



A BILL FOR AN ORDINANCE

TO AMEND CHAPTER 10, ARTICLE 1, REVISED ORDINANCES OF HONOLULU, 1990, AS AMENDED, RELATING TO THE DEPARTMENT OF PARKS AND RECREATION.

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

SECTION 1. Purpose. The purpose of this ordinance is to regulate tents in the parks maintained by the City and County of Honolulu.

SECTION 2. Section 10-1.1, Revised Ordinances of Honolulu 1990, is amended by adding two new definitions to read as follows:

""Tent" means a collapsible structure consisting of sheets of canvas, fabric, or other material attached to or draped over a frame of poles or a supporting rope that has more than one wall."

""Wall" means an upright, vertical, or slanted structure, partition, or divider serving to enclose, divide, support, or protect."

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

"(b) Except as authorized by permits, and subject to the terms and conditions imposed by the department of parks and recreation, it is unlawful for any person, within the limits of any public park, to:

- (1) Cut or remove any wood, plant, grass, soil, rock, sand or gravel;
- (2) Sell or offer for sale any services, merchandise, article or thing, whatsoever;
- (3) Moor, tie up, store, repair or condition any boat, canoe, raft or other vessel;
- (4) Repair or condition any surfboard;
- (5) Park any vehicle except bicycles on grassed areas;
- (6) Amplify music or use battery operated loudspeakers (bull horns);



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- (7) Ride or drive any horse or any other animal;
- (8) Engage in or conduct any activity which creates any sound, noise or music exceeding 80 dBA sound pressure level taken at a point 10 feet in front of the source for a cumulative time period of at least five minutes when measured with a calibrated American National Standard Institute (ANSI) Type I or Type II sound level meter with weighting set at "A" and response set at "slow" except any activity which is sponsored by the city or the department of parks and recreation or authorized by permit issued by the city[.];
- (9) Construct, utilize, place, occupy, leave, or in any other manner situate any tent."

SECTION 4. Section 10-1.3 of the Revised Ordinances of Honolulu 1990 ("Permits"), as amended, is amended by amending subsection (a) 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 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 either a league, organization, association, group or individual;
 - (4) Recreational activities, including nonprofit fundraising activities, sponsored by community organizations, associations, groups or individuals;
 - (5) Meetings or gatherings or other similar activity held by organizations, associations or groups;
 - (6) Nonrecreational, public service activities, meetings and gatherings held by organizations, communities or groups;
 - (7) Right of entry into parks for installation of utilities or construction work;



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- (8) The playing of musical instruments as solo or two or more instruments which fall within the standards described in paragraphs (A), (B) and (C) of this subdivision:
- (A) Musical instruments which are limited to two octaves or less, including but not limited to the following musical instruments: (i) tuba, (ii) tympani, (iii) maracas, (iv) uliuli, (v) castanets, (vi) tambourine or (vii) percussion instruments in which a human hand or drumsticks are used to create sounds therefrom;
 - (B) Musical instruments which when played do not exceed the sound pressure level established in Section 10-1.2(b)(8); and
 - (C) Musical instruments which 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 requires a permit as provided hereunder shall be 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 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 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 requires a permit as provided hereunder shall be subject to the following restrictions, in addition to any other conditions imposed by the rules adopted by the director:



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- (i) Time: Only between the hours of nine a.m. and six p.m. daily, and
 - (ii) Place: The playing of such instruments shall be restricted to the facility especially constructed for such purpose, such as the bandstand at Kapiolani Park or other areas within the park that shall be clearly designated in the permit, and
 - (iii) Manner: During the hours mentioned in subparagraph (i) of this paragraph, every half-hour of playing period shall immediately be followed by a 15-minute break or every one hour of playing period shall immediately be followed by a half-hour break; provided, that at no time shall there be any continuous playing exceeding an hour.
- (D) Duration of Permit. The duration of a permit issued pursuant to subdivision (8) shall not exceed one month;
- (9) Hang gliding;
- (10) Commercial activities designed for profit, which include but are not limited to the exchange or buying and selling of commodities, or the providing of services relating to or connected with trade, traffic or commerce in general. For purposes of this subdivision, the use of land for utilities shall not be considered a commercial activity. The proposed commercial activities under the permit shall be 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[.];
- (11) Constructing, utilizing, placing, occupying, or in any other manner situating any tent."

SECTION 5. Ordinance material to be repealed is bracketed. New 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.



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SECTION 6. This ordinance shall take effect upon its approval.

INTRODUCED BY:

Todd Apo (BR)

DATE OF INTRODUCTION:

January 21, 2010
Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Deputy Corporation Counsel

APPROVED this _____ day of _____, 20____.

MUFI HANNEMANN, Mayor
City and County of Honolulu