CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ORDINANCE _____

BILL 5 (2014), CD1

A BILL FOR AN ORDINANCE

RELATING TO FIREWORKS.

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

SECTION 1. Purpose. The purpose of this ordinance is to amend the regulation of fireworks within the City and County of Honolulu. This ordinance allows certain fountains to be used pursuant to permit in a manner similar to the current use of firecrackers. This ordinance also allows a minor to use firecrackers or certain fountains while under the supervision and control of the minor's parent, guardian, or another adult.

SECTION 2. Section 20-6.1, Revised Ordinances of Honolulu 1990, as amended ("Definitions"), is amended by adding a definition of "permitted fountain" to be appropriately inserted and to read as follows:

""Permitted fountain" means a fountain that contains not more than 100 grams of pyrotechnic composition per article and is not prohibited by state law."

SECTION 3. Section 20-6.3, Revised Ordinances of Honolulu 1990, as amended, is amended to read as follows:

"**Sec. 20-6.3 Exceptions.**

The prohibitions in Section 20-6.2 shall not apply to:

(a) The import, storage, sale and use by a person having obtained a license or permit for display fireworks pursuant to Sections 20-6.4 and 20-6.12;

(b) The import, storage, sale and use by a person having obtained a license or permit for firecrackers or permitted fountains pursuant to Sections 20-6.4 and 20-6.13;

(c) The use of flares, noisemakers, or signals for warning, pest control, or illumination purposes by the police and fire departments, utility companies, transportation agencies, and other governmental or private agencies or persons, including agricultural operations, in connection with emergencies, their duties, or business; or

(d) The sale or use of blank cartridges for a show or theater, or for signal, commercial, or institutional purposes in athletics or sports."

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SECTION 4. Section 20-6.4, Revised Ordinances of Honolulu 1990, as amended, is amended to read as follows:

"Sec. 20-6.4 License to import, store and sell display fireworks [or], firecrackers[.], or permitted fountains.

(a) License Required. It shall be unlawful for any person to import, store, offer to sell, sell, at wholesale or retail, for use in the city, any display fireworks [or], firecrackers, or permitted fountains unless such person shall first secure a license.

(b) Said licenses shall be issued by the fire chief and shall be nontransferable. Licenses shall specify the date of issuance or effect and the date of expiration, which shall be March 31 of each year. The application shall be made on a form setting forth the date upon which the importations are to begin, the address of the importer, and the name of the proprietor or, if a partnership, the name of the partnership and the names of all partners or, if a corporation, the name of the corporation and the names of its officers. If the fire chief discovers at a later date that a licensee has been convicted of a violation of any provision of this article, the licensee's license shall be revoked and no new license shall be issued to the licensee for two years.

(c) Each storage, wholesaling, and retailing facility or site shall be required to obtain a separate license. Any license issued pursuant to this article may be revoked by the fire chief if the licensee violates any provision of this article or if the licensee stores or handles the fireworks in such a manner as to present an unreasonable safety hazard.

(d) Display fireworks [or], firecrackers, or permitted fountains shall only be sold or transferred by a seller to a person with a valid permit under [Sections] Section 20-6.12 or 20-6.13. No person with a valid permit under [Sections] Section 20-6.12 or 20-6.13 shall sell or transfer display fireworks [or], firecrackers, or permitted fountains to any other person.

(e) Any license issued pursuant to this article shall be prominently displayed in public view at each licensed location.

(f) Display fireworks [or], firecrackers, or permitted fountains shall only be imported and stored, if necessary, in an amount sufficient for an anticipated three-month inventory; provided that if a licensee provides display fireworks, firecrackers, permitted fountains, or articles pyrotechnic more than once a month, the licensee

may import or store, if necessary, sufficient display fireworks, firecrackers, permitted fountains, or articles pyrotechnic for a six-month inventory."

SECTION 5. Section 20-6.5, Revised Ordinances of Honolulu 1990, as amended, is amended to read as follows:

"**Sec. 20-6.5 Requirements of license.**

(a) Any person who has obtained a license under Section 20-6.4 and imports display fireworks [or], firecrackers, or permitted fountains into the city or transports such items within the city shall:

(1) Clearly designate the types of display fireworks [or], firecrackers, or permitted fountains in each shipment on the bill of lading or shipping manifest with specificity;

(2) Declare on the bill of lading or shipping manifest the gross weight of display fireworks [or], firecrackers, or permitted fountains to be imported in each shipment and the location of the storage facility, if applicable, in which the display fireworks [or], firecrackers, or permitted fountains are to be stored;

(3) Prior to shipment and when booking each shipment of display fireworks [or], firecrackers, or permitted fountains, notify the fire chief regarding whether the shipment will be distributed from:

(A) Pier to pier;

(B) Pier to warehouse or storage facility; or

(C) Pier to redistribution; and

(4) At the time shipping is booked, the licensee shall notify the fire chief in writing of the expected shipment's landing date.

(b) The fire chief may inspect any shipment declared on the shipping manifest as fireworks or articles pyrotechnic.

(c) The facility in which display fireworks [or], firecrackers, or permitted fountains are to be stored shall have received approval from the fire chief at least 15 days prior

to the shipment's arrival [from the fire chief] and meet all state and city fire and safety codes.

