CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ORDINANCE _____

BILL 5 (2011), CD1, FD1
Proposed

A BILL FOR AN ORDINANCE

RELATING TO PUBLIC PARKS.

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

SECTION 1. The purpose of this ordinance is to prohibit commercial activities at certain city beach parks.

SECTION 2. Section 10-1.1, Revised Ordinances of Honolulu 1990 is amended by adding new definitions of "commercial activity" and "recreational stops" to read as follows:

""Commercial activity" means a use or purpose designed for profit, which includes but is not limited to the exchange or buying and selling of commodities; the providing of services relating to or connected with trade, traffic or commerce in general; any activity performed by the commercial operator or its employees or agents in connection with the delivery of such commodities or services; and the soliciting of business, including the display or distribution of notices, business cards, or advertisements for commercial promotional purposes. The use of land for utilities, and the use of the premises and facilities for official canoe regattas, shall not be considered a commercial activity."

""Recreational stops" means the use of city beach parks by commercial tour companies for activities that may include, but are not limited to, sightseeing, spectating, picture taking, beach combing, swimming, and eating of prepared picnic lunches."

SECTION 3. Section 10-1.2 Revised Ordinances of Honolulu 1990, as amended, is amended to read as follows:

"**Sec. 10-1.2 Park rules and regulations.**

(a) Within the limits of any public park, it is unlawful for any person to:

(1) Willfully or intentionally destroy, damage or injure any property;

(2) Climb onto any tree, except those designated for climbing, or to climb onto any wall, fence, shelter, building, statue, monument or other structure, excluding play apparatus;

(3) Swim, bathe, wade in or pollute the water of any ornamental pool or fountain;

(4) Kindle, build, maintain or use any fire, other than in a grill or brazier;

(5) Annoy, molest, kill, wound, chase, shoot or throw missiles at any animal or bird;

(6) Distribute, post or place any commercial handbill or circular, notice or other advertising device or matter, except as permitted by the terms of any agreement relating to the use of park property;

(7) Use any surfboard or devices or materials with jagged or rough ends and edges, which are dangerous to surfers, swimmers or bathers;

(8) Construct or fabricate surfboards;

(9) Permit any animal to enter and remain within the confines of any public park area except as otherwise provided in this article;

(10) Feed any animal or bird when signs are posted prohibiting such feeding;

(11) Wash, polish or repair cars or other vehicles;

(12) Enter or remain in any public park during the night hours that the park is closed, provided that signs are posted indicating the hours that the park is closed;

(13) Camp at any park not designated as a campground;

(14) Fail to comply with any sign or notice posted by the City and County of Honolulu;

(15) Utilize, place, occupy, leave, or in any other manner situate a shopping cart.

(b) Except as authorized by permits, and subject to the terms and conditions imposed by the department of parks and recreation, it is unlawful for any person, within the limits of any public park, to:

(1) Cut or remove any wood, plant, grass, soil, rock, sand or gravel;

(2) Sell or offer for sale any services, merchandise, article or thing, whatsoever;

(3) Moor, tie up, store, repair or condition any boat, canoe, raft or other vessel;

(4) Repair or condition any surfboard;

(5) Park any vehicle except bicycles on grassed areas;

(6) Amplify music or use battery operated loudspeakers (bullhorns);

(7) Ride or drive any horse or any other animal;

(8) Engage in or conduct any activity which creates any sound, noise or music exceeding 80 dBA sound pressure level taken at a point 10 feet in front of the source for a cumulative time period of at least five minutes when measured with a calibrated American National Standard Institute (ANSI) Type I or Type II sound level meter with weighting set at "A" and response set at "slow" except any activity which is sponsored by the city or the department of parks and recreation or authorized by permit issued by the city;

(9) Construct, utilize, place, occupy, leave, or in any other manner situate any tent.

(c) Within the limits of any public park, it is unlawful for any person, wherever signs are posted prohibiting such activities, to:

(1) Throw, cast, catch, kick or strike any baseball, tennis ball, football, basketball, croquet ball or other object;

(2) Ride upon roller skates, skateboards or bicycles;

(3) Engage in kite flying.

