



A BILL FOR AN ORDINANCE

RELATING TO STORED PROPERTY.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Purpose. The purpose of this ordinance is to establish a procedure for the removal and disposal of personal property stored on public property.

SECTION 2. Section 29-1.1, Revised Ordinances of Honolulu 1990, as amended, is amended by amending the definition of "Stored property" to read as follows:

""Stored personal property" means any and all tangible personal property, including items, goods, materials, merchandise, furniture, equipment, fixtures, [and] structures, clothing, and household items:

- (1) that has been [left within the pedestrian use zone] placed on public property for more than 24 hours whether attended or unattended; or
- (2) that remains in a park after park closure hours

without authorization by statute, ordinance, permit, [or] regulation or other authorization by the city or state. The term shall not include any vehicle as defined in HRS Section 291C-1, any vessel as defined in HRS Section 200-23, or any property subject to HRS Chapter 523A."

SECTION 3. Chapter 29, Revised Ordinances of Honolulu 1990, is amended by adding a new article to be appropriately designated by the revisor of ordinances and to read as follows:

"Article ____ . Stored Property

Sec. 29-____.1 Declaration of legislative intent – Purpose.

Public property should be accessible and available to residents and the public at large for its intended uses. The unauthorized use of public property for the storage of personal property interferes with the rights of other members of the public to use public property for its intended purposes and can create a public health and safety hazard that adversely affects residential and commercial areas. The purpose of this article is to maintain public areas in clean, sanitary, and accessible condition, to prevent harm to the health or safety of the public, to prevent the misappropriation of public property for



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personal use, and to promote the public health, safety and general welfare by ensuring that public property remains readily accessible for its intended uses.

Sec. 29-____.2 Definitions.

As used in this article, unless the context otherwise requires:

"Medial strip" means the same as "medial strip" in Section 15-2.23.

"Personal property" means any and all tangible property, and includes, but is not limited to, items, goods, materials, merchandise, furniture, equipment, fixtures, structures, clothing, and household items. The term shall not include any vehicle as defined in HRS Section 291C-1, any vessel as defined in HRS Section 200-23, or any property subject to HRS Chapter 523A.

"Public property" means all property that is owned, managed or maintained by the city, and shall include, but not be limited to any street, sidewalk, replacement sidewalk, medial strip, space, ground, mall, building, structure, public park, and any other property of the city.

"Sidewalk" means the same as "sidewalk" in HRS Section 291C-1.

Sec. 29-____.3 Stored property – Impoundment.

- (a) No person shall store personal property on public property. All stored personal property may be impounded by the city. In the event personal property placed on public property interferes with the safe or orderly management of the premises or poses a threat to the health, safety, or welfare of the public, it may be impounded at any time by the city.

- (b) Personal property placed on public property shall be deemed to be stored personal property if it has not been removed from public property within twenty-four hours of service of the written notice required by Section 29-____.4, which requires such removal, and the city may cause the removal and impoundment of such stored personal property; provided that moving the personal property to another location on public property shall not be considered to be removing the personal property from public property; and provided further that this section shall not apply to personal property that, pursuant to statute, ordinance, permit, regulation, or other authorization by the city or state, is placed on property that is owned or controlled by the city.



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Sec. 29- ____4 Notice.

- (a) The written notice required to be served by subsection (b) of Section 29-____.3 shall be deemed to have been served if a copy of the written notice is served on the person storing the personal property or is posted prominently and conspicuously on the stored personal property. The written notice shall contain the following:
- (1) A description of the personal property to be removed (such description may refer to an attached photograph).
 - (2) The location of the personal property.
 - (3) The date and time the notice was posted.
 - (4) The section of the ROH that is being violated.
 - (5) A statement that the personal property will be impounded if not removed within 24 hours.
 - (6) The location where the removed property will be stored.
 - (7) A statement that impounded property will be sold or otherwise disposed of if not claimed within 30 days after impoundment.
 - (8) A statement that the property owner shall be responsible for all costs of removal, storage and disposal.
- (b) Shopping Carts. If a shopping cart is removed and impounded pursuant to Section 29-____.3, the city shall notify the Retail Merchants Association or its successor organization, of the location where the shopping cart may be claimed. The Retail Merchants Association or its successor organization shall notify the owner of the shopping cart or owner's agent of the location where the shopping cart may be claimed. The owner or owner's agent shall have three business days from the date the city notifies the Retail Merchants Association or its successor organization to retrieve the shopping cart without charge. If the owner or owner's agent fails to retrieve the shopping cart within three business days, the shopping cart shall become impounded property as provided in Section 29-____5(a), written notice shall be provided as in Section 29-____5(b), and the owner shall be subject to any applicable fees and costs imposed pursuant to Section 29-____5(a). Any shopping cart not reclaimed by the owner or owner's

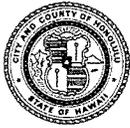


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agent within 30 days after the date of written notice may be disposed of as personal property valued at less than \$1,000.

