



A BILL FOR AN ORDINANCE

RELATING TO PUBLIC PEDESTRIAN MALLS IN THE DOWNTOWN AND CHINATOWN AREAS.

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 malls in the Downtown Honolulu and Chinatown areas.

The Council finds:

- (a) The Downtown Honolulu and Chinatown areas are a dense, urban environment where public thoroughfares are heavily used by pedestrians, area businesses and area meeting facilities. Public malls in areas zoned for commercial and business activities in the Downtown Honolulu and Chinatown areas are created and maintained exclusively or primarily for use of pedestrians, and serve as essential pedestrian corridors. The closure of certain streets or parts thereof to vehicular traffic and the creation of public malls enable the movement, safety, convenience, enjoyment and entertainment of pedestrians in areas with high pedestrian traffic and is beneficial to the businesses and meeting facilities located in public malls. Public malls provide convenient and safe access to entertainment, goods and services. Maintaining the flow of pedestrian and authorized commercial activity on public malls ensures accessibility to businesses, shops, restaurants, other commercial enterprises, and meeting facilities.
- (b) Sitting or lying on public malls is not the intended or customary use of public malls. Persons who sit or lie on public malls impede and deter others from freely using the public malls; thus, they discourage residents and visitors from utilizing public malls to get from place to place and accessing local shops, restaurants, businesses and meeting facilities, 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, other commercial enterprises, and meeting facilities in public malls, when public malls are congested. Persons who sit or lie on 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 mall.



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- (d) The prohibition against sitting or lying on public malls set forth in this ordinance leaves intact the individual's right to speak, protest or engage in other lawful activity on any public mall consistent with the individual's free speech rights. In addition, the prohibition contains exceptions for medical emergencies, and expressive activities, among others.
- (e) The prohibition narrowly applies only to certain public malls in the Downtown Honolulu and Chinatown areas. There are places where the restrictions of this ordinance do not apply, including private property, 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 mall. The City has offered and continues to offer services to those engaged in sitting or lying on the 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 in 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 on the public mall is unlawful.
- (g) Present laws that govern the use of public malls 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 malls in areas zoned for commercial and business activities 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 Malls in the Downtown
and Chinatown Areas**

Sec. 29-__1 Prohibition—Exceptions—Citations.



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- (a) No person shall sit or lie on a 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 mall during the following hours:
- (1) Fort Street Mall. Monday through Friday from 5:00 a.m. to 7:00 p.m.
 - (2) Kekaulike Mall. Sunday through Saturday from 5:00 a.m. to 7:00 p.m.
 - (3) Sun Yat Sen Mall. Monday through Friday from 5:00 a.m. to 7:00 p.m.
 - (4) Union Mall. Monday through Friday from 5:00 a.m. to 7:00 p.m.
- (b) The prohibitions in subsection (a) shall not apply to:
- (1) Any person sitting or lying on a public 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 mall;
 - (3) Any person sitting or lying on the public mall for the purpose of engaging in an expressive activity;
 - (4) Any person sitting on the public mall while attending or viewing any festival, performance, rally, demonstration or similar event conducted on the public 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 mall;
 - (7) Any person sitting on a chair or bench located on the public mall that is placed there by a public agency or pursuant to permit issued by the city;
 - (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 mall or enter a doorway or other entrance alongside the mall; and



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- (9) Any person engaging in an authorized activity on the mall pursuant to a permit issued by the director of parks and recreation in accordance with department of parks and recreation rules.
- (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.

"Fort Street Mall" means the portion of Fort Street established as a pedestrian mall under Section 15-25.1(b).

"Kekaulike Mall" means the area of Kekaulike Street, between Hotel Street and King Street.

"Mall," when used generally in this article, means collectively the Fort Street Mall, Kekaulike Mall, Sun Yat Sen Mall, and Union Mall.

"Sun Yat Sen Mall" means the same as "Sun Yat Sen Mall" in Section 29-1.1.

"Union Mall" means the portion of Union Street established as a pedestrian mall under Section 15-25.1(a).

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 takes effect upon its approval.

INTRODUCED BY:

Carol Fukunaga

DATE OF INTRODUCTION:

October 2, 2014
Honolulu, Hawaii

_____ Councilmembers

APPROVED AS TO FORM AND LEGALITY:

[Signature]
Deputy Corporation Counsel

APPROVED this 11th day of February, 2015.

