

A BILL FOR AN ORDINANCE

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*, 142 S. Ct. 2111 (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.

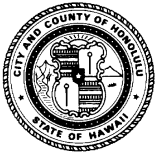
It is the further purpose of this ordinance to facilitate communication to the public of decisions by private businesses and charitable establishments in permitting or restricting firearms on their property. Inasmuch as the public's expectations have been shaped by legal restrictions on public carry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

SECTION 2. Chapter 41, Revised Ordinances of Honolulu 2021 ("Public Health and Safety"), 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

§ 41-__ .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 the carrying or possessing of firearms therein; to facilitate private decision-making by businesses and charitable establishments on the carrying or possessing of arms on their private property; to protect health, life, and property; and to preserve the order and security of the city, its inhabitants, and its visitors.



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§ 41-___.2 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Business. 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:

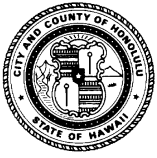
- (1) Any hotel, except individual hotel rooms and when actively traveling through a hotel to or from an individual hotel room;
- (2) Any financial institution;
- (3) Any industrial, commercial, or wholesale establishment;
- (4) Any utility;
- (5) Any retail establishment where goods or services are sold, leased, or otherwise provided to the public or to another business; and
- (6) Any restaurant or bar, as those terms are defined in § 41-14.1.

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

Charitable Establishment. Any organization classified under § 501(c) of the Internal Revenue Code.

Child or Minor. 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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Child Care Facility. 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 HRS § 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, and Investigator. Have the same meanings as defined in HRS § 463-1.

Dwelling Unit. Has the same meaning as defined in § 21-10.1.

Firearm(s). Has the same meaning as defined in HRS § 134-1.

Guard. Has the same meaning as defined in HRS § 463-1.

License. Any license to carry a concealed or unconcealed firearm issued by the Honolulu police department.

Lodging Unit. Has the same meaning as defined in § 21-10.1.

Operating Hours. Any time at which a place is open for customers or visitors, including 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.

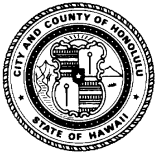
Pistol or Revolver. Has the same meaning as defined in HRS § 134-1.

Place of Deposit. Has the same meaning as defined in HRS § 11-1.

Public Park. Has the same meaning as defined in § 10-1.1.

Public Place. Has the same meaning as defined in § 13-1.1.

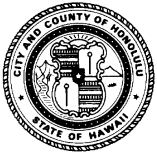
School. Includes all institutions that provide preschool, elementary, secondary, post-secondary, technical, trade, or vocational education, including youth challenge academies, and includes all athletic facilities, offices, cafeterias, eating establishments, health care facilities, research facilities, 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.



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Sensitive Place. Within the city:

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



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- (4) A voter service center, place of deposit, and its appurtenances, and an area of 200 feet from the perimeter of any voter service center, place of deposit, and its appurtenances, as designated by election officials pursuant to HRS § 11-132, as follows:
 - (A) As applied to a voter service center and its appurtenances, all operating hours, as set forth in HRS § 11-109; and
 - (B) As applied to a place of deposit and its appurtenances, all times at which the place of deposit is accessible to the public.
- (5) Public transportation facilities, except as provided by federal or State law, as follows:
 - (A) Vehicles used for public transportation by air, sea, or land, including rail, TheBus, Handi-Van, or ship; and
 - (B) 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.
- (6) 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, who are 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.

Sidewalk. Has the same meaning as defined in § 13-1.1.

Street. Has the same meaning as defined in § 13-1.1, provided that "street" does not include any portion of a parking lot.

Voter Service Center. Has the same meaning as defined in HRS § 11-1.

Voter Service Center, Place of Deposit, and its Appurtenances. Includes those places included within those terms as enumerated in HRS § 11-132.



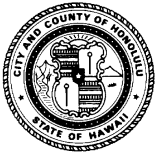
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§ 41-__3 Prohibition against the public carrying of firearms in sensitive places.

- (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.
- (b) *Exceptions.* This prohibition does not apply to:
 - (1) Persons exempted from HRS § 134-9 pursuant to HRS § 134-11; and
 - (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 is 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 § 803-6.
 - (3) In any prosecution, it is 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) is prima facie evidence that the person knows it is a sensitive place.

§ 41-__4 Prohibition against the public carry of firearms on private businesses' or charitable establishments' 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 the 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.

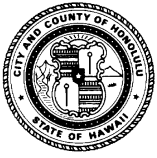


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- (c) *Exceptions.* This prohibition does not apply to:
- (1) Persons exempted from HRS § 134-9 pursuant to HRS § 134-11; and
 - (2) Detectives, private detectives, investigators, and guards, authorized by the chief of police to carry a firearm in a particular sensitive place, while on duty in that sensitive place.
- (d) *Criminal penalties; enforcement.*
- (1) Any person violating this section is 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 § 803-6.
 - (3) In any prosecution, it is 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 is prima facie evidence that the person knows it is the premises of a business establishment or charitable establishment.

§ 41-___.5 Prohibition against the public carry of a pistol or revolver without possession of license to carry.

- (a) *Prohibition.* Except as otherwise provided by federal or State law, it is a violation of this article 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 does not apply to:
- (1) Persons exempted from HRS § 134-9 pursuant to HRS § 134-11; and
 - (2) Qualified law enforcement officers and qualified retired law enforcement officers pursuant to 18 USC §§ 926B and 926C and HRS Chapter 134 who have documentation regarding their qualifications in their immediate possession.



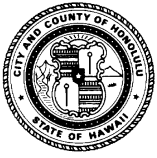
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(c) *Criminal penalties; enforcement.*

- (1) Any person violating this section is 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 § 803-6.
- (3) In any prosecution, it is 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 pistol or revolver outside the person's residence is prima facie evidence that the person knows the person is carrying the pistol or revolver 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 pistol or revolver outside the person's residence is prima facie evidence that the person has knowingly, intentionally, and recklessly failed to display the license.

§ 41-___.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 does not affect other provisions or applications of this article that may be given effect without the invalid provision or application. This article must be construed to be enforceable up to, but no further than, the maximum possible extent consistent with federal and State law."



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SECTION 3. This ordinance takes effect upon its approval.

INTRODUCED BY:

Tommy Waters (br)

DATE OF INTRODUCTION:

November 10, 2022
Honolulu, Hawai'i

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Deputy Corporation Counsel

APPROVED this _____ day of _____, 20 _____.

RICK BLANGIARDI, Mayor
City and County of Honolulu