

**SUMMARY OF PROPOSED COMMITTEE DRAFT:**

**Bill 8 (2015)  
RELATING TO PUBLIC PARKS**

**PROPOSED CD1 makes the following amendments:**

- A. Further amends ROH Section 10-1.1 by:
  - 1. Deleting the amendment made to the definition of "commercial activity";
  - 2. Amending the definition of "recreational stops" to include guided tours as an activity in the use of city beach parks by commercial tour companies; and
  - 3. Adding a definition of "director" to mean the Director of the Department of Parks and Recreation, or the Director's designated representative.
  
- B. Further amends ROH Section 10-1.2 by:
  - 1. Deleting the amendment in subsection (h) regarding the prohibition of commercial activities, including recreational stops by commercial tour companies, at Waimanalo Bay Beach Park, Waimanalo Beach Park, Kaiona Beach Park, Kaupo Beach Park, and Makapuu Beach Park and inserting, instead, a provision that provides for the prohibition of recreational stops by commercial tour companies at:
    - a. Waimanalo Bay Beach Park, Kaiona Beach Park, Kaupo Beach Park, Makapuu Beach Park, and Bellows Field Beach Park at any time; and
    - b. Waimanalo Bay Beach Park from 6:30 p.m. on Fridays through 6:30 a.m. on Mondays and on all state and federal holidays; and
  - 2. Deleting the prohibition of commercial activities, including recreational stops by tour companies, at city owned or operated beach rights-of-way and easements from Makapuu Point to and including Waimanalo Bay Beach Park and inserting, instead, a provision that provides for the prohibition of recreational stops by commercial tour companies at city owned or operated beach rights-of-way and easements from Makapuu Point to and including Waimanalo Bay Beach Park.
  
- C. Amends ROH Section 10-1.3(a)(11) to prohibit the issuance of permits for recreational stops by commercial tour companies at:
  - 1. Waimanalo Beach Park, Kaiona Beach Park, Kaupo Beach Park, Makapuu Beach Park, and Bellows Field Beach Park; and

2. Waimanalo Bay Beach Park and provide that no more than \_\_\_\_ permits per \_\_\_\_ may be issued for recreational stops by commercial tour companies at Waimanalo Bay Beach Park, and that such permits may only be issued to commercial tour companies for stops by tour vans or vehicles that seat no more than 15 passengers.
- D. Clarifies, in ROH Section 10-1.3(b), that the director shall promulgate rules and regulations to recommend to the council fee schedules based upon the cost of administration for commercial activities.
- E. Deletes Section 4 of the bill, which would have amended ROH Section 10-3.2(c), and renumbers the remaining sections of the bill.
- F. Clarifies, in Section 6 of the bill, that any permits issued prior to the effective date of this ordinance allowing recreational stops by commercial tour companies to take place at a park affected by this ordinance would continue to be valid until the permit expires.
- G. Makes miscellaneous technical and non-substantive amendments.



A BILL FOR AN ORDINANCE

RELATING TO PUBLIC PARKS.

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

SECTION 1. Purpose. The purpose of this ordinance is to address commercial activities at certain city beach parks.

SECTION 2. Section 10-1.1, Revised Ordinances of Honolulu 1990, ("Definitions"), is amended as follows:

1. By amending the definition of "recreational stops" to read as follows:

""Recreational stops" means the use of city beach parks by commercial tour companies for activities that may include, but are not limited to, sightseeing, spectating, picture taking, beach combing, swimming, guided tours, and eating of prepared picnic lunches."

2. By adding a new definition of "director" to read as follows:

""Director" means the director of the department of parks and recreation, or the director's designated representative."

SECTION 3. Section 10-1.2, Revised Ordinances of Honolulu 1990 ("Park rules and regulations"), is amended by amending subsections (h) and (i) to read as follows:

"(h) Commercial activities, including recreational stops by commercial tour companies, [shall] are not [be] allowed at any time at Kailua Beach Park and Kalama Beach Park, except as otherwise provided in this chapter for commercial filming activities. Recreational stops by commercial tour companies are not allowed at:

(1) Waimanalo Beach Park, Kaiona Beach Park, Kaupo Beach Park, Makapuu Beach Park, and Bellows Field Beach Park at any time; and

(2) Waimanalo Bay Beach Park from 6:30 p.m. on Fridays through 6:30 a.m. on Mondays and on all state and federal holidays.

