

SUMMARY OF PROPOSED COMMITTEE DRAFT:

**Bill 19 (2023)
RELATING TO PUBLIC PARKS.**

THE PROPOSED CD1 makes the following amendments:

- A. Deletes the repeal of §§ 10-1.2 (h) and (i), which relate to prohibitions of commercial activities at certain parks, and makes conforming amendments to ensure new proposed language does not contradict §§ 10-1.2 (h) and (i).
- B. Makes miscellaneous technical and nonsubstantive amendments.



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RELATING TO PUBLIC PARKS.

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

SECTION 1. The purpose of this ordinance is to codify the primary purpose of the City and County of Honolulu public parks, which is to serve the recreational needs of the public and preserve the natural, historic, and cultural resources of public parks for future generations, and to establish the standards, limitations, and procedures by which certain commercial activities may be permitted within the City's public parks.

SECTION 2. Section 10-1.1, Revised Ordinances of Honolulu 2021 ("Definitions"), is amended by amending the definitions of "Commercial Activity" and "Recreational Stops" to read as follows:

"Commercial Activity. A use or purpose designed [~~for profit;~~] to generate revenue, which includes but is not limited to:

- (1) The exchange or buying and selling of services or commodities[-]; including the sale or offer for sale of any merchandise, article, or thing;
- (2) The providing of services relating to or connected with trade, traffic, or commerce in general;
- (3) Any activity performed by the commercial operator or its employees or agents in connection with the delivery of [~~such~~] the commodities or services; and
- (4) The soliciting of business, including but not limited to the display or distribution of notices, business cards, or advertisements for commercial promotional purposes[-], or the display of advertisements, signage, or graphics on a parked, standing, or stopped motor vehicle in a public park for the sale, rental, or instruction of outdoor recreational activities, services, or equipment.

Notwithstanding the foregoing, the following are not considered commercial activities:

- ~~[(5)]~~(1) The use of land for utilities;



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- ~~[(6)]~~(2) The use of [the] premises and facilities for [official] recreational events operated or managed by State or federally recognized non-profit organizations and permitted by the department under its rules, including but not limited to canoe regattas[-] or other shorewater events; music, art, or cultural festivals; athletic competitions; or events open to the public free of charge, which may include a commercial component accessory to the primary permitted recreational use;
- ~~[(7)]~~ The use of the premises and facilities at Hūnānāniho and Wāimanalo Beach Park for music festivals, country fairs, farmer's markets, organized youth sports for students ages pre-school through high school, and educational events that are for students ages pre-school through high school and conducted or offered by educational institutions recognized by the State of Hawai'i department of education; and]
- (3) All activities involving students aged pre-kindergarten through high school conducted or offered by an educational institution recognized by the State department of education;
- (4) The use of Hans L'Orange Baseball Facility in accordance with Article 9;
- (5) Recreational child care programs offered by or on behalf of the department; and
- ~~[(8)]~~(6) All activities and programs conducted by the department [of parks and recreation] or another city department or office, including any concessions located in parks operating pursuant to a city contract or license and any vendors needed to conduct [these] city activities and programs."

"Recreational Stops. ~~[The use of city beach parks by commercial tour companies for activities that may include but are not limited to sightseeing, spectating, picture taking, beach combing, swimming, guided tours, and eating of prepared picnic lunches.]~~ Entering, parking, standing, or stopping for any length of time at any park, beach right-of-way, or unimproved park lands managed by the department, except for Hanauma Bay Nature Preserve and Hālonā Blowhole Lookout, by operators of commercial or non-commercial vehicles sized to carry 12 or more occupants, or by a licensed motor carrier, for activities in the park or adjacent to the park, which may include but are not limited to sightseeing, spectating, picture taking, beach combing, swimming, guided tours, and eating of prepared meals.



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Notwithstanding the foregoing, the following are not considered recreational stops:

- (1) Passenger vehicles transporting persons participating in the following activities; provided that the activities are permitted by the department and that each vehicle displays the park permit on the front windshield at all times while the vehicle is in or at the park, beach right-of-way, or unimproved park lands:
 - (A) Recreational events operated or managed by State or federally recognized non-profit organizations, including but not limited to canoe regattas, shorewater events, music, art or cultural festivals, and athletic competitions or events open to the public free of charge;
 - (B) Movie or television filming activities permitted under § 10-3.2(a);
 - (C) All activities involving students aged pre-kindergarten through high school that are conducted or offered by an educational institution recognized by the State department of education;
 - (D) Athletic games, scrimmages, or practices at Hans L'Orange Baseball Facility, in accordance with Article 9;
 - (E) After school programs conducted in accordance with Article 12 or after care programs operated by vendors in support of department programs; and
 - (F) All activities and programs conducted by the department or another city department or office, including any vendors needed to conduct the city activities and programs;

Failure to display the park permit on the front windshield of the vehicle in a manner that is fully visible from the exterior of the vehicle at all times while the vehicle is in or at the park, beach right-of-way, or unimproved park lands is a violation of this chapter, subject to citation in accordance with §§ 10-1.6(b)(5) and 10-1.6(d)(3);

- (2) Use of a passenger vehicle of any size designed and operated for the purpose of transporting persons with physical disabilities, and which displays an official disability parking placard; and



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(3) Use of a passenger vehicle owned and operated by the city."

