

ORDINANCE NO. 5242

BILL NO. 72 (2021)

A BILL FOR AN ORDINANCE ESTABLISHING CHAPTER 2.50, MAUI COUNTY
CODE, RELATING TO PESTICIDE AND FERTILIZER USE ON COUNTY
PROPERTY

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

SECTION 1. Title 2, Maui County Code, is amended by adding a new chapter to be appropriately designated and to read as follows:

“Chapter 2.50

PESTICIDE AND FERTILIZER USE ON COUNTY PROPERTY

Sections:

2.50.010	Purpose.
2.50.020	Definitions.
2.50.030	Administrative rules.
2.50.040	Pesticide and fertilizer use on County property.
2.50.050	Exclusions.
2.50.060	Waiver.
2.50.070	No conflict with federal or State law.

2.50.010 Purpose. The purpose of this chapter is to exercise the County’s proprietary function, as a property owner and manager, by determining the categories of pesticide and fertilizer allowed for use on County property.

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

“County property” means any real property owned or under the control or management of the County, including any County highway, drainageway, sidewalk, right-of-way, park, building, community center, or other facility.

“Sidewalk” means any portion of a street between a curblineline or the pavement of a road and the adjacent property line, including

any setback area acquired by the County for road-widening purposes.

2.50.030 Administrative rules. The director of public works may adopt administrative rules to implement this chapter.

2.50.040 Pesticide and fertilizer use on County property. A. The following are allowed for use on County property:

1. Pesticides and fertilizers listed as “allowed” on the National List of Allowed and Prohibited Substances as listed in title 7 Code of Federal Regulations 205.601, 205.603, 205.605, and 205.606.

2. “Minimum risk pesticides” exempt from registration under the Federal Insecticide, Fungicide, and Rodenticide Act, as provided in title 40 Code of Federal Regulations section 152.25(f).

3. The following, when used in compliance with manufacturer specifications:

a. Disinfectants, germicides, bactericides, miticides, and virucides.

b. Insect repellents.

c. Rat and rodent extermination products.

d. Swimming pool supplies.

e. General use paints, stains, and wood preservatives, and sealants.

f. Citric acid.

B. Unless a waiver is approved under section 2.50.060, use of pesticides and fertilizers on County property not allowed under section 2.50.040(A) is prohibited, except that otherwise prohibited pesticides may be used to control:

1. Mosquitoes.

2. Animals or insects, such as fire ants or termites, that may cause damage to buildings and structures.

3. Invasive species whose introduction does, or is likely to, cause economic or environmental harm or harm to human health.

2.50.050 Exclusions. This chapter does not apply to property subject to any State executive order that is not managed or controlled by the County, County agricultural parks, or County property used for agricultural purposes.

2.50.060 Waiver. A. Agencies may apply to the council for a waiver from section 2.50.040 prior to the use of a prohibited pesticide or fertilizer.

B. The waiver application must include:

1. A location map for the proposed usage area.
2. A landscape plan.
3. Photographs of areas and vegetation.
4. A summary of the existing plants, soils, and environmental conditions for each area.
5. A history of vegetation management practices, including fertilizer and pesticide application amounts, and frequency.
6. Cost estimates and a timeline.
7. Information on how the public's health and safety is threatened.
8. An evaluation and list of the results of alternative methods and materials.
9. An explanation of how the application of otherwise prohibited substances will, to the greatest extent practical, minimize the impact of the application on abutting properties, human health, and the environment.

C. The council may approve a waiver or waiver extension by resolution upon finding the following:

1. A situation exists that threatens the public's health and safety.
2. Alternative control methods and allowed substances have been evaluated and determined to be insufficient.
3. The application of otherwise prohibited substances will, to the greatest extent practical, minimize the impact of the application on abutting properties.

D. Waivers may be granted for a period of up to two years, and may include conditions such as signage to protect public health and safety.

E. Waiver extension requests must be submitted at least ninety days prior to the expiration date and must include the same information as a waiver application.

F. If the council fails to approve or disapprove a waiver application or waiver extension request by resolution within one hundred eighty days, the application or request will be automatically approved.

2.50.070 No conflict with federal or State law. Nothing in this chapter will be interpreted or applied so as to create any requirement or duty in conflict with any federal or State law."

SECTION 2. Except for pesticide and fertilizer use at the War Memorial Stadium Complex, Ichiro "Iron" Maehara Baseball Stadium, and Waiehu

Municipal Golf Course, this Ordinance takes effect one year after its approval. This Ordinance takes effect two years after its approval for pesticide and fertilizer use at the War Memorial Stadium Complex and Ichiro "Iron" Maehara Baseball Stadium. This Ordinance takes effect three years after its approval for pesticide and fertilizer use at the Waiehu Municipal Golf Course.

APPROVED AS TO FORM AND LEGALITY:

/s/ Stephanie M. Chen

STEPHANIE M. CHEN

Department of the Corporation Counsel

2021-1245/2021-0161

2021-08-12 Bill 72 Ch. 2.50 relating to pesticide and fertilizer

paf:nas:21-242b

WE HEREBY CERTIFY that the foregoing BILL NO. 72 (2021)

1. Passed FINAL READING at the meeting of the Council of the County of Maui, State of Hawaii, held on the 24th day of August, 2021, by the following vote:

Alice L. LEE Chair	Keani N. W. RAWLINS-FERNANDEZ Vice-Chair	Gabriel JOHNSON	Natalie A. KAMA	Kelly T. KING	Michael J. MOLINA	Tamara A. M. PALTIN	Shane M. SINENCI	Yuki Lei K. SUGIMURA
Aye	Aye	Aye	Excused	Aye	Aye	Aye	Aye	Aye

2. Was transmitted to the Mayor of the County of Maui, State of Hawaii, on the 24th day of August, 2021.

DATED AT WAILUKU, MAUI, HAWAII, this 24th day of August, 2021.

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OFFICE OF THE MAYOR

ALICE L. LEE, CHAIR
Council of the County of Maui

KATHY L. KAOHU, COUNTY CLERK
County of Maui

THE FOREGOING BILL IS HEREBY APPROVED THIS 25th DAY OF August, 2021.

MICHAEL P. VICTORINO, 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. 5242 of the County of Maui, State of Hawaii.

KATHY L. KAOHU, COUNTY CLERK
County of Maui

Passed First Reading on August 6, 2021
Effective date of Ordinance August 25, 2022

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OFFICE OF THE COUNTY CLERK

I HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. 5242, 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