(i) Commercial activities, including recreational stops by commercial tour companies, [shall] are not [be] allowed at any time at city owned or operated beach rights-of-way and easements from Lanikai to Kapoho Point (Castle Point). Recreational stops by commercial tour companies are not allowed at any time at



**A BILL FOR AN ORDINANCE**

city owned or operated beach rights-of-way and easements from Makapuu Point to and including Waimanalo Bay Beach Park."

SECTION 4. Section 10-1.3, Revised Ordinances of Honolulu 1990 ("Permits"), is amended by amending subsections (a) and (b) to read as follows:

"(a) Required. Any person using the recreational and other areas and facilities under the control, maintenance, management and operation of the department of parks and recreation [shall] must first obtain a permit from the department for the following uses:

- (1) Picnic groups, consisting of 50 or more persons[;].
- (2) Camping[;].
- (3) Sports activities conducted by a league, organization, association, group or individual[;].
- (4) Recreational activities, including nonprofit fundraising activities, sponsored by community organizations, associations, groups or individuals[;].
- (5) Expressive Activities.
  - (A) Expressive activities held at Ala Moana Regional Park or in the following areas of Kapiolani Park require a permit when the expressive activity involves 150 or more persons:
    - (i) The triangle area fronting the Honolulu Zoo bordered by Kapahulu Avenue and Monsarrat Avenue, but excluding the Honolulu Zoo;
    - (ii) The area within Kapiolani Park bordered by Monsarrat Avenue, Paki Avenue, Poni Moi Road, and Kalakaua Avenue;
    - (iii) The Waikiki playground area bordered by Monsarrat Avenue, Leahi Avenue, and Paki Avenue, generally rectangular in shape;
    - (iv) The Leahi area bordered by Leahi Avenue, Noela Street, and Paki Avenue, generally rectangular in shape; or



**A BILL FOR AN ORDINANCE**

(v) The archery range area bordered by Paki Avenue and Poni Moi Road, generally rectangular in shape.

(B) For all other public parks, and areas of Kapiolani Regional Park outside of the areas specified in Section 10-1.3(a)(5)(A), a permit [shall be] is required when the expressive activity involves 75 or more persons.

[The foregoing provisions shall] This subdivision does not apply if the expressive activity is due to a spontaneous event occasioned by news or affairs coming into public knowledge within 48 hours of such expressive activity, in which case the organizer [shall] must provide written notice to the city as soon as practicable prior to such expressive activity.

- (6) Meetings or gatherings or other similar activity other than expressive activities held by organizations, associations or groups[;].
- (7) Nonrecreational, public service activities, meetings and gatherings other than expressive activities held by organizations, communities or groups[;].
- (8) Right of entry into parks for installation of utilities or construction work[;].
- (9) The playing of musical instruments as solo or two or more instruments, which fall within the standards described in the first paragraphs (A), (B) and (C) [of this subdivision]:
  - (A) Musical instruments [which] that are limited to two octaves or less, including but not limited to the following musical instruments:
    - (i) [tuba,] Tuba;
    - (ii) [tympani,] Tympani;
    - (iii) [maracas,] Maracas;
    - (iv) [uliuli,] Uliuli;
    - (v) [castanets,] Castanets;
    - (vi) [tambourine] Tambourine; or



---

A BILL FOR AN ORDINANCE

---

- (vii) [percussion] Percussion instruments in which a human hand or drumsticks are used to create sounds therefrom;
- (B) Musical instruments [which] that when played do not exceed the sound pressure level established in Section 10-1.2(b)(8); and
- (C) Musical instruments [which] that are used or played continuously without a regular hourly break of 30 minutes, or for more than six hours within a day.

