



A BILL FOR AN ORDINANCE

RELATING TO SPONSORSHIPS.

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

SECTION 1. Purpose. The purpose of this ordinance is to establish a process to obtain sponsorships for city facilities, parks, programs, equipment, and tangible property within set guidelines and procedures for the purpose of optimizing non-property tax revenue sources.

SECTION 2. Chapter 2, Revised Ordinances of Honolulu 1990 ("Executive Agencies—Additional Powers, Duties and Functions"), is amended by adding a new article to be appropriately designated by the Revisor of Ordinances and to read as follows:

"Article __. Sponsorship of City Assets

Sec. 2-__1 Declaration of legislative intent — purpose.

In an effort to utilize and maximize the community's resources, it is in the best interest of the city to create and enhance relationships with the private sector, including individuals, corporations and other organizations, through commercial sponsorships. Sponsorship arrangements are deemed not to constitute a public forum for communication and debate. The rights established by the sponsorships are established and retained at the city's discretion. Sponsorships will create alternate revenue streams that will increase the city's ability to deliver services and to maintain city assets, including its facilities, parks, programs, equipment, and tangible property, and provide enhanced levels of service and maintenance beyond the core levels funded from the city's general fund for the benefit of users and the community at large.

In appreciation of such support, it is the policy of the city to provide sponsors with suitable acknowledgement of their contribution. However, such recognition should adhere to the aesthetic values and purposes of the city's assets. In addition, such recognition should not detract from the public's experience or expectation, nor should it impair the visual qualities of the city asset or be perceived as creating a proprietary interest. Sponsorship recognition must conform to all applicable laws and rules.

The purpose of this article is to establish the criteria and parameters for the granting of sponsorship opportunities in relation to city assets. This article provides executive agencies the authority to consider and approve sponsorship opportunities for a person that has provided a financial contribution to support a city asset.



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Sec. 2-___.2 Definitions.

As used in this article, unless the context otherwise requires:

"Cash sponsorship" means a type of sponsorship where a sponsor provides cash.

"City asset" means a city facility, park, program, equipment, or tangible property.

"Equipment" means any vehicle, construction equipment, machine, device, gear, apparatus, or tool with a value in excess of \$25,000 used in the operation of the city but does not include city-operated buses or special transit service vehicles.

"Facility" means any building, including any stadium, arena or station, owned, managed or operated by the city.

"Financial contribution" means cash, goods, or services, paid or provided to the city at such time or times as set forth in the sponsorship agreement.

"In-kind sponsorship" means a type of sponsorship where a sponsor provides a good or service.

"Person" means the same as defined in Section 1-4.1.

"Program" means any program, festival, contest, event, fair, athletic race, gala or similar event provided by a city department in connection with the operations of a department.

"Sponsor" means a person that enters into a sponsorship agreement with the city.

"Sponsorship" means a mutually beneficial arrangement between the city and a person, wherein the person provides a financial contribution to the city in return for sponsor recognition on or in connection with one or more city assets, for a specified period of time.

"Sponsorship agreement" means a written agreement executed between the city and a sponsor governing a sponsorship, on terms and conditions acceptable to the city and the sponsor. A sponsorship agreement may include provisions that allow for the recognition of the sponsor.



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"Sponsorship recognition" means a tangible acknowledgement and expression of gratitude issued as part of the sponsorship agreement.

Sec. 2-__3 Exclusions.

This article does not apply to:

- (a) Gifts, grants, or unsolicited donations where no sponsorship agreement exists or is required;
- (b) Memorials and the naming of a city park, site, or facility subject to Sections 22-9.3 to 22-9.5;
- (c) Parades or events sponsored or co-sponsored by the city pursuant to other ordinances or rules;
- (d) Facilities in Kapiolani Regional Park; and
- (e) Facilities in Hanauma Bay Nature Preserve.

Sec. 2-__4 Authorization required.

