



A BILL FOR AN ORDINANCE

RELATING TO THE REGULATION OF SIDEWALKS.

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

SECTION 1. Purpose. The purpose of this ordinance is to regulate sidewalks to ensure that sidewalks remain readily accessible for their intended uses.

SECTION 2. Section 29-19.2, Revised Ordinances of Honolulu 1990, is amended by amending the definition of "Public property" to read as follows:

""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[.], but shall not include sidewalks."

SECTION 3. Section 29-19.2, Revised Ordinances of Honolulu 1990, is amended by deleting the definition of "Sidewalk."

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

SECTION 4. Chapter 29, Revised Ordinances of Honolulu 1990 ("Streets, Sidewalks, Malls and Other Public Places"), is amended by adding a new article to be appropriately designated by the revisor of ordinances and to read as follows:

**"Article \_\_\_\_.** Sidewalk Accessibility

**Sec. 29-\_\_\_\_.1 Declaration of legislative intent – Purpose.**

Sidewalks should be accessible and available to residents and the public at large for the safe and efficient movement of people, the delivery of goods and services and as access to public spaces for lawful use. The unauthorized use of sidewalks for the storage of personal property interferes with the rights of other members of the public to use sidewalks for its intended purposes and can create a public health and safety hazard. The purpose of this article is to maintain sidewalks in clean, sanitary, and accessible condition, to prevent harm to the health or safety of the public, to prevent the misappropriation of sidewalks for personal use, and to promote the public health, safety and general welfare by ensuring that sidewalks remains readily accessible for its intended uses.



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**Sec. 29-\_\_\_.2 Definitions.**

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

"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.

"Sidewalk" means that portion of a street between the curb line or the pavement of a roadway, and the adjacent private or public property line, whichever the case may be, intended for the use of pedestrians, including any setback areas acquired by the city for road widening purposes and also includes replacement sidewalks.

**Sec. 29-\_\_\_.3 Impoundment.**

- (a) No person shall store personal property on any sidewalk. All stored personal property may be impounded by the city. In the event personal property placed on a sidewalk 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 within a delineated area on a sidewalk shall be deemed to be stored personal property if it has not been removed from the sidewalk 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 sidewalk location shall not be considered to be removing the personal property from the sidewalk; 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 permitted to be placed on a sidewalk.

**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 posted prominently and conspicuously within a delineated area on a sidewalk. The delineated area shall not exceed one city block. The written notice shall contain the following:



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- (1) The location of the delineated area.
  - (2) The date and time the notice was posted.
  - (3) The section of the ROH that is being violated.
  - (4) A statement that all personal property in the delineated area will be impounded if not removed within 24 hours.
  - (5) The location where the removed property will be stored.
  - (6) A statement that impounded property will be sold or otherwise disposed of if not claimed within 30 days after impoundment.
  - (7) 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 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



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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 in the delineated area on the sidewalk 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 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.



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**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."

SECTION 5. 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 6. 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:

*Ann Kobayashi*

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CITY AND COUNTY OF HONOLULU  
CITY CLERK  
RECEIVED  
JAN 23 10 53 AM '13

DATE OF INTRODUCTION:

**JAN 23 2013**

\_\_\_\_\_  
Honolulu, Hawaii

\_\_\_\_\_  
Councilmembers

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
Deputy Corporation Counsel

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
KIRK CALDWELL, Mayor  
City and County of Honolulu

**FILED**  
**JAN 23 2015**  
HONOLULU, HAWAII