The use or the playing of a musical instrument [which] that requires a permit as provided [hereunder shall be] under this section is subject to the following restrictions, in addition to any other conditions imposed by the rules and regulations promulgated by the director:

- (A) Issuance Standards for Permits. The department of parks and recreation shall uniformly treat each application, based upon the facts presented, free from improper or inappropriate considerations and from unfair discrimination and shall exercise no other discretion over the issuance of a permit under this section, except as provided in this section and in the departmental rules.
- (B) Judicial Review. Upon the department's refusal to issue a permit, the applicant for such permit [shall be] is entitled to a review by the circuit court within 30 days after the date of such refusal. In such review, the department's decision [shall] will be upheld in the absence of a judicial finding of abuse of discretion.
- (C) Restrictions. The use or the playing of a musical instrument [which] that requires a permit as provided hereunder [shall be] is subject to the following restrictions, in addition to any other conditions imposed by the rules adopted by the director:
  - (i) Time: Only between the hours of [nine] 9:00 a.m. and [six] 6:00 p.m. daily, and
  - (ii) Place: The playing of such instruments [shall] must be restricted to [the] a facility especially constructed for such purpose, such as the bandstand at Kapiolani Park or other areas within the park that [shall be] are clearly designated in the permit, and



A BILL FOR AN ORDINANCE

(iii) Manner: During the hours mentioned in subparagraph (i) of this paragraph, every half-hour of playing period [shall] must immediately be followed by a 15-minute break or every one hour of playing period [shall] must immediately be followed by a half-hour break; provided, that at no time [shall] may there be any continuous playing exceeding an hour.

(D) Duration of Permit. The duration of a permit issued pursuant to subdivision (9) [shall not] cannot exceed one month.

The foregoing provisions [shall] will not apply to the playing of musical instruments in conjunction with expressive activities.

(10) Hang gliding[;].

(11) Commercial activities, provided that the proposed commercial activities under the permit [shall be] are consistent with the use of the park under consideration, subject to reasonable limitations on the size of the groups, and the time and area within which the event is permitted, and subject to department of parks and recreation rules and regulations regarding the solicitation of business, advertising, and commercial promotional activities. No permit [shall] may be issued for commercial activities, including permits for recreational stops by commercial tour companies, at Kailua Beach Park and Kalama Beach Park, except as otherwise provided in this chapter for commercial filming activities[;]. No permit may be issued for recreational stops by commercial tour companies at:

(A) Waimanalo Beach Park, Kaiona Beach Park, Kaupo Beach Park, Makapuu Beach Park, and Bellows Field Beach Park; and

(B) Waimanalo Bay Beach Park from 6:30 p.m. on Fridays through 6:30 a.m. on Mondays and on all state and federal holidays; provided that no more than \_\_\_\_\_ permits per \_\_\_\_\_ may be issued for recreational stops by commercial tour companies at Waimanalo Bay Beach Park, and such permits may only be issued to commercial tour companies for recreational stops by tour vans or vehicles that seat no more than 15 passengers.

(12) Constructing, utilizing, placing, occupying, or in any other manner situating any tent.



---

A BILL FOR AN ORDINANCE

---

- (b) Director to Promulgate Rules and Regulations. The director shall promulgate rules and regulations pursuant to HRS Chapter 91, to govern the use of said areas and facilities [which] that will:
- (1) Ensure maximum permissible use of said areas and facilities by appropriate distribution of users;
  - (2) Ensure proper, orderly and equitable use of areas and facilities through scheduling and user controls;
  - (3) Ensure protection and preservation of areas and facilities by not overtaxing facilities;
  - (4) Promote the health, safety and welfare of the users of said areas and facilities;
  - (5) Establish procedures for obtaining permits and revocation [therefor; or] thereof; and
  - (6) Recommend to the council fee schedules, based upon the cost of administration for each activity authorized under [paragraph (10) of this subsection.] subsection (a)(11)."

SECTION 5. 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 brackets, the bracketed material, or the underscoring.



A BILL FOR AN ORDINANCE

SECTION 6. This ordinance takes effect upon its approval; provided that any permit issued prior to the effective date of this ordinance allowing recreational stops by commercial tour companies to take place at a park affected by this ordinance will continue to be valid until the permit expires.

INTRODUCED BY:

Ikaika Anderson

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DATE OF INTRODUCTION:

February 11, 2015  
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