SECTION 3. Section 10-1.1, Revised Ordinances of Honolulu 2021 ("Definitions"), is amended by adding new definitions for "Beach Support Park," "Commercial Filming," "Commercial Special Event Filming," "Department," "Licensed Motor Carrier," "Park Permit," "Recreational Child Care Program," and "Unimproved Park Lands" to read as follows:

"**Beach Support Park.** A public park that is located across a public street or public highway from the ocean, from a beach park, or from a public beach right of way."

"**Commercial Filming.** Film activities conducted by movie or television for network, cable, television, or major motion picture studios, national or local advertising, or public service, educational, or school productions."

"**Commercial Special Event Filming.** Production of still or moving pictures or video for private, non-commercial use, including but not limited to filming of weddings, graduations, other family events, mementos, or commemorations."

"**Department.** The department of parks and recreation."

"**Licensed Motor Carrier.** A motor carrier with a current certificate of public convenience and necessity or permit issued by the State public utilities commission authorizing the transportation of persons."

"**Park Permit.** A non-transferrable document issued by the department granting a permittee permission to use recreational and other areas under the control, maintenance, management, and operation of the department."

"**Recreational Child Care Program.** A program of courses and activities such as the summer fun program, summer plus program, intersession program, or after-school program that involves multi-activity content for more than six hours per week, offered by or on behalf of the department."

"**Unimproved Park Lands.** Public land managed by the department that does not contain capital improvements, such as recreational facilities, structures, or support buildings."



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SECTION 4. Section 10-1.2, Revised Ordinances of Honolulu 2021 ("Park rules"), as amended by Ordinance 22-34, is amended by amending subsections (a) and (b) to read as follows:

"(a) Within the limits of any public park, it is unlawful for any person to:

- (1) Willfully or intentionally destroy, damage, or injure any property;
- (2) Climb onto any tree, except those designated for climbing, or to climb onto any wall, fence, shelter, building, statue, monument, or other structure, excluding play apparatus;
- (3) Swim, bathe, wade in, or pollute the water of any ornamental pool or fountain;
- (4) Kindle, build, maintain, or use any fire, other than in a grill or brazier;
- (5) Annoy, molest, kill, wound, chase, shoot, or throw missiles at any animal or bird;
- (6) Distribute, post, or place any commercial handbill or circular, notice, or other advertising device or matter, except as permitted by the terms of any ~~[agreement relating to the use of park property;]~~ permit for commercial activity or recreational stop issued by the department, or the terms of a contract to operate a concession within a park;
- (7) Use any surfboard or devices or materials with jagged or rough ends and edges, which are dangerous to surfers, swimmers, or bathers;
- (8) Construct or fabricate surfboards;
- (9) Permit any animal to enter and remain within the confines of any public park area except as otherwise provided in this article;
- (10) Feed any animal or bird when signs are posted prohibiting ~~[such]~~ the feeding;
- (11) Wash, polish, or repair cars or other vehicles;
- (12) Enter or remain in any public park during the night hours that the park is closed; provided that signs are posted indicating the hours that the park is



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closed, except that a person may traverse a public beach park using the most direct route during park closure hours for the purpose of reaching the shoreline;

- (13) Camp at any park not designated as a campground;
 - (14) Fail to comply with any sign or notice posted by the ~~[City and County of Honolulu; and]~~ city;
 - (15) Use, place, occupy, leave, or in any other manner[;] situate, a shopping cart[;]; and
 - (16) Make a recreational stop of any length of time at any public park, other than a beach park or beach support park where the stop is permitted, or at any beach right-of-way or unimproved park lands managed by the department.
- (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;]~~
 - (2) Conduct a commercial activity for any length of time;
 - (3) Make a recreational stop of any length of time at any park other than a beach park or a beach support park;
 - (4) Make a recreational stop of any length of time at a beach park or a beach support park without a permit;
 - (5) Advertise a commercial activity, including the display of advertisement, signage, or graphics for the sale, rental, or instruction of outdoor recreational activities, services, or equipment on the sides, front, or back of a motor vehicle in a park.
 - ~~[(3)]~~(6) Moor, tie up, store, repair, or condition any boat, canoe, raft, or other vessel;



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~~[(4)]~~(7) Repair or condition any surfboard;

~~[(5)]~~(8) Park any vehicle except ~~[bicycles]~~ a bicycle on grassed areas;

~~[(6)]~~(9) Amplify music or use battery operated loudspeakers (bullhorns);

~~[(7)]~~(10) Ride or drive any horse or any other animal;

~~[(8)]~~(11) Engage in or conduct any activity that 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 that is sponsored by the city or the department ~~[of parks and recreation]~~ or authorized by permit issued by the city; and

~~[(9)]~~(12) Construct, use, place, occupy, leave, or in any other manner, situate any tent.

(c) Except as authorized by permits, and subject to the terms and conditions imposed by the department, it is unlawful for any person to conduct a commercial activity, including a recreational stop, for any length of time at any beach right-of-way or unimproved park lands managed by the department.

SECTION 5. Section 10-1.3, Revised Ordinances of Honolulu 2021 ("Permits"), is amended by amending subsections (a), (b), and (c) 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]~~ must 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 a league, organization, association, group, or individual.