Sec. 29- ____ .5 Storage and disposal.

- (a) Impounded personal property shall be moved to a place of storage, and the owner shall be assessed moving, storage, and other related fees and costs. Additionally, the owner of impounded personal property shall bear the responsibility for the risk of any loss or damage to the impounded property.
- (b) At least 30 days prior to disposal of impounded personal property, the city shall serve notice in writing apprising the owner of the personal property of the description and location of the impounded personal property and of the intent of the city to sell, donate, or otherwise dispose of the impounded property. Service of written notice shall be by personal service or by certified mail, return receipt requested, to the last known address of the owner of the impounded property if the owner is known or can be determined. Where the identity or the address of the owner is unknown or cannot be determined through the exercise of reasonable diligence, the notice shall be posted for three consecutive days on the public property where the property was stored or seized. If notice cannot be posted as provided heretofore, then it shall be posted on the internet website of the city for three consecutive days.
- (c) If any item of impounded personal property has an estimated value of \$1,000 or more, the city shall also give public notice of its disposal, including a brief description of the property, details of the time and place of the auction and giving notice to all persons interested in claiming the property that unless claims are made by persons who can provide satisfactory proof of ownership before a specified date, the property will be sold at public auction to the highest bidder. Such public notice shall be published at least once in a publication of statewide circulation or in a publication of local circulation where the property was impounded; provided that the disposal shall not take place less than five days after public notice has been given. Following proper notices as provided in subsections (b) and (c), any item of impounded personal property having an estimated value of \$1,000 or more shall be disposed of by public auction, through oral tenders, or by sealed bids. Where no bid is received, the impounded personal property may be sold by negotiation, disposed of or sold as junk, kept by the city or donated to any other government agency or charitable organization.
- (d) The requirement for public notice and public auction shall not apply when the estimated value of the impounded personal property is less than \$1,000. In that event, the impounded personal property may be sold by negotiation, disposed of



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or sold as junk, kept by the city or donated to any other government agency or charitable organization.

- (e) Any impounded property of a perishable nature may be disposed of immediately in any manner without notice after impoundment by the city.
- (f) The city shall maintain a record of the date and method of disposal of the impounded personal property, including the consideration received for the property, if any, and the name and address of the person taking possession of the property. Such record shall be kept as a public record for a period of not less than one year from the date of disposal of the property.

Sec. 29- ____6 Proceeds of sale.

All fees and unpaid rent, debts and charges owing and all expenses of handling, storage, appraisal, advertising, and other sale expenses incurred by the city shall be deducted from the proceeds of any sale of the impounded property. Any amount remaining shall be held in trust for the owner of the property for 30 days after sale, after which time the proceeds shall be paid into the general fund.

Sec. 29- ____7 Repossession.

The owner or any other person entitled to the impounded personal property may repossess the property prior to its disposal upon submitting satisfactory proof of ownership or entitlement and payment of all unpaid rent, debts, and charges owing and all handling, storage, appraisal, advertising, and other expenses incurred by the city in connection with the proposed disposal of the impounded property.

Sec. 29- ____8 City not liable.

The City and County of Honolulu, its officers, employees, and agents shall not be liable to the owner of impounded personal property because of any disposal of the property made pursuant to this article. The remedies available to the owner of impounded property are limited to those provided in this article."



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SECTION 4. Chapter 10, Article 11, Revised Ordinances of Honolulu 1990, ("Abandoned Property"), as amended, is repealed.

["Article 11. Abandoned Property

Sec. 10-11.1 Definitions.

For purposes of this article:

"Abandoned property" means any and all tangible personal property, including items, materials, equipment, fixtures, that has been left unattended on land owned or controlled by the department for a continuous period of more than twenty-four hours without the written permission of the department or its authorized representative. Anything herein to the contrary notwithstanding, personal property carried into the park and left after park hours will be considered abandoned property.

"Department" means the department of parks and recreation.

Sec. 10-11.2 Abandoned and unattended property; Impoundment.