(d) Except in park areas specifically designated for such purposes, it is unlawful for any person to:

(1) Throw, cast, roll or strike any bowling ball or golf ball;

(2) Engage in model airplane flying;

(3) Engage in model boat sailing;

(4) Kindle, build or maintain any campfire;

(5) Discharge firearms for target practice only;

(6) Engage in archery for target practice and tournament only;

(7) Launch model rockets.

(e) In addition to the requirements of subsection (b) of this section, the repair or conditioning of any surfboard shall be performed only by a concessionaire of the department of parks and recreation who has a surfboard concession. Such repair work shall be conducted only in an enclosed building or structure, approved by the department of parks and recreation, building department, and the state department of health. The terms and conditions to be imposed by the department of parks and recreation shall include, together with the requirements necessary to safeguard the health and safety of the public, the securing of adequate insurance to protect the city from any liability resulting from such repair work.

(f) It is unlawful for any person, other than authorized personnel of the department of parks and recreation, or a person then golfing on the course, or such person's caddy, to gather or pick up golf balls within the boundaries of a public golf course.

(g) (1) Within the limits of any public park, it is unlawful for any person, where signs are posted prohibiting or restricting such activities, to operate, park or stand a motor vehicle in violation of such prohibitions or restrictions. Such signs may impose any prohibition or restriction upon the operation, parking or standing of motor vehicles which the director of parks and recreation shall determine will maximize the enjoyment and use of any park by park users. Such restrictions may include the installation of parking meters in parks.

(2) Parking Meter Charges and Time Limits.

(A) Meters at the Honolulu Zoo parking lot shall have a four-hour time limit at the rate of $1.00 per hour.

(B) Meters on the mauka side of Kalakaua Avenue between Monsarrat Avenue and the Paki Avenue-Poni Moi Road-Diamond Head Road intersection shall have a four-hour time limit at the rate of 50 cents per hour and shall be in effect between the hours of 10 a.m. and 6 p.m., seven days a week.

(3) Parking Meter Violations.

(A) No person shall violate any provision of Section 15-22.11.

(B) Every hour a vehicle remains parked, stopped, or standing in violation of any provision of Section 15-22.11 shall constitute a separate violation.

(h) Commercial activities, including recreational stops by tour companies, shall not be allowed at Kailua Beach Park and Kalama Beach Park for any period of time from 1:00 p.m. on Saturdays through 6:30 a.m. on Mondays, except as otherwise provided in this chapter for commercial filming activities.

(i) Commercial activities, including recreational stops by tour companies, shall not be allowed at any time at city owned or operated beach rights-of-way and easements from Lanikai to Kapoho Point (Castle Point)."

SECTION 4. Section 10-1.3, Revised Ordinances of Honolulu 1990 ("Permits"), is amended by amending subsection (a) to read as follows:

"(a) Required. Any person using the recreational and other areas and facilities under the control, maintenance, management and operation of the department of parks and recreation shall first obtain a permit from the department for the following uses:

(1) Picnic groups, consisting of 50 or more persons;

(2) Camping;

(3) Sports activities conducted by either a league, organization, association, group or individual;

(4) Recreational activities, including nonprofit fundraising activities, sponsored by community organizations, associations, groups or individuals;

(5) Meetings or gatherings or other similar activity held by organizations, associations or groups;

(6) Nonrecreational, public service activities, meetings and gatherings held by organizations, communities or groups;

(7) Right of entry into parks for installation of utilities or construction work;

(8) The playing of musical instruments as solo or two or more instruments which fall within the standards described in paragraphs (A), (B) and (C) of this subdivision:

(A) Musical instruments which are limited to two octaves or less, including but not limited to the following musical instruments: (i) tuba, (ii) tympani, (iii) maracas, (iv) uliuli, (v) castanets, (vi) tambourine or (vii) percussion instruments in which a human hand or drumsticks are used to create sounds therefrom;

(B) Musical instruments which when played do not exceed the sound pressure level established in Section 10-1.2(b)(8); and

(C) Musical instruments which are used or played continuously without a regular hourly break of 30 minutes, or for more than six hours within a day.

The use or the playing of a musical instrument which requires a permit as provided hereunder shall be subject to the following restrictions, in addition to any other conditions imposed by the rules and regulations promulgated by the director:

(A) Issuance Standards for Permits. The department of parks and recreation shall uniformly treat each application, based upon the facts presented, free from improper or inappropriate considerations and from unfair discrimination and shall exercise no other discretion over the issuance of a permit under this section, except as provided in this section and in the departmental rules.

