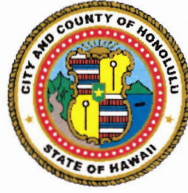


OFFICE OF THE MAYOR

CITY AND COUNTY OF HONOLULU

530 SOUTH KING STREET, ROOM 300 • HONOLULU, HAWAII 96813  
PHONE: (808) 768-4141 • FAX: (808) 768-4242 • INTERNET: [www.honolulu.gov](http://www.honolulu.gov)

RICK BLANGIARDI  
MAYOR



MICHAEL D. FORMBY  
MANAGING DIRECTOR  
  
KRISHNA F. JAYARAM  
DEPUTY MANAGING DIRECTOR

September 29, 2022

The Honorable Tommy Waters  
Chair and Presiding Officer  
and Members  
Honolulu City Council  
530 South King Street, Room 202  
Honolulu, Hawaii 96813

Dear Chair Waters and Councilmembers:

SUBJECT: Proposed Bill for an Ordinance  
Relating to the Public Carry of Firearms

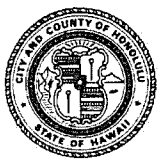
Submitted herewith for your consideration is a bill for an ordinance to address the Supreme Court's recent ruling in New York State Rifle & Pistol Association, Inc. v. Bruen, No. 20-843 (S. Ct. 2022), which overturned New York's gun safety law requiring a license to carry concealed weapons in public places. The Court further agreed that there are "sensitive places" where carrying firearms could be prohibited, but did not define those sensitive places with specificity.

The proposed bill would define those sensitive locations within the City and County of Honolulu ("City") where the carrying of firearms is prohibited, consistent with an individual's Second Amendment right to bear arms. The bill would also facilitate communication regarding an individual's ability to bring firearms onto the private property of a business or charitable organization, so as to ease public confusion, facilitate private decision-making, and avoid individual confrontations on private property.

Your favorable and expedient consideration of the attached proposed bill is appreciated.

Sincerely,

FOR   
Michael D. Formby  
Managing Director



# CITY COUNCIL

CITY AND COUNTY OF HONOLULU  
HONOLULU, HAWAII

ORDINANCE \_\_\_\_\_

BILL \_\_\_\_\_

## A BILL FOR AN ORDINANCE

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RELATING TO THE PUBLIC CARRY OF FIREARMS.

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

SECTION 1. Purpose. The purpose of this ordinance is to define those sensitive locations within the City and County of Honolulu ("City") where the carrying of firearms is prohibited, consistent with an individual's Second Amendment right to bear arms and the United States Supreme Court's ruling in New York State Rifle & Pistol Association, Inc. v. Bruen, No. 20-843 (S. Ct. 2022).

It is the further purpose of this ordinance to protect sensitive areas that have traditionally been subject to restrictions on carrying or possessing arms therein; to protect health, life, and property; and to preserve the order and security of the City, its inhabitants, and its visitors.

It is the further purpose of this ordinance to facilitate communication to the public of decisions by private businesses and charitable organizations in permitting or restricting firearms on their property. Inasmuch as the public's expectations have been shaped by legal restrictions on public carry that have been in place in Hawaii for 170 years, see 1852 Haw. Sess. Laws Act of May 25, 1852, Section 1 at 19, setting a default rule for businesses and charitable organizations that is consistent with these public expectations will ease public confusion and avoid individual confrontations, while facilitating private decision-making by businesses and charitable organizations.

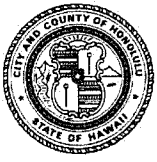
SECTION 2. Chapter 40, Revised Ordinances of Honolulu 1990 ("Prohibited Activities in the City"), is amended by adding a new article to be appropriately designated by the revisor of ordinances and to read as follows:

### "Article \_\_. Public Carry of Firearms

#### Sec. 40-\_\_1 Declaration of legislative intent.

It is declared to be the intent of this article to protect sensitive areas that have traditionally been subject to restrictions on carrying or possessing firearms therein; to facilitate private decision-making by businesses and charitable organizations on carrying or possessing arms on private property; and to protect health, life, and property and to preserve the order and security of the City, its inhabitants, and its visitors.