No person shall abandon property in a public park. All abandoned property may be impounded by the department or its authorized representative. In the event property left unattended interferes with the safe or orderly management of the premises, it may be impounded by the department or its authorized representative at any time.

Sec. 10-11.3 Storage, notice, disposition.

- (a) Storage and Related Costs. Impounded property shall be moved to a place of storage, and the owner shall be assessed moving, storage, and other related costs. Additionally, the owner of impounded property shall bear the responsibility for the risk of any loss or damage to their property.
- (b) Shopping Carts. The department shall notify the Retail Merchants Association or its successor organization, of the location where the shopping cart may be claimed. The Retail Merchants Association or its successor organization shall notify the owner or owner's agent of the location where the shopping cart may be claimed. The owner or owner's agency shall have three business days from the date the department notifies the Retail Merchants Association or its successor organization to retrieve the shopping cart without charge. If the owner or owner's agent fails to retrieve the shopping cart within three business days, the shopping cart shall become impounded property as provided in subsection (a), written notice shall be provided as in subsection (c), and the owner shall be subject to



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any applicable fees and costs imposed pursuant to subsection (a). Any shopping cart not reclaimed by the owner or owner's agent within 30 days after the date of written notice may be disposed of as property without commercial value.

- (c) **Written Notice.** The department shall send notice by certified mail at least 30 days prior to disposition of impounded property, to the last known address of the owner of the property if the owner is known or can be determined. The notice shall apprise the owner of the identity and location of the property impounded and of the intent of the department to sell, donate, or otherwise dispose of the property. Where the identity or the address of the owner is unknown or cannot be determined, the notice shall be posted on the premises where the property is impounded. If the impounded property has an estimated value of \$1,000 or more, the department shall also give public notice of the disposition, including a brief description of the property, at least once either statewide or in a publication of local circulation where the property was impounded; provided that the disposition shall not take place less than five days after the notice of intent to dispose of the property.
- (d) **Disposition.** Following proper notice as provided in subsection (c), impounded property having an estimated value of \$1,000 or more shall be sold by public auction through oral tenders. The requirement for public action shall not apply when the value of the impounded property is less than \$1,000. Property may be disposed of as property without commercial value if it was publicly auctioned but no bid was received, or if the value is less than \$1,000.
- (e) **Disposition of Property Without Commercial Value and Perishable Property.** If the department determines that any impounded property has no apparent commercial value or is of a perishable nature, the department at any time thereafter may destroy the impounded property or the property may be sold by negotiation, disposed of or sold as junk, kept by the department or donated to any other government agency or charitable organization.

Sec. 10-11.4 Proceeds of sale.

All charges and fines and all expenses of handling, storage, appraisal, advertising, and other sale expenses accruing to the owner of impounded property shall be deducted from the proceeds of any sale of impounded property. Any amount remaining shall be held in trust for the owner of the property for 30 days after sale, after which time the proceeds shall be paid into the general fund.



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Sec. 10-11.5 Repossession.

The owner or any other person entitled to abandoned or impounded property may repossess the property prior to its disposition upon proof of ownership or entitlement and payment of all unpaid rent, debts, charges, and fines owing and all handling, storage, appraisal, advertising, and any other expenses incurred in connection with the proposed disposition of impounded property.

Sec. 10-11.6 City not liable.

The City and County of Honolulu, its officers, employees, and agents shall not be liable to the owner of impounded property because of any disposition of the property made pursuant to this section. The remedies available to the owner of impounded property are limited to those provided in this article.]"

SECTION 5. Section 29-18.2, Revised Ordinances of Honolulu 1990, as amended, is repealed.

["Sec. 29-18.2 Placing objects on or above the pedestrian use zone.

Except as otherwise provided in Section 29-18.4, no person may deposit, install, place, fix or leave any object or item in, on or above a pedestrian use zone except personal baggage or luggage that is within arm's reach of the pedestrian possessor. "Personal baggage" means items of personal possession that can be carried or transported by pedestrians.]"

SECTION 6. Section 29-18.7, Revised Ordinances of Honolulu 1990, as amended, is repealed.

["Sec. 29-18.7 Stored property; Impoundment.

- (a) No person shall store property within the pedestrian use zone. All stored property may be impounded by the city. In the event personal property stored within the pedestrian use zone interferes with the safe and orderly management of or flow of pedestrian traffic within the zone or is an imminent threat to the health, safety, or welfare of the public, it may be impounded at any time by the city without prior notice.
- (b) Personal property left within the pedestrian use zone shall be deemed to be illegally stored property if it has not been removed from the zone within twenty-four hours of the service of written notice, as described in subsection (c), and the city may cause the removal and impoundment of such stored property; provided



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that moving the personal property from one location within the pedestrian use zone to another location within the zone shall not be deemed to be "removing" the personal property from the zone; and provided further that this subsection shall not apply to personal property that is stored within the pedestrian use zone pursuant to statute, ordinance, permit, regulation or other authorization by the city or state.