(B) Judicial Review. Upon the department's refusal to issue a permit, the applicant for such permit shall be entitled to a review by the circuit court within 30 days after the date of such refusal. In such

review, the department's decision shall be upheld in the absence of a judicial finding of abuse of discretion.

(C) Restrictions. The use or the playing of a musical instrument which requires a permit as provided hereunder shall be subject to the following restrictions, in addition to any other conditions imposed by the rules adopted by the director:

(i) Time: Only between the hours of nine a.m. and six p.m. daily, and

(ii) Place: The playing of such instruments shall be restricted to the facility especially constructed for such purpose, such as the bandstand at Kapiolani Park or other areas within the park that shall be clearly designated in the permit, and

(iii) Manner: During the hours mentioned in subparagraph (i) of this paragraph, every half-hour of playing period shall immediately be followed by a 15-minute break or every one hour of playing period shall immediately be followed by a half-hour break; provided, that at no time shall there be any continuous playing exceeding an hour.

(D) Duration of Permit. The duration of a permit issued pursuant to subdivision (8) shall not exceed one month;

(9) Hang gliding;

(10) Commercial activities [designed for profit, which include but are not limited to the exchange or buying and selling of commodities, or the providing of services relating to or connected with trade, traffic or commerce in general. For purposes of this subdivision, the use of land for utilities shall not be considered a commercial activity. The], provided that the proposed commercial activities under the permit shall be consistent with the use of the park under consideration, subject to reasonable limitations on the size of the groups, and the time and area within which the event is permitted[;], and subject to department of parks and recreation rules and regulations regarding the solicitation of business, advertising, and commercial promotional activities. No permit for commercial activities, including permits for recreational stops by commercial tour companies, at Kailua Beach Park and Kalama Beach Park, shall allow such activity from 1:00

p.m. on Saturdays through 6:30 a.m. on Mondays, except as otherwise provided in this chapter for commercial filming activities;

(11) Constructing, utilizing, placing, occupying, or in any other manner situating any tent."

SECTION 5. Section 10-3.2, Revised Ordinances of Honolulu 1990, as amended, is amended to read as follows:

"**Sec. 10-3.2 Commercial filming activities.**

(a) The fee charged for a commercial filming activity permit shall be as follows:

Activity	Daily Permit	Monthly Permit	Annual Permit
(1) Movie or television for (i) nonlocal network and cable television and/or major motion picture studios or (ii) national advertising	$300.00	No Monthly Permit	No Annual Permit
(2) Movie or television for (i) nonprofit organizations as defined in ROH Section 29-1.1, (ii) local television and local advertising, (iii) public service, educational or school productions, or (iv) other movie and television productions not described in subdivision (1)	$20.00	No Monthly Permit	No Annual Permit
(3) Still photos/Special event videography	$20.00	$100.00	$1,000.00

Provided that the mayor or a city officer or employee designated by the mayor may reduce any daily permit fee if deemed necessary by the mayor or designee to assist the proposed filming activity and it is deemed by the mayor or designee that such activity will feature or promote the State of Hawaii, island of Oahu, and/or City and County of Honolulu. Such promotions may be through the production directly or via indirect promotions related to the production.

"Special event videography" means the production of motion pictures or videos for private noncommercial use, including motion pictures or videos of weddings, graduations or similar events to be used as family mementos.

(b) The mayor or a city officer or employee designated by the mayor shall determine which fee applies to a particular commercial filming activity permit.

(c) Commercial filming activities at Kailua Beach Park and Kalama Beach Park may take place from 1:00 p.m. on Saturdays through 6:30 a.m. on Mondays, provided all permit requirements are satisfied."

SECTION 6. 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 7. This ordinance shall take effect on July 1, 2012; provided that any permit allowing commercial activity to take place at Kailua Beach Park and Kalama Beach Park that was issued prior to the effective date of this ordinance shall continue to be valid until the permit expires or is duly revoked.

INTRODUCED BY:

Ikaika Anderson

DATE OF INTRODUCTION:

January 20, 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