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A sports activity that requires a permit as provided under this section is subject to the following restrictions, in addition to any other conditions imposed by the rules adopted by the director:

- (A) *Gender equity.* The department [~~of parks and recreation shall~~] may not give preferential treatment to requests for permits for male activities over requests for permits for female activities. This requirement does not apply if:
- (i) The sports activity is limited to one gender;
 - (ii) The rules governing a particular sports activity expressly prohibit the participation of a particular gender; and
 - (iii) Permits are made available on an equal basis for a similar activity with participants of another gender or to participants of all genders.
- (B) *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.
- (C) *Review.* Upon the department's refusal to issue a permit, the applicant for the permit is entitled to request a hearing before the director [~~of parks and recreation~~] or a hearings officer appointed by the director to be held within 30 days after the date of the refusal. The hearing will be subject to HRS Chapter 91. In the review, the department's decision will be upheld in the absence of a finding of abuse of discretion.
- (4) Recreational activities, including nonprofit fundraising activities, sponsored by community organizations, associations, groups, or individuals[-]; provided that any fundraising activity is accessory and subordinate to the primary permitted use and the permittee is a nonprofit organization as defined in § 38-1.3.
- (5) *Expressive activities.*



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- (A) Expressive activities held at Ala Moana Regional Park or in the following areas of Kapiolani Regional Park require a permit when the expressive activity involves 150 or more persons:
 - (i) The triangle area fronting the Honolulu Zoo bordered by Kapahulu Avenue and Monsarrat Avenue, but excluding the Honolulu Zoo;
 - (ii) The area within Kapiolani Regional Park bordered by Monsarrat Avenue, Paki Avenue, Poni Moi Road, and Kalakaua Avenue;
 - (iii) The Waikiki playground area bordered by Monsarrat Avenue, Leahi Avenue, and Paki Avenue, generally rectangular in shape;
 - (iv) The Leahi area bordered by Leahi Avenue, Noela Street, and Paki Avenue, generally rectangular in shape; or
 - (v) The archery range area bordered by Paki Avenue and Poni Moi Road, generally rectangular in shape.
- (B) For all other public parks, and areas of Kapiolani Regional Park outside of the areas specified in § 10-1.3(a)(5)(A), a permit is required when the expressive activity involves 75 or more persons.
- (C) This subdivision does not apply if the expressive activity is due to a spontaneous event occasioned by news or affairs coming into public knowledge within 48 hours of ~~[such]~~ the expressive activity, in which case the organizer must provide written notice to the city as soon as practicable before ~~[such]~~ the expressive activity.
- (6) Meetings or gatherings or other similar activity other than expressive activities held by organizations, associations, or groups.
- (7) Nonrecreational, public service activities, meetings, and gatherings other than expressive activities held by organizations, communities, or groups.
- (8) Right of entry into parks for installation of utilities or construction work.



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- (9) The playing of musical instruments as solo or two or more instruments that fall within the standards described in paragraphs (A), (B), and (C):
- (A) Musical instruments that 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 that when played do not exceed the sound pressure level established in [~~§ 10-1.2(b)(8).~~] § 10-1.2(b)(11).
 - (C) Musical instruments that are used or played continuously without a regular hourly break of 30 minutes, or for more than six hours within a day.
 - (D) The use or the playing of a musical instrument that requires a permit as provided under this section is subject to the following restrictions, in addition to any other conditions imposed by the rules adopted by the director; provided that the restrictions do not apply to the playing of musical instruments in conjunction with expressive activities:
 - (i) *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



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permit under this section, except as provided in this section and in the departmental rules.

(ii) *Judicial review.* Upon the department's refusal to issue a permit, the applicant for ~~[such]~~ the permit is entitled to a review by the circuit court within 30 days after the date of the refusal. In the review, the department's decision will be upheld in the absence of a judicial finding of abuse of discretion.

(iii) *Restrictions.* The use or the playing of a musical instrument that requires a permit as provided hereunder is subject to the following restrictions, in addition to any other conditions imposed by the rules adopted by the director:

(aa) Time: Only between the hours of 9:00 a.m. and 6:00 p.m. daily;

(bb) Place: The playing of ~~[such instruments must be]~~ a musical instrument that requires a permit as provided hereunder is restricted to a facility especially constructed for ~~[such]~~ the purpose[,] of playing a musical instrument, such as the bandstand at Kapiolani Regional Park or other areas within the park that are clearly designated in the permit; and

(cc) Manner: During the hours mentioned in clause (aa) of this subparagraph, every half-hour of playing period must immediately be followed by a 15-minute break or every one hour of playing period must immediately be followed by a half-hour break; provided that at no time may there be any continuous playing exceeding an hour.

(iv) *Duration of permit.* The duration of a permit issued pursuant to this subdivision cannot exceed one month.

(10) Hang gliding.