(d) Any shipping company that receives fireworks that are imported into the city shall notify the fire chief as to whether the shipment will be distributed from:

(1) Pier to pier;

(2) Pier to warehouse or storage facility; or

(3) Pier to redistribution."

SECTION 6. Section 20-6.7, Revised Ordinances of Honolulu 1990, as amended, is amended to read as follows:

"**Sec. 20-6.7 Minors.**

It shall be unlawful for any person to offer for sale, sell, or give any display fireworks, [or] firecrackers, or permitted fountains to minors, and for any minor to possess, purchase, sell, or set off, ignite, or otherwise cause to explode any display fireworks, [or] firecrackers[.], or permitted fountains, except as provided in Section 20-6.8."

SECTION 7. Section 20-6.8, Revised Ordinances of Honolulu 1990, as amended, is amended to read as follows:

"**Sec. 20-6.8 Liability of parents or guardians.**

The parents, [guardian,] guardians, and other persons having the custody or control of any minor, who knowingly [permits] permit the minor to possess, purchase, or set off, ignite, or otherwise cause to explode any fireworks or articles pyrotechnic, shall be deemed to be in violation of this article and shall be subject to the penalties in Section 20-6.9[.], except that the parents or guardians may allow the minor to possess, set off, ignite or otherwise cause to explode firecrackers or permitted fountains while under the immediate supervision and control of either: (i) the parents or guardians or (ii) another adult authorized by the parents or guardian to supervise and control the minor."

SECTION 8. Section 20-6.13, Revised Ordinances of Honolulu 1990, as amended, is amended to read as follows:

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"Sec. 20-6.13 Permit for firecrackers[.] and permitted fountains.

(a) Any person desiring to set off, ignite, discharge or otherwise cause to explode any firecrackers or permitted fountains, or combination thereof, on New Year's Eve, New Year's Day, Fourth of July, or Chinese New Year's Day, or for cultural uses, such as, but not limited to, births, deaths, weddings, grand openings, blessings, anniversaries and other cultural uses shall apply to and obtain a permit from the fire chief.

(b) The permit application shall be submitted to the fire chief not less than 10 days before the date of the use of the firecrackers and permitted fountains and shall state, among other things:

(1) The name, age, and address of the applicant;

(2) The purpose of the event or celebration for which the permit is requested; and

(3) The date, time and location of the use of the firecrackers[.] or permitted fountains.

(c) No permit shall be allowed at any location where the fire chief deems that use of the firecrackers and permitted fountains will pose a threat to public health or safety.

(d) The permit shall allow the use of firecrackers and permitted fountains from 9:00 p.m. on New Year's Eve to 1:00 a.m. on New Year's Day; from 7:00 a.m. to 7:00 p.m. on Chinese New Year's Day; or from 1:00 p.m. to 9:00 p.m. on the Fourth of July. A permit for a cultural use shall allow use only from 9:00 a.m. to 9:00 p.m. on the day of the requested use.

(e) Each permit shall allow the purchase and use of up to 5,000 individual firecrackers[.] and up to 60 permitted fountains.

(f) The fee for the permit to use firecrackers and permitted fountains shall be $25.00.

(g) The permit shall be nontransferable, and the permittee shall have the permit available for inspection at the location where the firecrackers and permitted fountains, or combinations thereof, are to be used.

(h) The fire chief shall adopt rules for the administration and implementation of the permit program."

SECTION 9. Section 20-1.1, Revised Ordinances of Honolulu 1990 ("Fire Code of the City and County of Honolulu"), is amended as follows:

1. By adding a new subsection (5.1) to read as follows:

"(5.1) Amending Section 3.3.111.1. Section 3.3.111.1 is amended to read:

3.3.111.1 Consumer Fireworks. Small fireworks devices, including permitted fountains, containing restricted amounts of pyrotechnic composition, designed primarily to produce visible or audible effects by combustion, that comply with the construction, chemical composition, and labeling regulations of the U.S. Consumer Product Safety Commission (CPSC), as set forth in CPSC 16 CFR 1500 and 1507, 49 CFR 172, and APA Standard 87-1, *Standard for the Construction and Approval for Transportation of Fireworks, Novelties, and Theatrical Pyrotechnics.* [**1124,** 2006]"

2. By adding a new subsection (5.2) to read as follows:

"(5.2) Adding a new subsection in Chapter 3 ("Definitions") to read:

3.3.179.1 Permitted fountains. "Permitted fountains" mean the same as defined in Section 20-6.1."

SECTION 10. Ordinance material to be repealed is bracketed. New ordinance material is underscored. When revising, compiling or printing this ordinance for inclusion in the Revised Ordinances of Honolulu, the revisor of ordinances need not include the underscoring, the brackets or the bracketed material. The bracketed references cited at the end of the City and County of Honolulu Fire Code sections shall not be deleted by the revisor of ordinances.

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SECTION 11. This ordinance takes effect upon its approval.

INTRODUCED BY:

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DATE OF INTRODUCTION:

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Honolulu, Hawaii

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Councilmembers

APPROVED AS TO FORM AND LEGALITY:

_____
Deputy Corporation Counsel

APPROVED this _____ day of _____, 20____.

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KIRK CALDWELL, Mayor
City and County of Honolulu