



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 city parks.

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

"(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;



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- (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.] cart;
- (16) Engage in any of the following commercial activities:
  - (A) Commercial activities that are inconsistent with park use;
  - (B) Commercial activities at Kapiolani Regional Park, except pursuant to a concession contract with the city;
  - (C) Commercial activities that violate rules and regulations governing use of parks for commercial activities promulgated by the director pursuant to HRS Chapter 91;
  - (D) Commercial activities that contravene the terms of any concession contract that is in effect on the effective date of this ordinance."

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;



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- (3) Sports activities conducted by a league, organization, association, group or individual;
- (4) Recreational activities, including nonprofit fundraising activities, sponsored by community organizations, associations, groups or individuals;
- (5) Expressive Activities.
  - (A) Expressive activities held at Ala Moana Regional Park or in the following areas of Kapiolani Park require a permit when the expressive activity involves 150 or more persons:
    - (i) The triangle area fronting the Honolulu Zoo bordered by Kapahulu Avenue and Monsarrat Avenue, but excluding the Honolulu Zoo;
    - (ii) The area within Kapiolani Park bordered by Monsarrat Avenue, Paki Avenue, Poni Moi Road, and Kalakaua Avenue;
    - (iii) The Waikiki playground area bordered by Monsarrat Avenue, Leahi Avenue, and Paki Avenue, generally rectangular in shape;
    - (iv) The Leahi area bordered by Leahi Avenue, Noela Street, and Paki Avenue, generally rectangular in shape; or
    - (v) The archery range area bordered by Paki Avenue and Poni Moi Road, generally rectangular in shape.
  - (B) For all other public parks, and areas of Kapiolani Regional Park outside of the areas specified in Section 10-1.3(a)(5)(A), a permit shall be required when the expressive activity involves 75 or more persons.

The foregoing provisions shall not apply if the expressive activity is due to a spontaneous event occasioned by news or affairs coming into public knowledge within 48 hours of such expressive activity, in which case the organizer shall provide written notice to the city as soon as practicable prior to such expressive activity.



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- (6) Meetings or gatherings or other similar activity other than expressive activities held by organizations, associations or groups;
- (7) Nonrecreational, public service activities, meetings and gatherings other than expressive activities held by organizations, communities or groups;
- (8) Right of entry into parks for installation of utilities or construction work;
- (9) 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



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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 (9) shall not exceed one month.

The foregoing provisions shall not apply to the playing of musical instruments in conjunction with expressive activities.

- (10) Hang gliding;
- (11) Commercial [activities,] scuba diving and snorkeling activities, and commercial filming activities, pursuant to article 3 of this chapter, provided that the proposed commercial activities under the permit shall be consistent with the use of the [park under consideration,] park, 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,] activities at Kailua Beach Park and



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Kalama Beach Park, except as otherwise provided in this chapter for commercial filming activities;

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

SECTION 4. Section 10-3.2, Revised Ordinances of Honolulu 1990 ("Commercial filming activities"), is amended by amending subsection (c) to read as follows:

"(c) Commercial filming activities are allowed 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,] Park, provided all permit requirements are satisfied."

SECTION 5. Article 5 of Chapter 10, Revised Ordinances of Honolulu 1990, as amended ("Commercial Windsurfing"), is repealed in its entirety.

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 upon approval.

INTRODUCED BY

TOM BERG

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DATE OF INTRODUCTION:

SEP 28 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

FILED  
SEP 28 2014  
PURSUANT TO ROH Sec. 1-24