- (a) City assets are intended and exclusively used for operations of the city in providing governmental services and programs to and for the public, and except as required by law or expressly established by an affirmative action by the city council, no person will have a right to access or use any city asset for any purpose other than the intended and authorized governmental purpose or service. Placement of sponsorship messages upon a city asset will require specific authorization.
- (b) The city possesses sole and final decision-making authority for determining the appropriateness of a sponsorship and reserves the right to refuse to enter into any proposed sponsorship agreement. Approval of proposals will be subject to the following guidelines:
 - (1) A director of an executive agency shall have the authority to enter into a sponsorship agreement, pursuant to the rules to be adopted under Section 2-__6, that is for:
 - (A) A term of less than five years; and
 - (B) A financial contribution of less than \$50,000;



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- (2) All sponsorship agreements for a financial contribution of \$50,000 or more must be approved by a resolution adopted by the city council; and
- (3) All sponsorship agreements for a period of five years or more must be approved by a resolution adopted by the city council.

Sec. 2-__5 Funds received from sponsorship agreements.

All funds received pursuant to sponsorship agreements will be deposited into the appropriate fund as determined by the director of budget and fiscal services, provided that such funds are expended for their designated purpose.

Sec. 2-__6 Sponsorship rules.

The director of budget and fiscal services or other director as designated by the mayor shall adopt rules, in accordance with HRS Chapter 91, for the implementation, administration, and enforcement of this article. In adopting the rules, the director of budget and fiscal services or other director as designated shall ensure that this article and any sponsorship agreements entered into pursuant to this article are implemented in a manner consistent with all other applicable laws including and without limitation, HRS Chapter 89.

Sec. 2-__7 Sponsorship requirements.

- (a) The following requirements apply to all sponsorship agreements:
 - (1) The city shall not relinquish any aspect of the city's right to direct, manage and control the city asset;
 - (2) Sponsorship recognition, publications, and publicity must conform to all applicable laws and rules, including but not limited to HRS Chapter 445, Part IV, pertaining to outdoor advertising, including billboards, and Chapter 21, Article 7, pertaining to sign regulations;
 - (3) The sponsorship must not create a conflict of interest for the city;
 - (4) The sponsorship must not confer a personal benefit, directly or indirectly, to any particular city officer or employee;



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- (5) Sponsorships shall not be deemed to constitute an endorsement of the sponsor or its services and products, or create any proprietary interest of the sponsor in the city or the city assets;
- (6) No materials, communications, or advertisements including, but not limited to, print, video, internet, broadcast, or display items developed to promote or communicate the sponsorship, may use the city's name, seal, or logo without express prior written approval from the city;
- (7) Any physical form of sponsorship recognition must blend in with the surrounding environment;
- (8) The sponsorship must not discriminate against any person on the basis of race, color, creed, religion, sex, including gender identity and expression, sexual orientation, age, marital status, ancestry, national origin, or disability;
- (9) Sponsorship recognition, branding, publicity, and advertising in conjunction with the sponsorship agreement must not contain the following:
 - (A) Obscenity;
 - (B) Pornography;
 - (C) Incitement to imminent lawless action;
 - (D) Speech presenting a grave and imminent threat;
 - (E) Fighting words;
 - (F) Fraudulent material;
 - (G) True threats;
 - (H) Defamatory, libelous, or slanderous material;
 - (I) Solicitations to commit, or speech integral to, criminal conduct;
 - (J) The promotion of drugs, alcohol, tobacco, gambling, or adult entertainment;



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- (K) Political campaign speech, or speech that supports or opposes or appears to support or oppose a ballot measure or initiative, or refers to any person in or campaigning for public office; or
- (L) Religious speech that advocates or opposes a religion or religious belief;
- (10) Each sponsorship agreement must specify whether the sponsorship for a particular asset will be exclusive or non-exclusive;
- (11) Sponsorship recognition may include the following, or any combination thereof, during the term of the agreement:
 - (A) Recognition of the sponsor for a specific city program;
 - (B) Appropriate mention in media releases and promotional materials of a sponsor for the city program;
 - (C) Appropriate sponsorship recognition or display at the city program location;
 - (D) Appropriate recognition on the program website as a sponsor for the program; or
 - (E) Other possible benefits as negotiated;
- (12) Sponsors shall defend, indemnify, and hold harmless the city, its officers, agents, and employees against all liability, loss, damage, cost, and expense, including attorneys' fees, arising out of or resulting from the acts or omissions of the sponsor, its directors, employees, officers, agents, or contractors, in connection with the sponsorship and the sponsorship agreement;
- (13) Sponsorships may be terminated in writing at any time during the term of the sponsorship agreement when, in the sole determination of the city, the sponsorship is no longer in the best interest of the city;
- (14) The city retains its rights and discretion to exercise full editorial control over the placement, content, appearance, and wording of sponsorship recognitions, affiliations, and messages; and



