Pursuant to Section 91-3, Hawaii Revised Statutes, the Department of Parks and Recreation of the County of Maui ("Department") hereby provides notice of a Public Hearing to all persons interested, regarding the proposed adoption of amendments to Title MC-10, Department of Parks And Recreation, Subtitle 01, Director of The Department Of Parks And Recreation, Chapter 106, Rules Relating To The Administration Of Parks And Recreational Facilities And Permits For The Use Of Parks And Recreational Facilities, Pursuant To Chapter 13.04A, Maui County Code ("Rules"). The proposed amendments to the Rules specifically affect Community Class permits.

The entire text of the proposed rule amendments are listed below, and substantive changes are summarized as follows:

SUMMARY:

1. Section 10-106-12(b): Application Procedures.

To be amended to change the deadline for the submission of Community Class permits from the first two weeks of October to the first two weeks of September.

2. 10-106-29: Community Class Permits.

Sections (c)(6), (c)(7), and (c)(8) to be deleted, thereby removing all references to promotional periods, and the County's duty to assist in promoting Community Classes.

Section (g) to be amended by deleting the requirement that Community Classes consist of three sessions during a twelve-month period commencing November 1, and adding that Community Class permits shall be issued annually each October 1.

Section (i) to be amended to require payments for permits on a yearly basis rather than a tri-annual basis.

Section (s) to be deleted, thereby removing reference to promotional periods and free promotional classes.

Section (u) to be amended to refer persons to the Community Class Programs Policies and Procedures Packet for applicable fee schedules.

Section (x)(7) to be amended to require instructors to complete accident or incident reports within 24 hours of an incident, rather than filing the report within 24 hours of an incident.