(11) Commercial activities; provided that the ~~[proposed]~~ commercial activities under the permit are ~~[consistent with the use of the park under]~~



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~~consideration, subject to reasonable limitations on the size of the groups, and the time and area within which the event is permitted, and subject to department of parks and recreation rules and regulations regarding the solicitation of business, advertising, and commercial promotional activities. No]~~ authorized by this chapter or designated as authorized by department administrative rules. The department may impose permit conditions that place reasonable limitations on the size of the groups, and the time and area within which the activity is permitted, and all permitted commercial activities are subject to the rules and regulations of the department regarding the solicitation of business, advertising, and commercial promotional activities; except that no permits may be issued for commercial activities prohibited by §§ 10-1.2(h) and (i).

- (12) Constructing, utilizing, placing, occupying, or in any other manner, situating any tent.
- (13) Recreational stops of any length of time at any beach park or beach support park; except that no permits may be issued for recreational stops prohibited by §§ 10-1.2(h) and (i).
- (b) *Director to adopt rules.* The director shall adopt rules, pursuant to HRS Chapter 91, to govern the use of the areas and facilities under the management and control of the department that will:
 - (1) Ensure maximum permissible use of the areas and facilities by appropriate distribution of users[;] in a manner to manage congestion, to minimize conflicts, and maintain the primary recreational nature of the public parks;
 - (2) Ensure proper, orderly, and equitable use of areas and facilities through scheduling and user controls;
 - (3) Ensure protection and preservation of areas and facilities by not overtaxing those areas and facilities;
 - (4) Promote the health, safety, and welfare of the users of the areas and facilities;
 - (5) Establish procedures for obtaining permits and revocation thereof; and



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- (6) ~~[Recommend to the council fee schedules, based upon the cost of administration for each activity authorized under subsection]~~ Assess reasonable fees for permits issued under subsection (a)(11) and (13) in addition to any application fee. The fees are intended to cover the costs associated with management and administration of the permittee's activities, including the cost of ensuring compliance with permit and regulatory conditions. The fees may also include the costs of the maintenance and repair of park area resources impacted by the permittees' activities.
- (c) *Conditions of permit.* Permits ~~[shall]~~ will be issued pursuant to this article and to the rules adopted by the director under this article, and ~~[they shall]~~ be subject to the conditions in this article and ~~[to any]~~ those rules ~~[adopted by the director]~~. Any violation of this article, ~~[or]~~ of any ~~[rules adopted by the director that implement the provisions or any conditions contained in this article]~~ of those rules, ~~[or]~~ of any ~~[rules]~~ rule adopted by the department ~~[of parks and recreation]~~ [that implement the conditions, or of] to implement the terms or conditions contained in the permit ~~[which violation is caused]~~, or of any condition of the permit by the permittee, ~~[members]~~ a member, officer, or employee of the permittee's group, ~~[officers, employees,]~~ or by an agent of the ~~[permittee's agents shall constitute ground]~~ permittee constitutes grounds for revocation of the permit by the director ~~[of parks and recreation]~~. Any permittee whose permit has been revoked by the director may appeal to the ~~[council pursuant to the rules authorized, and the appeal must be filed by the permittee within 30 days of the mailing of a notice of the revocation to the last known address of the permittee.]~~ managing director within 15 business days after written notification of the director's decision has been mailed or otherwise provided to the permittee."

SECTION 6. Section 10-1.6, Revised Ordinances of Honolulu 2021 ("Violation - Penalty"), is amended by amending subsection (b) to read as follows:

"(b) *Citation.*

- (1) There ~~[shall]~~ will be provided for use by authorized police officers, a form of citation for use in citing violators of this article for instances that do not mandate the physical arrest of ~~[such]~~ the violators. The form and content of ~~[such]~~ the citation ~~[shall]~~ will be as adopted or prescribed by the administrative judge of the district court and ~~[shall]~~ will be printed on a form commensurate with the form of other citations used in modern methods of arrest, so designed to include all necessary information to



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make the ~~[same]~~ citation valid within the laws and rules of the State ~~[of Hawaii]~~ and the ~~[City and County of Honolulu.]~~ city.

- (2) In every case when a citation is issued, a copy of the ~~[same-shall]~~ citation will be given to the violator, or in the case of a parking, standing, or stopping violation, a copy of the ~~[same-shall]~~ citation will be affixed to the vehicle as provided in ~~[paragraph]~~ subdivision (5).
- (3) Every citation ~~[shall]~~ will be consecutively numbered and each carbon copy ~~[shall]~~ will bear the number of its respective original.
- (4) Whenever a motor vehicle is in violation of this article, other than a parking, standing, or stopping provision, including a motor vehicle entering or being driven in a park while displaying on the motor vehicle any advertisement, signage, or graphics for the sale, rental, or instruction of outdoor recreational activities, services, or equipment in violation of § 10-1.2(b)(5), any police officer and any other officer authorized to do so shall take the name, address, and driver's license number of the alleged violator and the license plate number or vehicle identification number of the motor vehicle involved, and shall issue to ~~[such]~~ the alleged violator, in writing, a citation, notifying the alleged violator to answer to the complaint to be entered against ~~[such]~~ the person at a place and at a time provided in the citation.
- (5) Whenever any motor vehicle is parked, standing, or stopped in violation of this article, including but not limited to passenger vehicles making recreational stops in violation of § 10-1.[A], without a displayed park permit for that location and for that time, and motor vehicles parked, standing, or stopped in a park while displaying on the motor vehicle any advertisement, signage, or graphics for the sale, rental, or instruction of outdoor recreational activities, services, or equipment in violation of § 10-1.2(b)(5), the police officer and any other authorized officer [se] authorized finding [such] the vehicle shall conspicuously affix to ~~[such]~~ the vehicle a citation. The citation ~~[shall]~~ will be addressed to the registered owner of the vehicle, but need not identify the registered owner by name. The registered owner may be unnamed, so long as the citation identifies the vehicle by its license plate number or vehicle identification number. The citation ~~[shall]~~ will instruct the registered owner to answer to the charge against ~~[such]~~ the registered owner at a time and place specified in the citation.



