CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAIʻI

ORDINANCE _____

BILL **27 (2022), CD1**

A BILL FOR AN ORDINANCE

RELATING TO PUBLIC PLACES.

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

SECTION 1. Purpose. The purpose of this ordinance is to authorize outdoor dining services on certain public places.

SECTION 2. Chapter 29, Article 20, Revised Ordinances of Honolulu 1990 ("Creating, Causing, or Maintaining Obstructions on Public Sidewalks Prohibited"), is amended by adding a new section to be appropriately designated by the Revisor of Ordinances and to read as follows:

"**Sec. 29-20.A Outdoor dining services program.**

(a) For purposes of this section:

"Department" means the city department or agency designated by the mayor.

"Program" or "pilot program" means the outdoor dining services pilot program established under this section.

(b) The department may establish a pilot program for outdoor dining services that allows restaurants to use certain city properties for dining and take-out operations. These city properties are limited to sidewalks, parklets, pedestrian malls, parks, and playgrounds.

(c) The department is authorized to implement the pilot program consistent with this section, commencing six months following the effective date of this ordinance and terminating 24 months thereafter.

(d) The department may issue permits to applicants to provide outdoor dining services pursuant to this section upon acceptance of an application, application fee, a completed liability form, and proof of insurance; provided that such permits are revocable on notice of 30 days or less and must not be valid for more than a one-year period. A permit application review fee of $____ shall accompany a permit application. The department may establish a charge for the use of the property.

(e) The pilot program must incorporate terms and conditions to ensure public health and safety, including but not limited to consideration of the following as applicable:

(1) The restaurant must be on the ground floor and abut paved city property.

(2) Upon 24 hours' notice, the restaurant must vacate city property for regular maintenance by the city, including, for example, steam cleaning.

(3) The restaurant is responsible for its own equipment, furniture, and supplies, which must be stored elsewhere than on city property during hours when the restaurant is closed.

(4) The utilized city property may only be used by the restaurant during its normal business hours, but must not be used between the hours of 11:00 p.m. and 7:00 a.m.

(5) The restaurant is responsible for compliance with any additional requirements relating to its Hawaiʻi department of health food establishment permit.

(6) Liquor sales, if any, on the utilized city property must be authorized under the restaurant's liquor license and allowed under applicable law.

(7) No additional signage is permitted within the utilized city property.

(8) Dining services must be consistent with any requirements imposed by law or emergency order, including social distancing requirements and the physical spacing of tables, seats, and customers.

(9) Furniture must be located at least six feet from any vehicular ramp, driveway, or street intersection.

(10) No live or amplified music is allowed on the utilized city property.

(11) Furniture must not be placed over planter strips and tree wells.

(12) Furniture must be outside an eight-foot radius around bus stops and a five-foot radius around fire hydrants.

(13) All fire lanes must be open and accessible at all times.

(14) The restaurant is responsible for rubbish collection.

(15) Upon expiration of its permit or the pilot program, the restaurant shall return the city property to the state it was in prior to the commencement of the restaurant's use.

(16) Violations of these requirements may result in revocation of the permit by the department; provided that the department shall notify the restaurant of the violation and provide an opportunity for the restaurant to respond before revocation.

(17) Outdoor dining under this section may include parklets, subject to pedestrian clearance, traffic, and safety issues as determined by the city through the departments having authority over these issues.

(18) Where sidewalks are present on all or part of the utilized city property, the restaurant must ensure a clear right-of-way of at least 36 inches at all times.

(19) For restaurants abutting pedestrian "malls," as more specifically defined in Section 29-1.1, the following additional requirements apply:

(A) A clear 20-foot wide right-of-way to accommodate delivery and emergency vehicles must be maintained at all times;

(B) Business hours for outdoor dining operations cannot exceed mall hours;

(C) No liquor service is allowed on the mall property;

(D) All rubbish must be removed nightly; and

(E) If the ground of the city property utilized consists of pavers, the restaurant must take actions to prevent and address food, liquid, and grease spills.

(20) For restaurants abutting a city park or playground, use of the city property is limited to a maximum of seven feet from the property line, and to no more than one row of tables.

(f) Not later 27 months following the commencement of the pilot program, the department shall submit to the Council a report that includes, at a minimum:

(1) An assessment of the success of the outdoor dining services program, including identification of the criteria used to measure success and the impact of the program on the local economy;

(2) An analysis of the method of implementation of the outdoor dining services program, the cost of the program, and the number of permits issued; and

(3) Recommendations for retention, termination, or modification of the program.

(g) The department may adopt rules in accordance with HRS Chapter 91 to implement this section."

SECTION 3. Chapter 28, Article 3, Revised Ordinances of Honolulu 1990 ("Exceptions to Bidding Requirement"), is amended by adding a new section to be appropriately designated by the Revisor of Ordinances and to read as follows:

"**Sec. 28-3. Bidding not required—Outdoor dining services.**

The city department or agency designated by the mayor under Section 29-20.A may issue permits for outdoor dining services pursuant to that section without calling for public bids."

SECTION 4. Chapter 29, Article 20, Revised Ordinances of Honolulu 1990 ("Creating, Causing, or Maintaining Obstructions on Public Sidewalks Prohibited"), is amended by adding a new section to be appropriately designated by the Revisor of Ordinances and to read as follows:

"**Sec. 29-20.B Article additional to Article 18 with respect to use of sidewalk, and to Articles 6A, 8, and 10 with respect to use of mall.**

The use of a sidewalk as authorized by this article is additional to the use of a sidewalk authorized under Article 18; the use of a mall or sidewalk as authorized by this article is additional to the use of a mall or sidewalk authorized under Articles 6A, 8, and 10; and the use of a park or playground as authorized by this article is additional to the use of a park or playground authorized under Chapter 10, Article 1."

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SECTION 5. 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. The Revisor shall replace the A and B designations for the Sections enacted by SECTIONS 2 and 4 of this ordinance with numbers, and shall include the number assigned to the letter "A" in the new Section 28-3.__ enacted in SECTION 3 of this ordinance.

SECTION 6. This ordinance takes effect upon its approval and is repealed 36 months following that date.

INTRODUCED BY:

Tommy Waters

DATE OF INTRODUCTION:

April 14, 2022
Honolulu, Hawaiʻi

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Deputy Corporation Counsel

APPROVED this _____day of _____, 20 _____.

RICK BLANGIARDI, Mayor
City and County of Honolulu