

SUMMARY OF PROPOSED COMMITTEE DRAFT:
Bill 57 (2022), CD1
RELATING TO THE PUBLIC CARRY OF FIREARMS.

THE PROPOSED CD2 makes the following amendments:

- A. Amends SECTION 2 of the bill as follows:
1. Amends proposed ROH § 41-___.1 ("Declaration of legislative intent") by deleting "decision-making by businesses and charitable establishments on the carrying or possessing of arms on their private property" and replacing it with "decision-making on private property."
 2. Amends proposed ROH § 41-___.2 ("Definitions") as follows:
 - a. Amends the definition of "school" to include school buses;
 - b. Amending the definition of "Sensitive Place" as follows:
 - i. Adds references to "preschools," "colleges," and "universities."
 - ii. Deletes reference to "places frequented by children as follows" as the lead-in to a list of sensitive places, and instead lists those places as being sensitive places without reference to their being places frequented by children. This redesignates former items (3)(A), (B), (C), and (D) of the definition as items (3), (4), (5), and (6), respectively, and redesignates items (4), (5), and (6) of the definition as items (7), (8), and (9), respectively.
 - iii. Amends redesignated subdivision (5) to add references to shelters and residential facilities for developmentally disabled persons, victims of domestic violence, and adults involved in the criminal justice system and persons (not only "children") at risk.
 - iv. Amends redesignated subdivision (8) relating to public transportation facilities to delete reference to buildings, structures, or grounds used for or in connection with providing passenger transportation.
 - v. Adds to the list of sensitive places certain establishments dispensing liquor for consumption on the premises (item

(10)); places used for performances, art, entertainment, gaming or sporting events (item (11)); and medical cannabis dispensaries (item (12)).

- vi. Replaces former item (6) to delete reference to "First Amendment" activities and replace it with a reference to public gatherings, demonstrations, or events requiring a government permit.
- c. Amends proposed ROH § 41-___.3, relating to certain prohibitions, as follows:
- i. Replaces the reference to carrying a "firearm" with a reference to a carrying a "pistol or revolver" outside of the person's residence without a license in the person's immediate possession.
 - ii. Removes the prohibition against carrying a firearm in a sensitive place (this prohibition is moved to ROH § 41-___.4).
 - iii. Prohibits failure to display a license upon demand of a law enforcement officer.
 - iv. Revises the exceptions to the prohibition to exclude the reference to certain detectives, private detectives, investigators, and guards and replace it with an exception for certain qualified law enforcement officers and qualified retired law enforcement officers.
 - v. Removes from this section provisions relating to criminal penalties and enforcement. (These matters are now covered in proposed ROH § 41-___.4(d), § 41-___.7, and § 41-___.8.)
- d. Amends proposed ROH § 41-___.4 as follows:
- i. Includes the prohibition against carrying a firearm in a sensitive location, as well as the prohibition against carrying a firearm on the premises of a business or charitable establishment without express consent.
 - ii. Provides that express consent must (rather than "may") include signage, and references the standards for such signage provided in new proposed ROH § 41-___.5.

- iii. Adds an exception to the prohibition for persons who are either licensed to carry a pistol or revolver or who are law enforcement or former law enforcement officers authorized to carry a pistol or revolver outside their homes, to allow them to transport their concealed firearms in or in the immediate area of their vehicle under certain conditions, even if the vehicle is parked in a parking lot that is a sensitive place.
- iv. Adds an exception allowing a licensee with a concealed firearm to travel along a public right-of-way that touches or crosses a sensitive place, so long as the licensee does not loiter or remain in the sensitive place longer than necessary to complete their travel.
- v. Adds an exception for gatherings, demonstrations, or events for which a government permit is required, if the permit allows the carrying of firearms at the gathering, demonstration, or event.
- e. Deletes the former proposed ROH § 41-___.5 ("Prohibition against the public carry of a pistol or revolver without possession of license to carry") and adds a new § 41-___.5 relating to Signage.
- f. Adds a new ROH § 41-___.6 establishing a duty to inform law enforcement officers when a licensee in possession of a firearm is contacted by such an officer.
- g. Adds a new ROH § 41-___.7 relating to criminal penalties for violation of the new article.
- h. Adds a new ROH § 41-___.8 relating to enforcement of the new article.

B. Makes miscellaneous technical and nonsubstantive amendments.



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.

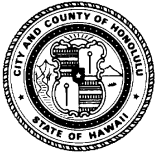
It is the further purpose of this ordinance to facilitate communication to the public of decisions by private businesses and charitable establishments in permitting or restricting firearms on their property. Inasmuch as the public's expectations have been shaped by legal restrictions on public carry 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 on 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:

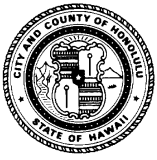
- (1) Any hotel, except individual hotel rooms and when actively traveling through a hotel to or from an individual hotel room;
- (2) Any financial institution;
- (3) Any industrial, commercial, or wholesale establishment;
- (4) Any utility;
- (5) Any retail establishment where goods or services are 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.