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The registered owner of a vehicle shall be responsible and accountable for the illegal parking, standing, or stopping of the vehicle, when:

- (A) The registered owner committed the illegal parking, standing, or stopping of the vehicle; or
- (B) Another person committed the illegal parking, standing, or stopping of the vehicle, but the registered owner gave the person explicit or implicit permission to use the vehicle at the time of the violation.

In any proceeding for a violation of a parking, standing, or stopping provision of this article, the license plate number or vehicle identification number of the parked, standing, or stopped vehicle ~~[shall constitute]~~ constitutes prima facie evidence that the registered owner of the vehicle was responsible and accountable for the illegal parking, standing, or stopping of the vehicle.

- (6) If a person cited for violating this article does not appear in response to a citation, a penal summons ~~[shall]~~ will be issued ordering ~~[such]~~ the person's appearance in court."

SECTION 7. Section 10-1.6, Revised Ordinances of Honolulu 2021 ("Violation—Penalty"), is amended by amending subsection (d) to read as follows:

"(d) *Penalty.*

- (1) Except as otherwise provided in ~~[subdivision]~~ subdivisions (2)~~], and (3).~~, any person convicted of a violation of this article will be punished by a fine of not more than \$500 or by imprisonment for not more than 30 days, or by both ~~[such]~~ fine and imprisonment.
- (2) Any person who violates or causes a vehicle to violate any of the following ~~[sections]~~ provisions will be fined not less than \$25, but not more than \$500:
 - (A) Section 10-1.2(a)(11);
 - (B) Section 10-1.2(b)(5);
 - (C) Section 10-1.2(g);



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- (D) Section 10-1.2(h);
- (E) Section 10-1.2(i); or
- (F) Section 10-1.5.

(3) Any person who violates or causes a vehicle to violate any of the following provisions will be fined not less than \$100, but not more than \$500:

- (A) Section 10-1.2(a)(6);
- (B) Section 10-1.2(a)(16);
- (C) Section 10-1.2(b)(2);
- (D) Section 10-1.2(b)(10); or
- (E) Section 10-1.6(b)(5)."

Every hour a vehicle remains parked, stopped, or standing in violation of § 10-1.2(b)(2), § 10-1.[A], or § 10-1.[B] constitutes a separate violation for the purposes of issuing citations and fines. Any person incurring more than two citations under this subsection within a two-month period may be subject to a fine and by imprisonment for not more than 30 days upon conviction of a violation of this article."

SECTION 8. Chapter 10, Article 1, Revised Ordinances of Honolulu 2021 ("Use of Public Parks, Playgrounds, Beaches, and Other Public Areas"), is amended by adding a new section to be appropriately designated by the Revisor of Ordinances and to read as follows:

"§ 10-1.[A] Recreational stops.

- (a) This section governs recreational stops on all lands under the control, maintenance, or management of the department, except the Hanauma Bay Nature Preserve, the Hālonā Blowhole Lookout, and those areas where recreational stops are prohibited by Section 10-1.2(i). This section regulates passenger vehicles capable of carrying 12 or more passengers and licensed motor carriers.



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- (b) No recreational stops may be permitted at any of the following properties managed by the department:
- (1) Any city-owned or -operated beach rights-of-way;
 - (2) Any unimproved park lands managed by the department;
 - (3) Any public park located in the state conservation land use district; and
 - (4) Any public park other than a beach park or a beach support park.
- (c) Recreational stops for any duration of time at any city-owned or -operated beach park or beach support park require a permit issued by the department, and will only be permitted under the following conditions:
- (1) Recreational stops may be permitted only for passenger vehicles sized to carry 12 or more passengers; provided that the passenger vehicle can fit within a single standard-sized parking stall;
 - (2) Recreational stops are permitted only on weekdays, Monday through Friday, between the hours of 8:00 a.m. to 5:00 p.m., excluding State and federal holidays;
 - (3) No more than three passenger vehicles displaying a permit for recreational stops may be parked in a beach park parking lot at the same time;
 - (4) The maximum number of passenger vehicles displaying a permit for recreational stops that may park in a beach park parking lot is 10 vehicles per day;
 - (5) Passenger vehicles permitted to make a recreational stop may display painted graphics or signage on the side or the rear of the vehicle, or both, showing the company name and recreational activity, so long as the park permit is displayed in accordance with this section, but neither the operator nor any passenger of the vehicle may post, distribute, or broadcast any other form of advertising and must comply with all other department rules regarding advertising;
 - (6) Recreational stops may not exceed 90 minutes;



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- (7) Permits for recreational stops must contain the name of the permittee and vehicle license number permitted for the recreational stop, the name of the park, and the dates and specific times authorized for the recreational stop. Permits must be displayed on the front windshield of the motor vehicle and must be fully visible from the exterior of the vehicle at all times during the recreational stop;
- (8) Making a recreational stop at any park or at any time not listed on the permit is a violation of this chapter, subject to citation in accordance with § 10-1.6(b)(5) and (d)(3); and
- (9) Failure to display the permit for recreational stops on the front windshield of the vehicle in a manner that can be fully viewed from the exterior of the vehicle during the duration of the recreational stop is a violation of this chapter subject to citation in accordance with § 10-1.6(b)(5) and (d)(3).