MM-184(22)



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**A BILL FOR AN ORDINANCE**

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**Sec. 40.2 Definitions.**

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

“Business” means any sole proprietorship, partnership, joint venture, business trust, limited liability company, business corporation, professional corporation, or other business entity formed for profit-making purposes.

“Business establishment” includes any of the following establishments operated by a business:

- (1) Any hotel, except individual hotel rooms and when actively traveling through a hotel to or from an individual hotel room.
- (2) Any financial institution.
- (3) Any industrial, commercial, or wholesale establishment.
- (4) Any utility.
- (5) Any retail establishment where goods or services are sold, leased, or otherwise provided to the public or to another business.
- (6) Any restaurant or bar, as those terms are defined in Section 41-21.1.

“Carry on their person” means the person has immediate physical access to the firearm, such as by carrying the firearm in a holster or other receptacle.

“Charitable organization” or “charitable establishment” means any organization classified under Section 501(c) of the federal tax code.

“Child” or “Minor” means a person under 18 years of age.

“Child care” includes those situations where a person or organization has agreed to assume and has been entrusted with the responsibility for the child’s supervision, development, safety, and protection apart from the parent or guardian. “Child care” includes any program or camp for children that occurs before school hours, after school hours, and during breaks in school instructional periods, including Summer Fun programs, A+ programs, children’s’ programs of the YWCA and YMCA, and similar non-profit and government-sponsored programs for children.



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## A BILL FOR AN ORDINANCE

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“Child care facility” means a place maintained by any individual, organization, or agency for the purpose of providing child care with or without charging a fee at any time. It includes a family child care home, group child care center, and group child care home as those terms are defined in Hawaii Revised Statutes (“HRS”) Section 346-151. “Child care facility” does not include any dwelling unit or lodging unit when not used as a child care facility.

“Detective”, “private detective”, “investigator”, and “guard” have the same meanings as in HRS Section 463-1.

“Dwelling unit” has the same meaning as in Section 21-10.1.

“Firearm(s)” has the same meaning as in HRS Section 134-1.

“License” means any license to carry a concealed or unconcealed firearm issued by the Honolulu police department.

“Lodging unit” has the same meaning as in Section 21-10.1.

“Operating hours” means any time at which a place is open for customers or visitors, and includes any time at which a place is open only for a limited number or group of customers or visitors but otherwise closed to the general public.

“Pistol” or “revolver” has the same meaning as in HRS Section 134-1.

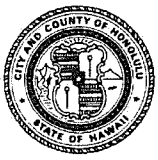
“Place of deposit” has the same meaning as in HRS Section 11-1.

“Public park” has the same meaning as in Section 10-1.1.

“School” includes all institutions that provide preschool, elementary, secondary, post-secondary, technical, or trade or vocational education, including youth challenge academies, and includes all athletic facilities, offices, cafeterias and eating establishments, health care facilities, research facilities, parking lots, and shared rooms and common areas of dormitories thereof. “School” does not include a private residence at which education is provided for children who are all related to one another by blood, marriage, or adoption.

“Sidewalk” has the same meaning as in Section 29-1.1.

“Street” has the same meaning as in Section 29-1.1, provided that “street” does not include any portion of a parking lot.



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“Voter service center” has the same meaning as in HRS Section 11-1.

“Voter service center, place of deposit, and its appurtenances” has the same meaning as in HRS Section 11-132.

A “sensitive place” means, within the City:

- (a) All areas within or on City-owned or controlled buildings or offices, excluding:
  - (1) Any dwelling unit or lodging unit when not used as a child care facility;
  - (2) The Koko Head Shooting Complex; and
  - (3) The Blaisdell Center or other City-owned or controlled building during the operating hours of an organized, scheduled firearms show or exhibit.
  
