REPORT OF THE COMMITTEE ON PLANNING, INFRASTRUCTURE & TRANSPORTATION

Voting Members:
Radiant Cordero, Chair; Val A. Okimoto, Vice-Chair;
Tyler Dos Santos-Tam, Andria Tupola, Matt Weyer

Committee Meeting Held
February 12, 2025

Honorable Tommy Waters
Chair, City Council
City and County of Honolulu

Mr. Chair:

Your Committee on Planning, Infrastructure & Transportation, to which was referred Bill 1 (2025) entitled:

"A BILL FOR AN ORDINANCE RELATING TO PUBLIC PLACES,"

introduced on January 2, 2025, and which passed First Reading at the January 29, 2025, Council meeting, reports as follows:

The purpose of the Bill is to authorize outdoor dining services on certain public places.

The Deputy Director of Transportation Services testified in support of the measure.

The Deputy Director of Planning and Permitting expressed the department's support of the outdoor dining program.

Your Committee prepared a CD1 version (OCS2025-0080/2/5/2025 2:47 PM) that makes the following amendments:

A. In SECTION 2 of the bill:

1. Deletes the amendments made to existing ROH § 13-20.3 and enacts a new ROH § 13-20.3 that sets forth all amendments to the existing

ADOPTED ON FEB 2 6 2025

COMMITTEE REPORT NO. 36

ROH § 13-20.3 to clarify that the outdoor dining services program will be permanent following the repeal of the outdoor dining services pilot program.

2. Adds a new subdivision (16) under proposed ROH § 13-20.3(e) that authorizes transfers of permits and renumbers subsequent subdivisions accordingly.

3. Amends proposed ROH § 13-20.3(f) to insert a specific deadline for the annual report required of the City department or agency designated by the Mayor to implement the outdoor dining services program.

B. Amends the effective date to clarify that all sections of the ordinance take effect on the day following the repeal date of Ordinance 22-19.

C. Makes various technical and nonsubstantive amendments.

Your Committee on Planning, Infrastructure & Transportation is in accord with the intent and purpose of Bill 1 (2025), as amended herein, and recommends that it pass Second Reading, be scheduled for public hearing, and be referred back to Committee in the form attached hereto as Bill 1 (2025), CD1. (Ayes: Cordero, Dos Santos-Tam, Okimoto, Tupola, Weyer – 5; Noes: None.)

Respectfully submitted,

Committee Chair

HONOLULU CITY COUNCIL

KE KANIHELA O KE KALANA O HONOLULU

CITY AND COUNTY OF HONOLULU

ORDINANCE _____

BILL **1 (2025), CD1**

A BILL FOR AN ORDINANCE

RELATING TO PUBLIC PLACES.

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

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

The City Council ("Council") finds that in July 2022, Ordinance 22-19 was enacted, which created a two-year pilot program to permit outdoor dining services on certain public places. Pursuant to Section 13-20.3, Revised Ordinances of Honolulu 2021, the Office of Economic Revitalization ("OER") of the City and County of Honolulu ("City") submitted its report in Mayor's Message 201 (2024) dated November 12, 2024, on the City's outdoor dining services program, which was established as a joint effort between the City's Department of Transportation Services, the Department of Planning and Permitting, the Honolulu Liquor Commission, supported by the OER, and in collaboration with the State of Hawai'i Department of Health Food Safety Branch. In addition to its findings and recommendations, the OER report noted several benefits of the program, including crime reduction, economic support for local businesses, and enhancement of the health and well-being of residents. Since the establishment of the pilot program, a total of 15 businesses have been granted permits to operate outdoor dining services. In evaluating whether the program should be retained, modified, or terminated, the OER ultimately recommended modifications to the program to ease the burden on future program participants. Such modifications include requiring payment of the permit fee on an annual, rather than semi-annual, basis to reduce processing times and aligning insurance requirements with fiscal year cycles to allow permit fees to be paid by applicants on a pro-rata basis during a fiscal year.

The Council further finds that making the outdoor dining services pilot program permanent in nature to allow for the program's continued implementation would further economic benefits to the community and is in the best interest of the City and its residents.

SECTION 2. Chapter 13, Article 20, Revised Ordinances of Honolulu 2021 ("Creating, Causing, or Maintaining Obstructions on Public Sidewalks Prohibited"), is amended by adding a new Section 13-20.3 to read as follows:

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"**§ 13-20.3 Outdoor dining services program.**

(a) For the purposes of this section:

Department. The city department or agency designated by the mayor.

Program. The outdoor dining services program established under this section.