The director may designate certain beach parks or beach support parks as temporarily closed to any recreational stops due to construction or repairs, other permitted activities; for the protection, restoration and preservation of sensitive areas; or for the health, safety, and welfare of the public; provided that written notice of the closure, including the dates of closure, is provided to all affected permittees.

- (d) The department may adopt rules to implement this section, including but not limited to rules:
 - (1) Further limiting the number of permits for recreational stops issued at particular parks or regions, or time of day for the protection, restoration, and preservation of sensitive areas, or for the health, safety, and welfare of the public;
 - (2) Banning recreational stops at certain beach parks or beach support parks for the purpose of protecting or preserving sensitive areas;
 - (3) Limiting the types of activities permitted during recreational stops;
 - (4) Defining eligibility criteria for applicants requesting permits for recreational stops; provided that only vehicles registered with the public utilities commission as passenger vehicles are eligible for permits for recreational stops, the number of permits any applicant may receive at one time, the method to fairly allocate permits where demand exceeds available



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permits, including but not limited to a lottery system, and the term of the permits for recreational stops; provided further, that permit terms do not exceed three months; and

- (5) Establishing the permit fee the department will charge for permits for recreational stops. The fee is intended to cover the costs associated with management and administration of the permittees' activities, including the cost of ensuring compliance with permit and regulatory conditions. The fee may also include the costs of the maintenance and repair of park resources impacted by the permittees' activities.
- (e) Permittees shall comply with all federal, State, and city laws, rules, and regulations, including the terms and conditions of the permit for recreational stops. Failure to comply with laws, rules, regulations, or permit conditions may be cause to revoke a permit for recreational stops. If a permit under this section is revoked, the permittee is ineligible to apply for a permit under this section for a minimum of one calendar year following the revocation. Any person aggrieved by a decision of the director on the revocation of a permit for recreational stops may appeal to the city's managing director; provided that the request for review is submitted in writing to the managing director within 15 business days after written notification of the director's decision is mailed or otherwise provided to the permittee."

SECTION 9. Chapter 10, Article 1, Revised Ordinances of Honolulu 2021 ("Use of Public Parks, Playgrounds, Beaches, and Other Public Areas"), is amended by adding a new section to be appropriately designated by the Revisor of Ordinances and to read as follows:

"§ 10-1.[B] Commercial activities.

- (a) All commercial activities within a public park are subject to a system of regulation and will not be allowed without first obtaining a permit for commercial activity from the department.
- (b) No commercial activities are permitted at any of the following public properties managed by the department:
- (1) City-owned or -operated beach rights-of-way, with the exception of commercial surf instruction, which may be authorized to utilize certain beach rights-of-way designated by the department by administrative rules;



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- (2) Any unimproved park lands managed by the department; and
- (3) Any public park located in the State conservation land use district.
- (c) No commercial activity in any public park may be permitted unless the activity has been authorized by this chapter or designated by the department as an authorized commercial activity by administrative rule. Commercial activities authorized by administrative rules adopted by the department prior to December 31, 2022 must be authorized to continue, subject to the amendment or repeal of the administrative rules, and this chapter.
- (d) Commercial activities for any duration of time at any public park are subject to the following conditions:

 - (1) Commercial activities are not permitted between the days and hours from 1:00 p.m. on Saturday through 8:00 a.m. on the following Monday, or on a State or federal holiday, subject to any additional restrictions provided in this chapter, administrative rules, or permit conditions;
 - (2) The department may impose additional permit conditions limiting the size of any authorized commercial activity, the time and location when the activity is permitted, and other conditions reasonably necessary considering the size and facilities within any given park, the uses or events in the subject park, and to preserve the primary recreational purpose of public parks;
 - (3) Permits for commercial activities must contain the name of the permittee, the specific activity permitted, the name of the public park, and the dates and specific times authorized for the commercial activity. Permits must be displayed by the permittee in a manner visible to the general public at all times during the commercial activity, and must be made available for review upon request by any law enforcement officer or department staff;
 - (4) Conducting a commercial activity at any park or at any time not listed on the permit is a violation of this chapter and subject to penalty in accordance with § 10-1.6;
 - (5) The failure to display the commercial activity permit in a manner that can be viewed by the general public, or the failure to produce the commercial permit upon request by a law enforcement officer or department staff, during any time of the commercial activity, or the conducting of a



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commercial activity at a location or at a time not listed on the permit, is a violation of this chapter subject to penalty in accordance with § 10-1.6;

- (6) The permittee assumes all risks of personal injury or wrongful death and of loss or damage to property by whomever owned, arising out of or in connection with the permittee's use of the park facilities under the permit; and agrees to hold harmless the city against any claim, cause of action, liability, loss, damage, cost, or expense for bodily injury, wrongful death, or property damage, arising or resulting from the use of the park or park facilities by the permittee, its agents, employees, contractors, or invitees under the permit; and
- (7) The permittee must procure and maintain insurance during the life of the permit, including comprehensive general liability insurance in the amounts and coverages as may be required by the city risk manager and which names the city as an additional insured.