- (b) Except as otherwise provided by federal or State law, all areas within or on buildings or offices owned or controlled by the United States or the State, excluding any dwelling unit or lodging unit when not used as a child care facility.
  
- (c) Schools, child care facilities, and places frequented by children, as follows:
  - (1) In, or on the grounds of, any public school, parochial school, private school, or child care center.
  - (2) All public parks, during each park’s operating hours, excluding the Koko Head Shooting Complex.
  - (3) Shelters and residential facilities operated by a government entity or a charitable organization serving homeless children, children involved in the juvenile justice system, or children who are similarly at-risk.
  - (4) The buildings, grounds, and appurtenant parking lots of the following, during the respective operating hours of each:
    - (A) Hanauma Bay Nature Preserve.
    - (B) Hawaii Children’s Discovery Center.
    - (C) Honolulu Aquarium.
    - (D) Honolulu Zoo.



# CITY COUNCIL

CITY AND COUNTY OF HONOLULU  
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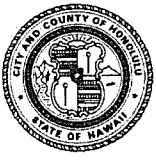
## A BILL FOR AN ORDINANCE

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- (d) Voter service centers, places of deposit, and their appurtenances, and an area of two hundred feet from the perimeter of any voter service center, place of deposit, and its appurtenances, as designated by election officials pursuant to HRS Section 11-132, as follows:
  - (1) As applied to voter service centers and their appurtenances, all operating hours, as set forth in HRS Section 11-109; and
  - (2) As applied to places of deposit and their appurtenances, all times at which the place of deposit is accessible to the public.
  
- (e) Public transportation facilities, except as provided by federal or State law, as follows:
  - (1) Vehicles used for public transportation by air, sea, or land, including rail, TheBus, Handi-Van, or ship.
  - (2) Any building, structure, or grounds, used for or in connection with providing passenger transportation by air, sea, or land, including harbors, rail stations, and bus terminals (including Handi-Van terminals). This includes stops for TheBus that have a shelter overhang or roof, but does not include stops for TheBus that have only a sign or a bench with no shelter overhang or roof.
  
- (f) First Amendment expressive activities: within a distance of 100 feet of the outer edge of any group of 25 or more people, in a public place as that term is defined in Section 29-1.1, engaged in expressive activities involving speech or conduct, the principal object of which is the expression, dissemination, or communication by verbal, visual, literary, or auditory means of political, religious, philosophical, or ideological opinions, views, or ideas.

### **Sec. 40-\_\_3 Prohibition against the public carrying of firearms in sensitive places.**

- (a) Prohibition. Except as otherwise provided by federal or State law, it is a violation of this article for any person to intentionally, knowingly, or recklessly carry on their person a firearm, concealed or unconcealed, in any sensitive place.



# CITY COUNCIL

CITY AND COUNTY OF HONOLULU  
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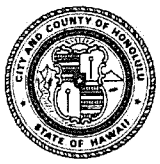
## A BILL FOR AN ORDINANCE

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- (b) Exceptions. This prohibition shall not apply to:
- (1) Persons exempted from HRS Section 134-9 pursuant to HRS Section 134-11.
  - (2) Detectives, private detectives, investigators, and guards, authorized by the Chief of Police to carry a firearm in a particular sensitive place, while on duty in that sensitive place.
- (c) Criminal Penalties; Enforcement.
- (1) Any person violating this section shall be guilty of a misdemeanor.
  - (2) A law enforcement officer may arrest an alleged violator of any provision of this section or may issue a citation in lieu of arrest, as provided in HRS Section 803-6.
  - (3) In any prosecution, it shall be an affirmative defense that the person was exempt from the prohibition in subsection (a) pursuant to subsection (b).
  - (4) The presence of a person at any sensitive place in subsection (a) shall be prima facie evidence that the person knows it is a sensitive place.