[Signature]
KIRK CALDWELL, Mayor
City and County of Honolulu

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII
C E R T I F I C A T E

ORDINANCE 15-1

BILL 62 (2014), CD2, FD1

Introduced: 10/02/14

By: CAROL FUKUNAGA

Committee: ZONING AND PLANNING

Title: A BILL FOR AN ORDINANCE RELATING TO PUBLIC PEDESTRIAN MALLS IN THE DOWNTOWN AND CHINATOWN AREAS.

Voting Legend: * = Aye w/Reservations

10/08/14	COUNCIL	BILL PASSED FIRST READING AND REFERRED TO COMMITTEE ON ZONING AND PLANNING. 7 AYES: ANDERSON, CHANG, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN, MENOR. 2 NOES: HARIMOTO, PINE.
10/16/14	ZONING AND PLANNING	CR-310 – BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON SECOND READING AND SCHEDULING OF A PUBLIC HEARING AS AMENDED IN CD1 FORM.
11/01/14	PUBLISH	PUBLIC HEARING NOTICE PUBLISHED IN THE HONOLULU STAR-ADVERTISER. NOTE: EFFECTIVE NOVEMBER 4, 2014, COUNCILMEMBER BREENE HARIMOTO, REPRESENTING COUNCIL DISTRICT VIII, RESIGNED FROM OFFICE. (Refer to Communication <u>CC-245</u>) NOTE: BRANDON ELEFANTE WAS SWORN IN AND TOOK OFFICE AS A MEMBER OF THE HONOLULU CITY COUNCIL ON WEDNESDAY, NOVEMBER 12, 2014 REPRESENTING DISTRICT VIII.
11/12/14	COUNCIL/PUBLIC HEARING	CR-310 ADOPTED. BILL PASSED SECOND READING AS AMENDED, PUBLIC HEARING CLOSED AND REFERRED TO COMMITTEE ON ZONING AND PLANNING. 7 AYES: ANDERSON, CHANG, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN, MENOR. 2 NOES: ELEFANTE, PINE.
11/19/14	PUBLISH	SECOND READING NOTICE PUBLISHED IN THE HONOLULU STAR-ADVERTISER.
11/20/14	ZONING AND PLANNING	CR-332 – BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON THIRD READING AS AMENDED IN CD2 FORM.
12/10/14	COUNCIL	CR-332 AND BILL 62 (2014), CD2 RECOMMITTED TO COMMITTEE ON ZONING AND PLANNING. 9 AYES: ANDERSON, CHANG, ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN, MENOR, PINE. NOTE: COUNCILMEMBER OZAWA TOOK OFFICE ON FRIDAY, JANUARY 2, 2015.
01/15/15	ZONING AND PLANNING	CR-20(15) – BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON THIRD READING AS AMENDED IN CD2 FORM (OCS/011215/02:05/CT).

01/28/15 COUNCIL

BILL AMENDED TO FD1.

8 AYES: ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN, MENOR, OZAWA, PINE.

1 ABSENT: ANDERSON.

CR-20(15) ADOPTED AND BILL 62 (2014), CD2, FD1 PASSED THIRD READING.

6 AYES: FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN, MENOR, OZAWA.

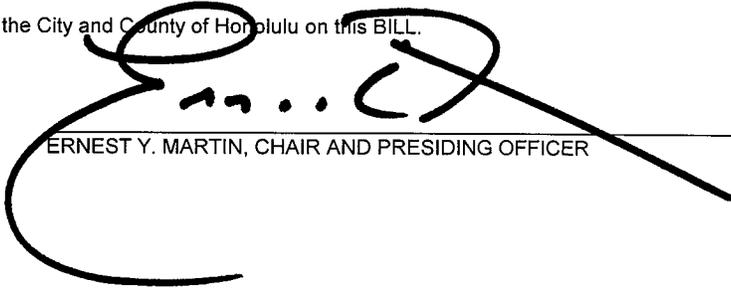
2 NOES: ELEFANTE, PINE.

1 ABSENT: ANDERSON.

I hereby certify that the above is a true record of action by the Council of the City and County of Honolulu on this BILL.



GLEN TAKAHASHI, ACTING CITY CLERK



ERNEST Y. MARTIN, CHAIR AND PRESIDING OFFICER