The director may designate certain parks as temporarily closed to any commercial activities or to specific commercial activities due to construction, repairs, or other permitted activities, or as closed to specific commercial activities for the protection, restoration and preservation of sensitive areas or for the health, safety, and welfare of the public.

- (e) Permittees shall comply with all federal, State, and county laws and regulations, including the terms and conditions of the permit for commercial activity. Failure to comply with laws, rules, or permit conditions may be cause for the director to revoke the commercial activity permit. If a permit is revoked, the permittee is ineligible to apply for a commercial activity permit for a minimum of one calendar year following the revocation. Any person aggrieved by a decision of the director on the revocation of a permit for commercial activity may appeal to the managing director; provided that the request for review is submitted in writing to the managing director within 15 business days after written notification of the director's decision is mailed or otherwise provided to the permittee.
- (f) The department may adopt rules to implement this section, including but not limited to rules:
- (1) Limiting the location that commercial activities may or may not be permitted at particular parks, or regions, or time of day;



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- (2) Defining eligibility criteria for applicants requesting permits for commercial activity, the number of permits that may be issued, the number of permits any applicant may receive at one time, method to fairly allocate permits where demands exceed available permits, including but not limited to a lottery system, and the term for permits; and
- (3) Establishing the permit fee the department will charge for each type of permit for commercial activity. The fee is intended to cover the costs associated with management and administration of the permittees' activities. The fee may also include the costs of the maintenance and repair of park area resources impacted by the permittees' activities.
- (g) Commercial filming and commercial special event filming.
- (1) Commercial filming may be permitted by the department at any time or day, including during park closure hours, holidays, and weekends, in parks, beach rights-of-way, unimproved park lands managed by the department, or on park lands located within the State conservation district, so long as the production meets the permissible uses within the department of land and natural resources subzone designation for that district. The department and the office of economic revitalization shall coordinate permits for commercial filming times and conditions to avoid conflicts with other permitted events and activities and with peak recreational activity times for the requested location; shall adopt permit conditions to protect sensitive areas, cultural sites, or restoration areas; and may require additional permit conditions and precautions for commercial filming occurring in unimproved park lands or hazardous locations, to protect the health, welfare and safety of the public.
- (2) Permits for commercial special event filming may be issued by the department in accordance with the terms of this chapter, including but not limited to:
- (A) No commercial special event filming may be permitted at any unimproved park lands managed by the department. A park permit is not required for use of beach rights-of-way solely to access the beach under the jurisdiction of the State;
- (B) Permits for commercial special event filming may not exceed 90 minutes in length; the department may not issue more than three permits for the same 90-minute period at any individual park, and



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no more than 18 permits for any individual park on any single day; the department is authorized to utilize a first-come, first-served, basis or lottery method to issuing permits where demand exceeds supply, and to establish the permissible 90-minute schedule for any park;

(C) Permits may not be issued for times between 1:00 p.m. on Saturday through 8:00 a.m. on the following Monday, or on a State or federal holiday. The director is authorized to temporarily close or further restrict permit times at any individual park due to construction or repairs, due to other permitted activities, for the protection, restoration, and preservation of sensitive areas, or for the health, safety, and welfare of the public;

(D) Permits for commercial special event filming are subject to the conditions in § 10-1.[B](d), and the following additional conditions:

(i) Permittees may not reserve a specific location for filming within a park; permittees must find an open space upon arrival and be limited to using no more than 100 square feet at any given time. Permittees may not ask any member of the public located within the park to move from their locations;

(ii) Permittees may not erect props or improvements, or use equipment or materials except those that can be carried by hand; and

(iii) Permittees must clean the site of all materials, trash, and residue prior to leaving the site; and

(E) All permits for commercial special event filming and permittees are subject to penalties for failure to comply with this chapter, administrative rules, or permit conditions.

(3) The department may adopt administrative rules pursuant to HRS Chapter 91 to further regulate commercial special event film permits in accordance with subsection (f)."



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SECTION 10. Section 10-2.11, Revised Ordinances of Honolulu 2021, is repealed.

~~"§ 10-2.11 Fees for permits for recreational stops at Waimanalo Bay Beach Park.~~

~~Permits for recreational stops issued pursuant to § 10-1.3(a)(11)(B) are subject to a monthly fee of \$165 per tour van or vehicle."~~

SECTION 11. Chapter 10, Article 2, Revised Ordinances of Honolulu 2021 ("Fees and Charges for Use of Parks and Recreational Facilities"), is amended by adding a new section to be appropriately designated by the Revisor of Ordinances and to read as follows:

"§ 10-2. Fees for permits for shorewater events.

The department is authorized to establish fees for permits for shorewater events. The fee to be assessed for a permit for a shorewater event is intended to cover the costs associated with management and administration of the permittees' activities. The fee may also include the costs of the maintenance and repair of park area resources impacted by the permittees' activities. Fees for permits for shorewater events involving contests by professional surfers may include the additional costs incurred by the department for maintenance and repair of park areas resulting from the increased number of spectators coming to the park for the shorewater event."