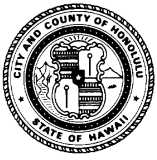
Pistol or Revolver. Has the same meaning as defined in HRS § 134-1.

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.

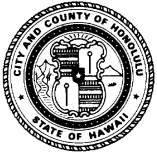
School. Includes all institutions that provide preschool, elementary, secondary, post-secondary, technical, trade, or vocational education, including youth challenge academies, and includes all athletic facilities, offices, cafeterias, eating establishments, health care facilities, research facilities, parking lots, school buses, 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) Any school or child care facility, including preschools, public schools, parochial schools, private schools, colleges, or universities;
- (4) Public parks, excluding the Koko Head Shooting Complex, during each park's operating hours;
- (5) Shelters and residential facilities operated by a government entity or a charitable establishment, including those that serve the homeless, homeless children, developmentally disabled persons, victims of domestic violence, children involved in the juvenile justice system, adults involved in the criminal justice system, or persons who are similarly at-risk;
- (6) 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 Zoo; and
 - (D) Waikiki Aquarium;



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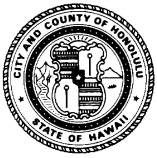
- (7) A voter service center, place of deposit, and its appurtenances, and an area of 200 feet from the perimeter of any voter service center, place of deposit, and its appurtenances, as designated by election officials pursuant to HRS § 11-132, as follows:
 - (A) As applied to a voter service center 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;
- (8) Public transportation facilities, including vehicles used for public transportation by air, sea, or land, including rail, TheBus, Handi-Van, or ship;
- (9) Any establishment licensed to dispense intoxicating liquor for consumption on the premises, a portion of which is primarily devoted to that purpose, without the consent of the establishment's owner or manager;
- (10) Within 100 feet of a place where a public gathering, demonstration, or event is held for which a government permit is required, during the conduct of such gathering, demonstration, or event;
- (11) Any place used for performance, art, entertainment, gaming, or sporting events, such as theaters, stadiums, museums, amusement parks, performance venues, concerts, and exhibits; and
- (12) A medical cannabis dispensary, as defined in HRS § 329D-1.

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 outside residence without a license.

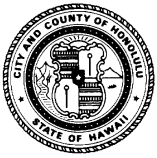
- (a) *Prohibition.* Except as otherwise provided by federal or State law, it is a violation of this article for any person to intentionally, knowingly, or recklessly carry on their person a pistol or revolver outside the person's residence without having a valid license in the person's immediate possession or to fail to display the license 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.

§ 41-__4 Prohibition against the public carrying of firearms in a sensitive location—Prohibition against carrying a firearm on a private business's or charitable establishment's 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:
 - (1) Any sensitive place; or
 - (2) Any business establishment or charitable establishment unless the business establishment or charitable establishment, or an agent thereof, has expressly consented thereto. Express consent must include signage in accordance with the requirements specified in § 41-__5(a).

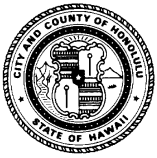
For the purposes of this section, "the premises of any business establishment or charitable establishment" includes all appurtenant grounds and parking lots of the business establishment or charitable establishment, but does not include privately owned or maintained streets or sidewalks.

- (b) *Exceptions.* This section does not apply to:
 - (1) Persons exempted from HRS § 134-9 pursuant to HRS § 134-11;



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- (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;
- (3) Any person who has a valid license to carry on their person a pistol or revolver outside the person's residence, or is exempted in accordance with § 41-___.3 (b) who:
 - (A) Transports a concealed firearm within a vehicle into or out of a parking area in a location covered under subsection (a), provided that the firearm is secured in a locked container;
 - (B) Transports a concealed firearm in the immediate area surrounding their vehicle within a prohibited parking lot area only for the purpose of storing or retrieving the firearm within a locked container in the vehicle's trunk or other place inside the vehicle that is out of plain view;
 - (C) Travels along a public right-of-way that touches or crosses any of the locations identified in subsection (a), if the concealed firearm is carried on their person or is being transported in a vehicle by the licensee in accordance with all other applicable laws, provided that nothing in this exception shall allow a licensee to loiter or remain in a sensitive place longer than necessary to complete their travel; or
 - (D) Must walk through a public gathering, demonstration, or event in order to access their residence, place of business, or vehicle, while the licensee is in the act of walking through the gathering, demonstration, or event to access their residence, place of business, or vehicle, provided that nothing in this exception shall allow a licensee to loiter or remain in a place longer than necessary to complete their travel; and
- (4) Public gatherings, demonstrations, or events for which a government permit is required, if the permit allows the carrying of a firearm, concealed or unconcealed, during the conduct of the gathering, demonstration, or event.
- (c) The landlord of a nonresidential property may, but need not, delegate authority by contractual provision to a lessee operating a business establishment or a charitable establishment to expressly consent to the carrying of a firearm concealed or unconcealed on the leased premises.



