

Council Chair
Mike White

Vice-Chair
Don S. Guzman

Presiding Officer Pro Tempore
Michael P. Victorino

Councilmembers
Gladys C. Baisa
Robert Carroll
Elle Cochran
Don Couch
Stacy Crivello
Riki Hokama



Director of Council Services
David M. Raatz, Jr., Esq.

COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.MauiCounty.us

July 2, 2015

RECEIVED
2015 JUL 15 PM 2:19
OFFICE OF THE
COUNTY CLERK

The Honorable Mike White
Council Chair
County of Maui
Wailuku, Hawaii 96793

Dear Chair White:

SUBJECT: PROPOSED BILL ON SMOKING AT BUS STOPS
(PAF 15-147)

May I request the attached proposed bill, entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 8.20, MAUI COUNTY CODE, RELATING TO PROHIBITING SMOKING AT BUS STOPS," be placed on the next Council meeting agenda.

Sincerely,

A handwritten signature in black ink that reads "Michael P. Victorino".

MICHAEL P. VICTORINO
Presiding Officer Pro Tempore

paf:kcw:15-147a

Attachment

COUNTY COMMUNICATION NO. 15-205

ORDINANCE NO. _____

BILL NO. _____ (2015)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 8.20,
MAUI COUNTY CODE, RELATING TO PROHIBITING SMOKING AT BUS STOPS

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

SECTION 1. Purpose. The purpose of this ordinance is to prohibit smoking at bus stops.

SECTION 2. 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[, and].

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 [multi-family] 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[; and].

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[; and].

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."

SECTION 3. Section 8.20.035, Maui County Code, is amended by amending subsection D to read as follows:

"D. The department of fire [control] and public safety shall have the power to formulate any applicable rules and regulations necessary to carry out the provisions of this section."

SECTION 4. Section 8.020.050, Maui County Code, is amended by amending subsection D to read as follows:

"D. Enforcement of the provisions of section 8.20.035 shall be under the jurisdiction of the department of fire [control,] and public safety, which department is also empowered to enforce the signage requirements of section [328K-4,] 328J-9, Hawaii Revised Statutes, or any successor statute. The fire chief or [his] a duly authorized representative is authorized to issue a summons or citation to any person who violates section 8.20.035 or section [328K-4,] 328J-9, Hawaii Revised Statutes, or any successor statute."

SECTION 5. Section 8.20.060, Maui County Code, is amended to read as follows:

"8.20.060 Conflict with chapter [328K,] 328J, Hawaii Revised Statutes. A. If any provision of this article conflicts with any provision of [part I of chapter 328K,] chapter 328J, Hawaii Revised Statutes, or any successor statute, the more stringent provision shall control.

B. If any violation of this chapter also constitutes a violation of chapter [328K,] 328J, Hawaii Revised Statutes, or any successor statute, the State statute shall control, and the violator shall be subject to the penalties and procedures set forth thereunder."

SECTION 6. 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 7. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM AND
LEGALITY:



Edward S. Kushi, Jr.
Department of the Corporation
Counsel
County of Maui
2015-4583