SECTION 12. Section 10-3.1, Revised Ordinances of Honolulu 2021, is amended to read as follows:

"§ 10-3.1 Commercial scuba diving and snorkeling.

Scuba diving and snorkeling [activity:] permit fees are as follows:

- ~~[(a)]~~ (1) Annual permit: \$900;
- ~~[(b)]~~ (2) Monthly permit: \$75; and
- ~~[(c)]~~ (3) Daily permit: \$10.

The department is authorized to amend the amount of the permit fees by administrative rule; provided that any increase in permit fees does not exceed the costs incurred by the department to administer and ensure compliance with the



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permit program. The permit fees may also include the cost for maintenance and repair of park area resources impacted by the permittees' activities."

SECTION 13. Section 10-3.2, Revised Ordinances of Honolulu 2021, is amended to read as follows:

"§ 10-3.2 Commercial filming activities.

- (a) The ~~[fee]~~ fees charged for a permit for commercial filming ~~[activity permit]~~ is are as follows:

Activity	Daily Permit	[Monthly Permit]	[Annual Permit]
(1) Movie or television for (i) nonlocal network and cable television or major motion picture studios, or both; or (ii) national advertising	\$300	[No monthly permit]	[No annual permit]
(2) Movie or television for (i) nonprofit organizations as defined in § 13-1.1; (ii) local television and local advertising; (iii) public service, educational or school productions; or (iv) other movie and television productions not described in subdivision (1)	\$20	[No monthly permit]	[No annual permit]
[(3) Still photos/special event videography]	\$20	\$100	\$1,000

Provided that the mayor or a city officer or employee designated by the mayor may reduce any daily permit fee if deemed necessary by the mayor or the mayor's designee to assist the proposed commercial filming ~~[activity]~~ and it is deemed by the mayor or the mayor's designee that ~~[such activity]~~ the commercial filming will feature or promote any one or more of the following: the State ~~[of Hawaii]~~, the island of Oahu, ~~[and/or City and County of Honolulu]~~ or the city. ~~[Such promotions]~~ Promotions may be through the production directly or via indirect promotions related to the production.

~~["Special event videography" means the production of motion pictures or videos for private noncommercial use, including motion pictures or videos of weddings, graduations, or similar events to be used as family mementos.~~

- ~~(b) The mayor or a city officer or employee designated by the mayor shall determine which fee applies to a particular commercial filming activity permit.]~~



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- (b) The fees charged for a permit for commercial special event filming are as follows:

Activity	Daily Permit	Monthly Permit
<u>Still photos or videography for private, non-commercial use, including but not limited to wedding, graduation or other filming or family events, mementos, or commemorations</u>	<u>\$20</u>	<u>\$100</u>

The department is authorized to amend the amount of the permit fees by administrative rule; provided that any increase in permit fees does not exceed the costs incurred by the department to administer and ensure compliance with the permit program. The permit fees may also include the cost for maintenance and repair of park area resources impacted by the permittees' activities."

SECTION 14. Chapter 10, Article 3, Revised Ordinances of Honolulu 2021 ("Fees for Use of Parks and Recreational Facilities"), is amended by adding new sections to be appropriately designated by the Revisor of Ordinances and to read as follows:

"§ 10-3. Designated commercial activities.

The department is authorized to establish permit fees for any designated commercial activity through administrative rule. Any designated commercial activity permit fee must at least be sufficient to recover the department's costs associated with management and administration of the permittees' activities. The fee may also include the costs of the maintenance and repair of park area resources impacted by the permittees' activities."

SECTION 15. Section 10-5.4, Revised Ordinances of Honolulu 2021, is repealed.

~~["§ 10-5.4 Fees for land-based commercial windsurfing activities.~~

~~(a) — The following fees shall apply to windsurfing activity permits:~~

~~(1) — \$10 for daily permits;~~

~~(2) — \$75 for monthly permits; and~~



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~~(3) — \$900 for annual permits.~~

~~(b) — The director is authorized to adopt rules to allow for the rebate of the unused portion of an annual permit fee, on a pro rata basis, should a commercial windsurfing permittee voluntarily relinquish the permittee's permit."]~~

SECTION 16. Ordinance material to be repealed is bracketed and stricken. New ordinance 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 brackets, the material that has been bracketed and stricken, or the underscoring. The Revisor of Ordinances shall replace the designation "[A]" and "[B]" in the new Revised Ordinances sections enacted by SECTIONS 9 and 10 of this ordinance, respectively, with the appropriate section numbers and replace any cross-references in this ordinance to those Revised Ordinances sections with the corresponding section number.



CITY COUNCIL

CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ORDINANCE _____

BILL 19 (2023), CD1

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SECTION 17. This ordinance takes effect on _____, 2023; provided that any permit issued for any commercial activity regulated by rules and regulations adopted by the Department of Parks and Recreation of the City and County of Honolulu prior to the effective date of this ordinance shall not be subject to this ordinance.

INTRODUCED BY:

Tommy Waters (br)

DATE OF INTRODUCTION:

March 8, 2023

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