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(d) *Criminal penalties; enforcement.*

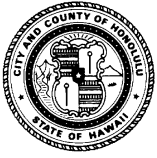
- (1) Any person violating this section is guilty of a misdemeanor.
- (2) A law enforcement officer may arrest an alleged violator of any provision of this section or may issue a citation in lieu of arrest, as provided in HRS § 803-6.
- (3) In any prosecution, it is an affirmative defense that the person 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 Signage.

- (a) Signage must be posted in accordance with this section when indicating permissions that are different from the default permissions.
- (b) Signage requirements are as follows:

For express consent:

- (1) Where the premises has a physical door, the sign must:
 - (A) Be clearly visible from outside the building;
 - (B) Be 8 inches wide by 12 inches tall in size;
 - (C) Contain the words "GUNS ALLOWED," where "GUNS" is in black 1-inch tall uppercase type and "ALLOWED" is in red 1-inch tall uppercase type, located at the bottom of the sign and centered between the lateral edges of the sign;
 - (D) Contain a black silhouette of a handgun inside a circle 7 inches in diameter; and
 - (E) Be placed not less than 40 inches and not more than 60 inches from the bottom of the building's entrance door.

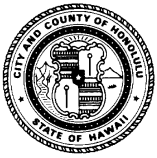


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- (2) Where the premises does not have a physical door, the sign must:
- (A) Be 18 inches wide by 24 inches tall in size;
 - (B) Contain the words "GUNS ALLOWED," where "GUNS" is in black 1-inch uppercase type, located at the bottom of the sign and centered between the lateral edges of the sign;
 - (C) Contain a black silhouette of a handgun inside a circle 17 inches in diameter;
 - (D) Be placed not less than 40 inches and not more than 70 inches above the ground; and
 - (E) Be posted in sufficient quantities to be clearly visible from any point of entry onto the premises.

For express prohibition. Where public carry is not allowed, signs may be posted in accordance with the following:

- (1) Where the premises has a physical door, the sign must:
- (A) Be clearly visible from outside the building;
 - (B) Be 8 inches wide by 12 inches tall in size;
 - (C) Contain the words "GUNS NOT ALLOWED," where "GUNS" and "ALLOWED" are in black 1-inch tall uppercase type and "NOT" is in red 1-inch tall uppercase type, located at the bottom of the sign and centered between the lateral edges of the sign;
 - (D) Contain a black silhouette of a handgun inside a red circle 7 inches in diameter with a red diagonal line that runs from the lower left to the upper right at a 45 degree angle from the horizontal; and
 - (E) Be placed not less than 40 inches and not more than 60 inches from the bottom of the building's entrance door.
- (2) Where the premises does not have a physical door, the sign must:
- (A) Be 18 inches wide by 24 inches tall in size;



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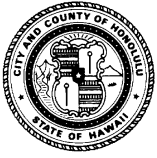
- (B) Contain the words "GUNS ALLOWED," where "GUNS" and "ALLOWED" are in black 1.5-inch tall uppercase type and "NOT" is in red 1.5-inch tall uppercase type, located at the bottom of the sign and centered between the lateral edges of the sign;
 - (C) Contain a black silhouette of a handgun inside a red circle 17 inches in diameter with a red diagonal line that is 1 inch wide and runs from the lower left to the upper right at a 45 degree angle from the horizontal and must be a diameter of a circle whose circumference is one inch wide;
 - (D) Be placed not less than 40 inches and not more than 70 inches above the ground; and
 - (E) Be posted in sufficient quantities to be clearly visible from any point of entry onto the premises.
- (c) All signs that meet the requirements of this section will be considered public signs.

§ 41-___.6 Duty to inform law enforcement upon contact.

A person granted a license to carry a concealed or unconcealed firearm and who is in possession of or carrying their licensed firearm when contacted by a law enforcement officer, shall immediately inform the law enforcement officer that the person is in possession of or carrying their licensed firearm, and shall present the license to the law enforcement officer.

§ 41-___.7 Criminal penalties.

- (a) Any person violating this article is guilty of a misdemeanor.
- (b) A law enforcement officer may arrest an alleged violator of any provision of this article or may issue a citation in lieu of arrest, as provided in HRS § 803-6.
- (c) In any prosecution, it is an affirmative defense that the person was exempt from the prohibition in § 41-___.4(a) pursuant to § 41-___.4(b).



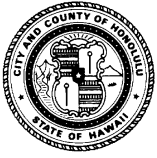
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§ 41-__8 Enforcement.

- (a) The presence of a person at any sensitive place is prima facie evidence that the person knows it is a sensitive place.
- (b) 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.
- (c) 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.
- (d) 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-__9 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."



A BILL FOR AN ORDINANCE

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