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

(c) The department is authorized to implement the program consistent with this section, commencing on the effective date of this ordinance.

(d) The department may issue permits to applicants to provide outdoor dining services pursuant to this section upon acceptance of an application, application fee, a completed liability form, the indemnification of the city, and proof of insurance; provided that such permits are revocable on notice of 30 days or less and are valid for a minimum one-year period. A permit application review fee of $50 must accompany a permit application. The department may establish a charge for the use of the property.

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

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

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

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

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

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

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

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

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

(9) Furniture must be located at least 6 feet from any vehicular ramp, driveway, or street intersection.

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

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

(12) Furniture must be outside an 8-foot radius around bus stops and a 5-foot radius around fire hydrants.

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

(14) The restaurant is responsible for rubbish collection.

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

(16) The permit is transferable upon change in ownership due to the sale or transfer of the restaurant; provided that the new owner or operator of the restaurant notifies the department of the change in ownership and complies with all requirements under this section, including any requests by the department for information or documentation.

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

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

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

(20) For restaurants abutting pedestrian "malls," as more specifically defined in § 13-1.1, the following additional requirements apply:

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

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

(C) All rubbish must be removed nightly; and

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

(21) For restaurants abutting a city park or playground, use of the city property is limited to a maximum of 7 feet from the property line and to no more than one row of tables.

(f) The department shall submit to the council an annual report no later than September 1, 2026, and by September 1 of each year thereafter, that includes, at a minimum:

(1) An assessment of the program, including identification of the assessment criteria used and the impact of the program on the local economy;

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

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

(4) For participants in the program seeking renewal of the permit by the department, a compilation of input requested by the department from participants in the program relating to the program's positive or negative impact on their business.

The council shall review the department's reports and recommendations no later than five years after the submission of the department's first annual report required under this subsection and every five years thereafter to determine whether retention, termination, or modification of the program is necessary.

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

SECTION 3. Chapter 38, Article 3, Revised Ordinances of Honolulu 2021 ("Exceptions to Bidding Requirement"), is amended by adding a new Section 38-3.5 to read as follows:

"**§ 38-3.5 Bidding not required—Outdoor dining services.**

The city department or agency designated by the mayor under § 13-20.3 may issue permits for outdoor dining services pursuant to that section without calling for public bids."

SECTION 4. Chapter 13, Article 20, Revised Ordinances of Honolulu 2021 ("Creating, Causing, or Maintaining Obstructions on Public Sidewalks Prohibited"), is amended by adding a new Section 13-20.4 to read as follows:

"**§ 13-20.4 Article additional to Article 18 with respect to use of sidewalk, and to Articles 6A, 8, and 10 with respect to use of mall.**

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

SECTION 5. Ordinance material to be repealed is bracketed and stricken. New material is underscored. When revising, compiling, or printing this ordinance for inclusion in the Revised Ordinances of Honolulu, the Revisor of Ordinances need not include the brackets, the material that has been bracketed and stricken, or the underscoring. In SECTION 2 of this ordinance, the Revisor of Ordinances shall,

pursuant to the Revisor's authority under Section 1-16.3(b)(1), Revised Ordinances of Honolulu 2021, replace the phrase "effective date of this ordinance" or similar phrase used in the codified language of this ordinance with the actual date on which the ordinance takes effect. The Revisor of Ordinances shall, pursuant to the Revisor's authority under SECTION 2 of Ordinance 23-7, update the Reporting Requirements Table to include the reporting requirements enacted by SECTION 2 of this ordinance.

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SECTION 6. This ordinance takes effect on the day following the repeal date of Ordinance 22-19; provided that any outdoor dining service permits granted and in effect prior to the repeal date of Ordinance 22-19 under the pilot program in Section 13-20.3, Revised Ordinances of Honolulu 2021, as it read on the day prior to the repeal date of Ordinance 22-19, shall continue to be valid and in effect until the expiration or timely renewal of the permit; provided further, that in the event this ordinance is not enacted before the repeal date of Ordinance 22-19, this ordinance takes effect retroactive to the repeal date of Ordinance 22-19.

INTRODUCED BY:

Tyler Dos Santos-Tam

DATE OF INTRODUCTION:

January 2, 2025
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

Report Title:
Outdoor Dining Services; Program; Repeal; Report; Bids; Sidewalks; Permits

Description:
Makes permanent and amends the outdoor dining services pilot program. Clarifies bid requirements and the use of sidewalks, malls, and parks or playgrounds. Takes effect on the day following the repeal date of Ordinance 22-19.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.