



A BILL FOR AN ORDINANCE

RELATING TO STREETS, SIDEWALKS, MALLS AND OTHER PUBLIC PLACES.

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

SECTION 1. Purpose. The purpose of this ordinance is to prohibit affixing personal property to City and County of Honolulu property.

SECTION 2. Chapter 29, Revised Ordinances of Honolulu 1990 ("Streets, Sidewalks, Malls and Other Public Places"), as amended, is further amended by adding a new article to be appropriately designated by the revisor of ordinances and to read as follows:

"Article __. Affixing Personal Property to City 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 affixing of personal property onto public 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 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.

The meaning of the terms in this article shall be as follows:

"Affix" means to attach, fasten, join, stick, or hang upon.

"City property" means any property owned or controlled by the City and County of Honolulu that includes, but is not limited to, trees, walls, fences, shelters, buildings, monuments, structures, signs, benches, planters, or traffic control devices.

"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.



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"Structure" means any edifice, building or piece of work artificially built up or composed of parts and joined together in some definite manner whether the same be movable or immovable.

"Traffic control device" shall have the same meaning as "official traffic control device" as the latter is defined in HRS Chapter 291C.

Sec. 29-__3 Prohibition against affixing personal property to city property.

- (a) Except as otherwise permitted by this article or any other provision of the Revised Ordinances of Honolulu 1990, as amended, no person shall affix personal property to city property. Any personal property affixed in violation of this subsection shall be considered unlawful and shall be subject to summary removal under this section.
- (b) Subsection (a) shall not apply to:
 - (1) Bicycles affixed to bicycle racks;
 - (2) Tents; and
 - (3) Personal property permitted pursuant to a permit or license issued by the city.
- (c) The city may immediately and summarily remove or cause the immediate and summary removal of personal property. Personal property may be disassembled for removal.
 - (1) The city shall store or cause to be stored any personal property removed pursuant to this subsection until the city is authorized to destroy, sell, or otherwise dispose of the personal property pursuant to the applicable provisions of this section, but in no event less than 30 calendar days from the date of removal.
 - (2) Notification.
 - (A) Written notice of the city's removal of the personal property shall be posted for three consecutive days following removal of the personal property on the public property where the personal property was removed. If notice cannot be posted as provided, then it shall be posted on the internet website for the city for three consecutive days following removal of the personal property.



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- (B) The written notice shall state:
- (i) The date, violation and removal of the personal property;
 - (ii) That the owner may reclaim the personal property within 30 calendar days from the date of the removal of the personal property;
 - (iii) Contact information and instructions on how the owner may reclaim the personal property;
 - (iv) That the owner has the right to appeal the removal of the personal property in accordance with subsection (e); and
 - (v) That, if not timely reclaimed or the subject of timely appeal, the personal property shall be subject to disposal.
- (C) If a name and mailing address has been legibly and conspicuously provided on personal property removed pursuant to this subsection, then the city also shall issue a written notice, by certified mail, to the person named on the personal property within seven calendar days following the date of the removal of the personal property; provided that if only an address is provided on personal property, the city shall issue a written notice, by certified mail, addressed to the "Occupant" of that address, within seven calendar days following the date of the removal of the personal property. No such notice shall be required if only the name is provided and the city is unable after a good faith effort to determine the address of the named person.
- (D) Shopping Carts. If a shopping cart is removed and impounded pursuant to this subsection, 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 be treated as a removed personal property pursuant to



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this subsection, and written notice shall be provided as in subsection (c)(2), and the owner shall be subject to a fee pursuant to subsection (d), unless the owner successfully contests the removal as provided in subsection (e).

- (3) The city may destroy, sell, or otherwise dispose of personal property removed under the provisions of this subsection after a period of 30 calendar days from the date of removal of the personal property unless a timely appeal has been filed under subsection (e).
- (d) Personal property removed pursuant to this section may be reclaimed by the owner within the applicable 30-day period specified in subsection (c). To reclaim personal property, an owner or the owner's authorized representative shall make arrangements with the city to reclaim the personal property; shall appear in person within the applicable 30-day period at the time and place designated by the city; shall provide satisfactory proof of identity and entitlement; and shall pay to the city a \$200.00 fee for the city's cost of removal, storage and handling of the personal property, whereupon the city shall release the personal property to the owner or the owner's authorized representative, as is.
- (e) An owner of personal property removed pursuant to this section may contest the removal by written request for a hearing to the city received no later than 25 calendar days after removal of the personal property. The owner shall provide a current mailing address to receive the notice of the decision of the city regarding the appeal. The hearing shall be conducted by the city in accordance with the provisions of HRS Chapter 91. The appeal shall be limited to a determination of whether the personal property was properly removed and a fee properly assessed pursuant to this section. The city shall continue to store or have stored the personal property until the appeal has been decided. If the decision of the city is in favor of the owner, then the owner may arrange to reclaim the personal property without paying the fee for the removal, storage, and handling of the personal property. If the decision of the city is in favor of the city, then the personal property may be returned to the owner or the owner's authorized representative upon payment of the removal, storage, and handling fee of \$200.00. If the owner or the owner's authorized representative fails to reclaim the personal property within seven calendar days of the postmark for the notice of the decision, the personal property may be destroyed, sold, or otherwise disposed of by the city.



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Sec. 29-__4 Rules.

The city may adopt rules pursuant to HRS Chapter 91 for the implementation of this article.

Sec. 29-__5 Miscellaneous provisions.

- (a) The provisions of this article shall be in addition to and shall not limit any other applicable provisions of federal, state or city law, ordinance, or rule.
- (b) The provisions of this article shall not create any additional duties on the part of the city other than is already required by law.

Sec. 29-__6 City not liable.

The owner of removed personal property shall bear the responsibility for any loss or damage to the personal property. The city, its officers, employees, and agents shall not be liable to any person entitled to the removed personal property because of any disposal or other disposition of the personal property made, pursuant to this article.

The remedies available to a person entitled to the removed personal property are limited to those provided in this article.

Sec. 29__7 Severability.

The provisions of this article are severable, and if any part of this article should be held invalid by a court of competent jurisdiction, such invalidity shall not affect the remainder of the article and the remainder of this article shall stay in full force and effect."



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SECTION 3. This ordinance shall take effect upon its approval.

INTRODUCED BY:

[Signature]

DATE OF INTRODUCTION:

SEP 05 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
SEP 05 2015
PURSUANT TO ROH Sec. 1-24

OFFICE OF THE CITY CLERK
RECEIVED
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