

# REQUEST FOR LEGAL SERVICES

RECEIVED  
CORPORATION COUNSEL

Date: February 28, 2014  
From: Don S. Guzman, Chair  
Economic Development, Energy, Agriculture, and Recreation Committee

2014 MAR -3 PM 9:38

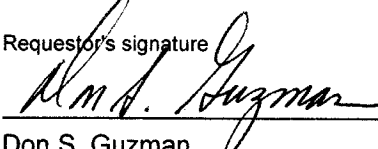
TRANSMITTAL  
Memo to: DEPARTMENT OF THE CORPORATION COUNSEL  
Attention: Jeffrey Ueoka, Esq.

Subject: BILL PROHIBITING TOBACCO USE AND TOBACCO PRODUCTS IN COUNTY PARKS  
EAR-36

Background Data: Revise proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 13.04, MAUI COUNTY CODE, PROHIBITING TOBACCO USE AND TOBACCO PRODUCTS IN COUNTY PARKS" as noted on the attached mark-up.

Work Requested:  FOR APPROVAL AS TO FORM AND LEGALITY  
 OTHER: Revise bill title and make other nonsubstantive revisions.

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OFFICE OF THE  
COUNTY COUNCIL  
2014 MAR -3 PM 2:28

Requestor's signature  Don S. Guzman	Contact Person Kit Zulueta (Telephone Extensions: 7665)
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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): \_\_\_\_\_ 03/05/14  
REASON: Agenda posting on 03/07/14 for 3/14/14 Committee meeting.

### FOR CORPORATION COUNSEL'S RESPONSE

ASSIGNED TO:	ASSIGNMENT NO. <u>2014-0664</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): \_\_\_\_\_

Revised & approved

DEPARTMENT OF THE CORPORATION COUNSEL

Date MAR - 3 2014

By JEFFREY UEOKA

(Rev. 7/03)

036acc01:mkz

Attachment

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

BILL NO. \_\_\_\_\_ (2014)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 13.04, MAUI  
COUNTY CODE, PROHIBITING TOBACCO USE AND TOBACCO  
PRODUCTS IN COUNTY PARKS

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

SECTION 1. The purpose of this ordinance is to protect and promote public health by banning smoking in public parks under the jurisdiction of the County. The Council finds that this ordinance is more stringent than Part I, Chapter 328J, Hawaii Revised Statutes.

SECTION 2. Section 13.04.020, Maui County Code, is amended by adding new definitions to be appropriately inserted and to read as follows:

""Cigarette" means any roll for smoking made wholly or in part of tobacco, irrespective of size and shape and whether or not the tobacco is flavored, adulterated, or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material except tobacco.

"Cigar" means any roll for smoking made wholly or in part of tobacco if such product is wrapped in any substance containing tobacco.

"Electronic smoking device" means any electronic product that can be used to simulate smoking in the delivery of nicotine or other substances to the person inhaling from the device, including but not limited to, an electronic cigarette, electronic cigar, electronic cigarillo, or electronic pipe, and any cartridge or other component of the device or related product.

"Smoke" or "smoking" means inhaling or exhaling upon, burning, or carrying any lit cigarette, cigar or pipe.

"Tobacco products" means tobacco in any form, other than cigarettes, that is prepared or intended for consumption or for personal use by humans, including cigars and any substitutes thereof other than cigarettes that bear the semblance thereof, snuff, chewing or smokeless tobacco, and smoking or pipe tobacco."

SECTION 3. Section 13.04.040, Maui County Code, is amended by amending subsection A to read as follows:

"A. Within the limit of any park or within any recreational facility, it is unlawful for any person to:

1. Abandon any vehicle or other personal property or leave any vehicle or other personal property unattended for a period in excess of twenty-four hours;
2. Throw or dispose of any refuse or any waste material except in a receptacle designated for such;
3. Permit any animal, except as hereinafter provided in subsection D [of this section], to enter and to remain within the confines of any park area;
4. Destroy, injure, deface, or remove in any manner any public structure, sign, equipment, monument, or device;
5. Discharge firearms, air rifles, or spring guns, except at a range established and regulated for that specific purpose;
6. Defecate or urinate on the grounds or improvements of any park or recreational facility, except in properly functioning toilets or urinals in public restrooms;
7. Engage in smoking or the use of tobacco products or electronic smoking devices."

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 shall take effect upon its approval.

APPROVED AS TO FORM AND  
LEGALITY:



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JEFFREY UEOKA  
Deputy Corporation Counsel  
County of Maui