



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 Downtown Honolulu and Chinatown areas.

The Council finds:

- (a) The Downtown Honolulu and Chinatown areas are a dense, urban environment where public sidewalks are heavily used by pedestrians and area businesses. Everyone uses public sidewalks in varying degrees to get where they're going. 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 the delivery 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 intended or customary use of public sidewalks. Maintaining 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 avoid and navigate around persons unexpectedly sitting or lying upon the public sidewalk.

The public welfare is promoted by economically healthy areas that attract people, including visitors, to reside, shop, work and recreate. The Downtown Honolulu and Chinatown areas are well-known as the central business district and financial centers of the City. The downtown area is also home to Oahu's most historic sites and the Capital District which is the seat of government for both the state of Hawaii and the city of Honolulu. Meanwhile, Chinatown is the center of Oahu's arts scene and is a hot spot for Oahu nightlife, with live music and shows, as well as some of Hawaii's most contemporary restaurants and gathering spots. All in all, the Downtown Honolulu and Chinatown areas represent a concentration



A BILL FOR AN ORDINANCE

of businesses, accommodations, restaurants, retail shops and other commercial establishments that offer a unique experience for locals and visitors alike, and provide 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, virtually twenty-four hours a day.

Even before dawn, the sidewalks in the Downtown and Chinatown areas bustle with activity, as deliveries are made, refuse is picked up and joggers get in a morning run.

Persons who sit or lie down on public sidewalks deter others from using the sidewalks in the Downtown Honolulu and Chinatown areas and, thus, discourage residents and visitors from patronizing local shops, restaurants, businesses, and cultural and art venues. Business establishments and neighborhoods are adversely affected when pedestrians no longer feel comfortable or safe because individuals block public sidewalks in the Downtown Honolulu and Chinatown areas, ultimately compromising the economic vitality and character of these areas, and becoming a downward spiral as residents and visitors go elsewhere to walk, meet, shop and dine.

- (b) The prohibition against sitting or lying on sidewalks set forth in this ordinance 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 Downtown Honolulu and Chinatown areas. There are a number of places where the restrictions of this ordinance do not apply, including private property, plazas, public parks, malls 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 Downtown Honolulu and Chinatown areas. 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 accessibility of



A BILL FOR AN ORDINANCE

these 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 to a person for a violation of this ordinance without first warning the person that sitting or lying down on a public sidewalk in the Downtown Honolulu and Chinatown areas 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 Downtown Honolulu and Chinatown areas.

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 in the Downtown and Chinatown Areas

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 Downtown Honolulu and Chinatown areas.
- (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 mobility 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;



A BILL FOR AN ORDINANCE

- (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 section 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.

"Downtown Honolulu and Chinatown areas" means the part of the city of Honolulu on the island of Oahu bounded on:

- (1) The south by the seashore;
- (2) The west by Nuuanu Stream;
- (3) The north by the H-1 freeway; and
- (4) The east by Ward Avenue extended as a straight line to the seashore.



A BILL FOR AN ORDINANCE

Sec. 29-.2 Penalty.

Any person violating any provision of this article shall, upon conviction, be guilty of a petty misdemeanor and subject to a fine not to exceed \$1,000, imprisonment for a term not to exceed 30 days, or both such fine and imprisonment.

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

INTRODUCED BY:

Carol Fukunaga

DATE OF INTRODUCTION:

JUN 20 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

FILED
JUN 20 2016
PURSUANT TO RON Sec. 1-2.4