

CITY COUNCIL
REFERRAL APPEAL FORM

DATE: June 26, 2012

TO: COUNCIL CHAIR
FROM: Councilmember Tom Berg
COMMITTEE CHAIR

RECEIVED
JUN 27 10 50 AM '12
CITY CLERK
HONOLULU, HAWAII

BILL/RESOLUTION/COMMUNICATION AND SUBJECT:
Bill 11 (2012), CD1

STATUS (Reading/PH):
Passed second reading and public hearing held May 9, 2012

CURRENTLY REFERRED TO
COMMITTEE(S):
Parks & Cultural Affairs

DESIRED COMMITTEE(S)
RE-REFERRED TO:

OR

DIRECT REFERRAL TO COUNCIL
FLOOR

Reason(s) for Appeal:
Would like timely action by Council on the Bill.

Tom Berg
Committee Chair (Requestor)

Tom Berg
Committee Chair

[Signature]
Council Chair

6/26/12
Date

Granted
Denied

cc: Councilmembers
City Clerk
Council Assistance



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 address commercial activities at certain city beach parks.

SECTION 2. Section 10-1.2 Revised Ordinances of Honolulu 1990 ("Park rules and regulations") is amended by amending subsection (h) to read as follows:

"(h) Commercial activities, including recreational stops by tour companies, shall not be allowed at any time 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.] Park, except as otherwise provided in this chapter for commercial filming activities."

SECTION 3. 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;



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- (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



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- (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, 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 shall be issued 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."**



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SECTION 3. 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.

INTRODUCED BY:

Ikaika Anderson

DATE OF INTRODUCTION:

February 9, 2012
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