

SUMMARY OF PROPOSED COMMITTEE DRAFT:

**Bill 48 (2014) -
PUBLIC SIDEWALKS**

PROPOSED CD1:

- A. Extends the prohibition against sitting or lying down to public malls, as defined in ROH Section 29-1.1.
- B. Makes miscellaneous technical and nonsubstantive amendments.



A BILL FOR AN ORDINANCE **PROPOSED**

RELATING TO PUBLIC SIDEWALKS.

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

SECTION 1. Council Findings and Purpose. The purpose of this ordinance is to prohibit, subject to exceptions, persons from sitting or lying on public sidewalks and public malls in areas zoned for commercial and business activities.

The Council finds:

- (a) Public sidewalks and public malls in areas zoned for commercial and business activities are created and maintained for the primary purposes of enabling pedestrians to safely and effectively move about from place to place, facilitating deliveries of goods and services, and providing convenient access to entertainment, goods and services.
- (b) Sitting or lying down is not the customary use of the public sidewalks and public malls. Persons who sit or lie down on public sidewalks and public malls impede and deter others from using the sidewalks and malls; thus, they discourage residents and visitors from walking to get from place to place and accessing local shops, restaurants, and businesses, and interfere with the delivery of goods and services.
- (c) The need to maintain pedestrian and commercial traffic is greatest during the hours of operation of businesses, shops, restaurants, and other commercial enterprises when public sidewalks or public malls are congested. Persons who sit or lie down on public sidewalks or public malls during business hours threaten their own safety and the safety of pedestrians, especially the elderly, disabled, vision-impaired, and children, who are put at increased risk when they must avoid and navigate around persons unexpectedly sitting or lying upon the public sidewalk or public mall.
- (d) The prohibition against sitting or lying on public sidewalks and public malls set forth in this ordinance leaves intact the individual's right to speak, protest or engage in other lawful activity on any sidewalk or public mall consistent with the individual's free speech rights. In addition, the prohibition contains exceptions for medical emergencies, and expressive activities, among others.



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- (e) There are a number of places where the restrictions of this ordinance do not apply, including private property, plazas, public parks, and other common areas open to the public, that do not unduly interfere with the safe flow of pedestrian traffic, impair commercial activity, or threaten public safety.
- (f) The Council acknowledges that there are reasons why one might sit or lie on a public sidewalk or public mall. The City has offered and continues to offer services to those engaged in sitting or lying on the sidewalk or mall 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 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 and public malls 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 or public mall is unlawful.
- (g) Present laws that prohibit the obstruction of sidewalks do not adequately address the safety hazards, disruption and deterrence to pedestrian traffic or impairment of commercial activity caused by persons sitting or lying on the public sidewalks and public malls in areas zoned for commercial and business activities.

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 or Public Malls

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

- (a) No person shall sit or lie on a public sidewalk or public mall, or on a tarp, towel; sheet, blanket, sleeping bag, bedding, planter, chair, bench, or any other object or material placed upon a public sidewalk or public mall located within or abutting real property within the following zoning districts: B-1 neighborhood district, B-2 community business district, BMX-3 community business mixed use district, or BMX-4 central business mixed use district zoning districts, as defined in Chapter 21, during the hours from 5:00 a.m. to 11:00 p.m.
- (b) The prohibitions in subsection (a) shall not apply to:



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- (1) Any person sitting or lying on a sidewalk or mall due to a medical emergency;
 - (2) Any person who, as a result of a disability, is utilizing a wheelchair or other similar wheeled chair device to move about the public sidewalk or public mall;
 - (3) Any person sitting or lying on a sidewalk or mall for the purpose of engaging in an expressive activity;
 - (4) Any person sitting on a sidewalk or mall while attending or viewing any parade, festival, performance, rally, demonstration or similar event conducted on the street or mall 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 or public mall;
 - (7) Any person sitting on a chair or bench located on the public sidewalk or public mall which is placed there by a public agency;
 - (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 mall or enter a doorway or other entrance alongside the sidewalk or mall; or
 - (9) Sitting or lying on a public sidewalk or public mall in a designated geographic area regulated by separate ordinance enactment.
- (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



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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 mall" means a publicly owned or maintained "mall," as defined in Section 29-1.1.

"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.

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

INTRODUCED BY:

Ron Menor

DATE OF INTRODUCTION:

July 3, 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