CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ORDINANCE _____

BILL 42 (2014)

A BILL FOR AN ORDINANCE

RELATING TO PUBLIC SIDEWALKS.

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

SECTION 1. Findings and purpose. The purpose of this ordinance is to prohibit, subject to exceptions, persons from sitting or lying on public sidewalks in the Waikiki special district.

The council finds:

(a) The Waikiki special district is a dense, urban environment where the public sidewalks are heavily used by pedestrians and area businesses. Everyone uses the public sidewalk for travel. Maintaining pedestrian and authorized commercial activity on public sidewalks is essential to public safety, thriving neighborhoods and a vital economy in the City. Public sidewalks are created and maintained for the primary purpose of enabling pedestrians to safely and efficiently move about from place to place, facilitating deliveries of goods and services, and providing potential customers with convenient access to goods and services.

Sitting or lying down on the sidewalk is not the customary use of the public sidewalks. The need to maintain the flow of pedestrian and authorized commercial traffic on sidewalks ensures accessibility to businesses, shops, restaurants, and other commercial enterprises. Persons who sit or lie down on public sidewalks threaten their own safety and the safety of pedestrians, especially the elderly, disabled, and vision-impaired, who are put at increased risk when they must see and navigate around persons unexpectedly sitting or lying upon the public sidewalk.

The public welfare is promoted by an economically healthy Waikiki special district area that attracts people, including visitors, to reside, shop, work and recreate. The Waikiki special district area is a concentration of visitor and resident accommodations, restaurants, retail shops and other commercial establishments that offer a unique visitor experience and provides easily-accessible goods and services, employment opportunities, the tax revenues necessary to support essential public services, and the economic productivity necessary to maintain and improve property within the area. Many of the hotels and commercial businesses, including food

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and beverage establishments, in the Waikiki special district provide services to the visitors twenty-four hours a day. Approximately twenty eight hotels and ten commercial businesses in the Waikiki special district have either a hotel or cabaret liquor license that allows the licensee to sell or serve liquor to 4:00 a.m.

Persons who sit or lie down on public sidewalks deter residents and visitors from patronizing local shops, restaurants, businesses, and cultural and art venues, and deter people from using the neighborhood sidewalks in the Waikiki special district. Business areas and neighborhoods become dangerous to pedestrian safety and economic vitality in the Waikiki special district is adversely affected when individuals block the public sidewalks. This behavior causes a cycle of decline as residents and visitors go elsewhere to walk, meet, shop and dine, which contributes to undermining the essential economic viability of the Waikiki special district, and residents become intimidated from using the public sidewalks because of obstructions in their own neighborhoods.

(b) The prohibition against sitting or lying on sidewalks set forth below leaves intact the individual's right to speak, protest or engage in other lawful activity on any sidewalk consistent with the individual's free speech rights.

(c) The prohibition narrowly applies only to public sidewalks in the Waikiki special district. There are a number of places where the restrictions of this ordinance do not apply, including private property, beaches, plazas, public parks, and other common areas open to the public. The prohibition contains exceptions for medical emergencies, and expressive activities, among others.

(d) The council acknowledges that there are reasons why one might sit or lie on a public sidewalk in the Waikiki special district. The City has offered and continues to offer services to those engaged in sitting or lying on the sidewalk who appear to be in need, or to those who request service assistance. However, in many cases, these persons refuse such services or continue the conduct despite the provision of services. The City will continue to invest in services for those in need and to make efforts to maintain and improve safety on public sidewalks for everyone. A law enforcement officer may not issue a citation without first warning a person

that sitting or lying down on a public sidewalk in the Waikiki special district is unlawful.

(e) Present laws that prohibit the obstruction of sidewalks do not adequately address the safety hazards, disruption and deterrence to pedestrian traffic caused by persons sitting or lying on the public sidewalks in the Waikiki special district.

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

"Article ____. Sitting or Lying on Public Sidewalks

Sec. 29-__.1 Prohibition-Exceptions-Citations

(a) No person shall sit or lie on a public sidewalk, or on a tarp, towel, sheet, blanket, sleeping bag, bedding, planter, chair, bench, or any other object or material placed upon a public sidewalk in the Waikiki special district.

(b) The prohibitions in subsection (a) shall not apply to:

(1) Any person sitting or lying on a sidewalk due to a medical emergency;

(2) Any person who, as a result of a disability, is utilizing a wheelchair or other similar device to move about the public sidewalk;

(3) Any person sitting or lying on a sidewalk for the purpose of engaging in an expressive activity;

(4) Any person sitting on a sidewalk while attending or viewing any parade, festival, performance, rally, demonstration or similar event conducted on the street pursuant to a permit issued by the city;

(5) Any person engaged in a maintenance, repair or construction activity on behalf of a governmental entity or a public utility;

(6) Any child who is sitting or lying in a baby carriage, stroller, or carrier, or similar device, to move about the public sidewalk;

(7) Any person sitting on a chair or bench located on the public sidewalk which is placed there by a public agency; or

(8) Any person sitting in line for goods or services unless the person or person's possessions impede the ability of pedestrians to travel along the length of the sidewalk or enter a doorway or other entrance alongside the sidewalk.

(c) No person shall be cited for a violation of this section unless the person engages in conduct prohibited by this article after having been notified by a law enforcement officer that the conduct violates this section.

(d) As used in this section:

"Expressive activity" means speech or conduct, the principal object of which is the expression, dissemination, or communication by verbal, visual, literary, or auditory means of political, religious, philosophical, or ideological opinions, views, or ideas, and for which no fee is charged or required as a condition of participation in or attendance at such activity. Expressive activity generally would not include sports events, such as marathons; fundraising events; beauty contests; commercial events; cultural celebrations or other events the principal purpose of which is entertainment.

"Public sidewalk" means a publicly owned or maintained "sidewalk," as defined in Section 29-1.1, and includes a "replacement sidewalk" as defined in that section.

"Waikiki special district" means the area described in Section 21-9.80-2.

Sec. 29-_.2 Penalty.

Any person violating any provision of this article shall, upon conviction, be guilty of a petty misdemeanor and subject to punishment in accordance with HRS Sections 706-640 and 706-663, as amended."

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HONOLULU, HAWAII

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

INTRODUCED BY:

(br)

DATE OF INTRODUCTION:

JUN 16 2014
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