- (c) The written notice required to be served by subsection (b) shall be deemed to have been served if a copy of the written notice is attached to the personal property located within the pedestrian use zone. The notice required by subsection (b) shall contain the following:
 - (1) A description of the personal property to be removed (such description may refer to an attached photograph).
 - (2) The location of the personal property.
 - (3) The date and time the notice was posted.
 - (4) The section of the ROH that is being violated.
 - (5) A statement that the personal property will be impounded if not removed from the pedestrian use zone within 24 hours.
 - (6) The location where the removed property will be stored.
 - (7) A statement that impounded property will be sold or otherwise disposed of if not claimed within 30 days.
 - (8) A statement that the property owner shall be responsible for all costs of removal, storage and disposition.
- (d) Impounded property shall be moved to a place of storage, and the property owner shall be assessed moving, storage, and other related costs. Additionally, the owner of impounded property shall bear the responsibility for the risk of any loss or damage to the impounded property.
- (e) The city shall send notice by certified mail at least 30 days prior to disposition of the impounded property, to the last known address of the owner of the property if the owner is known or can be determined. The notice shall apprise the owner of the identity and location of the property impounded and of the intent of the city to sell, donate, or otherwise dispose of the property. Where the identity or the



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address of the owner is unknown or cannot be determined, the notice shall be posted within the pedestrian use zone where the property was stored or seized. If notice cannot be posted as provided heretofore, then such notice shall be posted on the internet website of the city for three consecutive days. If the impounded property has an estimated value of \$1,000 or more, the city shall also publish public notice of the disposition, including a brief description of the property, at least once either through publication in a publication of statewide circulation or in a publication of local circulation where the property was impounded; provided that the disposition shall not take place less than five days after notice of intent to dispose of the property.

- (f) Following proper notice as provided in subsection (e), impounded property having an estimated value of \$1,000 or more shall be sold by public auction through oral tenders. The requirement for public action shall not apply when the estimated value of the impounded property is less than \$1,000. Property may be disposed of as property without commercial value if it was publicly auctioned but no bid was received, or if the estimated value is less than \$1,000.
- (g) If the city determines that any impounded property has no apparent commercial value or is of a perishable nature, the city at any time thereafter may destroy the impounded property or the property may be sold by negotiation, disposed of or sold as junk, kept by the city or donated to any other government agency or charitable organization. The city shall maintain a record of the date and method of disposal of the property, including the consideration received for the property, if any, and the name and address of the person taking possession of the property. Such record shall be kept as a public record for a period of not less than two years from the date of disposal of the property.
- (h) All charges and all expenses of handling, storage, appraisal, advertising, and other sale expenses related to the impounded property shall be deducted from the proceeds of any sale of the impounded property. Any amount remaining thereafter shall be held in trust for the owner of the property for 30 days after sale, after which time, if no claim has been made therefor, the proceeds shall be paid into the general fund.
- (i) The owner or any other person entitled to the impounded property may repossess the property prior to its disposition upon proof of ownership or entitlement and payment of all unpaid rent, debts, and charges owing and all handling, storage, appraisal, advertising, and any other expenses incurred in connection with the impoundment and proposed disposition of the impounded property.



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- (j) The city, its officers, employees, and agents shall not be liable to the owner of impounded property because of any disposition of the property made pursuant to this section. The remedies available to the owner of impounded property are limited to those provided in this section."]

SECTION 7. Ordinance material to be repealed is bracketed. New material is underscored. When revising, compiling or printing this ordinance for inclusion in the Revised Ordinances of Honolulu, the revisor of ordinances need not include the brackets, the bracketed material or the underscoring.



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SECTION 8. This ordinance shall take effect upon its approval, provided that any personal property impounded by the city prior to the effective date of this ordinance shall not be subject to the provisions of this ordinance.

INTRODUCED BY:

Tulsi Gabbard

Ernest Martin

Ann Kobayashi

Stanley Chang

Ikaika Anderson

DATE OF INTRODUCTION:

September 28, 2011

Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Deputy Corporation Counsel

APPROVED this _____ day of _____, 20____.

PETER B. CARLISLE, Mayor
City and County of Honolulu