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
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ORDINANCE 17-16

BILL 78 (2015), CD1, FD1

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- (15) Sponsorship materials that advocate, contain price information or an indication of associated savings or value, request a response, or contain comparative or qualitative descriptions of products, services, or organizations are prohibited.
- (b) The following sponsorships will not be accepted:
- (1) Sponsorships from persons that practice or promote discrimination based on race, color, creed, religion, sex, including gender identity and expression, sexual orientation, age, marital status, ancestry, national origin, or disability;
 - (2) Sponsorships from persons that have a pending open application with the city for a discretionary approval;
 - (3) Sponsorships from persons opposing the city in a pending or ongoing legal proceeding; and
 - (4) Sponsorships that involve situations where the corporation counsel determines that there would be or are conflicts of interest.

Sec. 2-__8 Severability.

The provisions of this article are declared to be severable. If any portion of this article is held invalid for any reason, the validity of any other portion of this article which may be given effect without the invalid portion will not be affected and if the application of any portion of this article to any person, property, or circumstance is held invalid, the application of this article to any other person, property, or circumstance will not be affected."



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SECTION 3. This ordinance takes effect upon its approval, and will be repealed five years after the date of its approval.

INTRODUCED BY:

Kymerly Marcos Pine

Ann Kobayashi

DATE OF INTRODUCTION:

October 29, 2015
Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:


Deputy Corporation Counsel **GEOFFREY M. KAM**

APPROVED this 12th day of May, 20 17.


KIRK CALDWELL, Mayor
City and County of Honolulu

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII
CERTIFICATE

ORDINANCE 17-16

BILL 78 (2015), CD1, FD1

Introduced: 10/29/15

By: KYMBERLY PINE

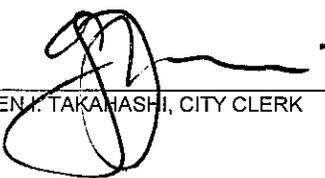
Committee: BUDGET

Title: A BILL FOR AN ORDINANCE RELATING TO SPONSORSHIPS.

Voting Legend: * = Aye w/Reservations

11/04/15	COUNCIL	BILL ADDED TO THE AGENDA. 9 AYES: ANDERSON, ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN, MENOR, OZAWA, PINE. BILL PASSED FIRST READING AND REFERRED TO COMMITTEE ON BUDGET. 9 AYES: ANDERSON, ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN, MENOR, OZAWA, PINE.
11/18/15	BUDGET	BILL DEFERRED IN COMMITTEE.
01/13/16	BUDGET	CR-12(16) – BILL REPORTED OUT COMMITTEE FOR PASSAGE ON SECOND READING AND SCHEDULING OF A PUBLIC HEARING.
01/16/16	PUBLISH	PUBLIC HEARING NOTICE PUBLISHED IN THE HONOLULU STAR-ADVERTISER.
01/27/16	COUNCIL/PUBLIC HEARING	CR-12(16) ADOPTED. BILL PASSED SECOND READING, PUBLIC HEARING CLOSED AND REFERRED TO COMMITTEE ON BUDGET. 9 AYES: ANDERSON, ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN, MENOR, OZAWA, PINE.
02/03/16	PUBLISH	SECOND READING NOTICE PUBLISHED IN THE HONOLULU STAR-ADVERTISER.
02/10/16	BUDGET	BILL AMENDED TO CD1 AND DEFERRED IN COMMITTEE
03/02/16	BUDGET	BILL DEFERRED IN COMMITTEE.
04/05/17	BUDGET	CR-119(17) – BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON THIRD READING AS AMENDED IN CD1 FORM.
04/26/17	COUNCIL	BILL AMENDED TO HAND-CARRIED FD1 (OCS2017-0457/4/26/2017 10:09 AM). 9 AYES: ANDERSON, ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN, MENOR, OZAWA, PINE. CR-119(17) ADOPTED AND BILL 78 (2015), CD1, FD1 PASSED THIRD READING. 7 AYES: ANDERSON, ELEFANTE, KOBAYASHI*, MANAHAN, MENOR, OZAWA, PINE. 2 NOES: FUKUNAGA, MARTIN.

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 I. TAKAHASHI, CITY CLERK


RON MENOR, CHAIR AND PRESIDING OFFICER