**Sec. 40-\_\_4 Prohibition against the public carry of firearms on private business or charitable organizations' premises without express consent.**

- (a) Prohibition. Except as otherwise provided by federal or State law, it is a violation of this article for any person to intentionally, knowingly, or recklessly carry on their person a firearm, concealed or unconcealed, on the premises of any business establishment or charitable establishment unless the business establishment or charitable establishment, or an agent thereof, has expressly consented thereto. Express consent may include signage.
- (b) For purposes of this section, "the premises of any business establishment or charitable establishment" includes all appurtenant grounds and parking lots of the business establishment or charitable establishment, but does not include privately owned or maintained streets or sidewalks.



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## A BILL FOR AN ORDINANCE

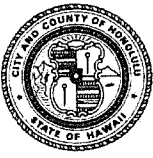
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- (c) Exceptions. This prohibition shall not apply to:
- (1) Persons exempted from HRS Section 134-9 pursuant to HRS Section 134-11.
  - (2) Detectives, private detectives, investigators, and guards, authorized by the Chief of Police to carry a firearm in a particular sensitive place, while on duty in that sensitive place.
- (d) Criminal Penalties; Enforcement.
- (1) Any person violating this section shall be guilty of a misdemeanor.
  - (2) A law enforcement officer may arrest an alleged violator of any provision of this section or may issue a citation in lieu of arrest, as provided in HRS Section 803-6.
  - (3) In any prosecution, it shall be an affirmative defense that the person was exempt from the prohibition in subsection (a) pursuant to subsection (c).
  - (4) The presence of a person on the premises of any business establishment or charitable establishment shall be prima facie evidence that the person knows it is the premises of any business establishment or charitable establishment.

**Sec. 40-\_\_\_.5 Prohibition against the public carry of firearms without possession of license to carry.**

- (a) Prohibition. Except as otherwise provided by federal or State law, it is a violation of this section for any person who has a valid License to knowingly, intentionally, or recklessly carry on their person a pistol or revolver outside the person's residence without having a valid License in the person's immediate possession, or to fail to display same upon the demand of a law enforcement officer.
- (b) Exceptions. This prohibition shall not apply to:
- (1) Persons exempted from HRS Section 134-9 pursuant to HRS Section 134-11.





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- (2) Qualified law enforcement officers and qualified retired law enforcement officers pursuant to 18 U.S.C. §§ 926B and 926C, and HRS Chapter 134, who have documentation regarding their qualifications in the person's immediate possession.
- (c) Criminal Penalties; Enforcement.
- (1) Any person violating this section shall be guilty of a misdemeanor.
  - (2) A law enforcement officer may arrest an alleged violator of any provision of this section or may issue a citation in lieu of arrest, as provided in HRS Section 803-6.
  - (3) In any prosecution, it shall be an affirmative defense that the person was exempt from the prohibition in subsection (a) pursuant to subsection (b).
  - (4) The failure of a person to have a valid License in the person's immediate possession while carrying on their person a firearm outside the person's residence shall be prima facie evidence that the person knows the person is carrying a firearm in public without possession of the person's License.
  - (5) The failure of a person to display the person's License upon the demand of a law enforcement officer while carrying on their person a firearm outside the person's residence shall be prima facie evidence that the person has knowingly, intentionally, and recklessly failed to display the License.

**Sec. 40-\_\_\_\_.6 Severability.**

Every provision in this article and every application of the provisions in this article is severable from each other as a matter of law. If any provision of this article or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this article, which can be given effect without the invalid provision or application. This article shall be construed to be enforceable up to, but no further than, the maximum possible extent consistent with federal and State law.



**CITY COUNCIL**  
CITY AND COUNTY OF HONOLULU  
HONOLULU, HAWAII

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**A BILL FOR AN ORDINANCE**

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SECTION 3. This ordinance shall take effect upon its approval.

INTRODUCED BY:

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

DATE OF INTRODUCTION:

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

\_\_\_\_\_  
Honolulu, Hawaii

\_\_\_\_\_  
Councilmembers

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
Deputy Corporation Counsel

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

\_\_\_\_\_  
RICK BLANGIARDI, Mayor  
City and County of Honolulu