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 6 (2025) entitled:

"A BILL FOR AN ORDINANCE RELATING TO STRUCTURES,"

introduced on January 8, 2025 and which passed First Reading at the January 29, 2025 Council meeting, reports as follows:

The purpose of the Bill is to address structures on, above, or below public sidewalks or malls.

The Director Designate of Budget and Fiscal Services testified in support of the measure and requested further amendments to clearly define "structures" in the Bill.

Your Committee prepared a CD1 version (OCS2025-0132/2/11/2025 1:42 PM) that makes the following amendments:

A. Amends SECTION 5 to clarify that the structures to be regulated are curbside tellers, freight elevators, and freight chutes, which are also subject to additional provisions of § 13-8.4 and 13-8.5.

ADOPTED ON FEB 26 2025

COMMITTEE REPORT NO. 37

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B. Amends SECTION 10 to add language to direct the Revisor of Ordinances to update the Reporting Requirements Table in the Revised Ordinances of Honolulu 2021 to reflect the reporting requirement amended by SECTION 5 of the bill, and renumbers the subsequent section accordingly.

C. Makes miscellaneous technical and nonsubstantive amendments.

Your Committee on Planning, Infrastructure & Transportation is in accord with the intent and purpose of Bill 6 (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 6 (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

ADOPTED ON FEB 26 2025

COMMITTEE REPORT NO. 37

HONOLULU CITY COUNCIL

KE KANIHELA O KE KALANA O HONOLULU

CITY AND COUNTY OF HONOLULU

ORDINANCE _____

BILL **6 (2025), CD1**

A BILL FOR AN ORDINANCE

RELATING TO STRUCTURES.

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

SECTION 1. Purpose. The purpose of this ordinance is to address structures on, above, or below public sidewalks or malls.

SECTION 2. Section 13-1.1, Revised Ordinances of Honolulu 2021, is amended by repealing the definition of "Public telephone enclosure."

["~~***Public Telephone Enclosure.*** Any enclosure constructed or installed for the specific purpose of enclosing a telephone available for the general use of the public with or without charge and operated under franchise as provided by law. The term shall also include the contents of the enclosure and any appurtenant equipment or cables attached thereto.~~"]

SECTION 3. Section 13-6A.2, Revised Ordinances of Honolulu 2021 ("Peddling by merchant of a store on a portion of a Chinatown sidewalk or mall, the College Walk Mall, the Sun Yat Sen Mall, or Historic Moiliili Sidewalk"), is amended by amending subsection (b) to read as follows:

"(b) (1) The city executive department designated by the mayor shall prohibit a merchant from peddling on any portion of a sidewalk or mall if the department determines that the peddling will result in any of the following:

(A) The material impedance or obstruction of pedestrian traffic on the sidewalk or mall;

(B) A violation of the federal Americans with Disabilities Act;

(C) The jeopardy of the public safety;

(D) An inconsistency with the objectives of the Chinatown special district as set forth under § 21-9.60 et seq.; or

(E) The obstruction of a mailbox, fire hydrant, curbside teller, freight chute, freight elevator, newsstand, [~~public telephone enclosure,~~] or other structure permitted under Article 8.

(2) Alternatively, the designated city department may limit a merchant to peddling on a portion of a sidewalk or mall less than the 18 inches or 48 inches specified under subsection (a) if the department determines that the limitation is necessary to prevent any of the occurrences listed under subsection (b)(1)(A) through (E). If imposing the limitation, the designated city department shall notify the merchant of the limited portion of the sidewalk or mall upon which the merchant may peddle."

SECTION 4. Section 13-8.1, Revised Ordinances of Honolulu 2021, is amended to read as follows:

"§ 13-8.1 Permit required.

[~~No person shall~~] A person may not establish, construct, maintain, keep, or operate a newsstand, [~~public telephone enclosure,~~] curbside teller, freight elevator, freight chute, or any other structure or appliance on, above, or below a public sidewalk or mall without a permit as provided herein, or as may be provided by law."

SECTION 5. Section 13-8.3, Revised Ordinances of Honolulu 2021, is amended to read as follows:

"§ 13-8.3 [~~Public telephone enclosures.~~] Regulation of certain structures.

(a) [~~The~~] Except as otherwise provided in §§ 13-8.4 and 13-8.5, the director of budget and fiscal services shall issue permits authorizing [~~public telephone enclosures~~] curbside tellers, freight elevators, or freight chutes on [~~or over~~], above, or below public sidewalks and malls in accordance with the provisions and conditions contained herein.

(b) Each permit [~~shall be~~] is valid for the period that fees are assessed and paid.

[~~(c) A fee of 10 percent of the gross income from each public telephone enclosure covered by the permit, or added by amendment thereto, shall be collected by the director of budget and fiscal services each and every month. Only one permit shall be issued to each applicant.~~

~~(d)~~] (c) The permit [~~shall be~~] is nontransferable, except to the mortgagee of a duly recorded mortgage or to a purchaser at a foreclosure sale conducted pursuant to the terms and conditions of the mortgage. The transferee [~~shall have~~] has all of

the rights granted by the permit and [~~shall be~~] is subject to all of the requirements contained herein.

[~~(e)~~] (d) Upon the breach of any condition or violation of this article, the director of budget and fiscal services shall suspend the permit until the breach of condition or violation is corrected.

[~~(f)~~] (e) The permittee shall surrender [~~such~~] the permit to the director of budget and fiscal services upon the removal of all [~~public telephone enclosures~~] structures authorized by the permit.

[~~(g)~~] (f) A written application [~~shall~~] must be filed with the director of budget and fiscal services that [~~shall include:~~] includes:

(1) The name of the applicant and the name under which the business is conducted;

(2) The address and telephone number of the applicant;

(3) The total number of [~~public telephone enclosures~~] structures to be covered by the permit;

(4) The location of each [~~public telephone enclosure;~~] structure;

(5) The name and address of any mortgagee under a duly recorded mortgage to which the [~~public telephone enclosures~~] structures would be subject; and

[~~(6) An authorization for the chief of police to remove and impound any public telephone enclosure located in violation of the ordinance and an agreement to hold the city, its officers and employees free from claim for damages or losses resulting from the removal or impounding of such enclosure; and~~

~~(7)~~] (6) The signature of the applicant or of a person authorized to execute instruments on behalf of the applicant.

[~~(h) The~~] (g) In addition to any documents required by §§ 13-8.4 and 13-8.5, the following documents [~~shall~~] must be filed with each application.

(1) A certificate of insurance or a copy of a public liability insurance policy, issued by a carrier, to be approved by the director of budget and fiscal services, and naming specifically the applicant, the city, and the State, and [~~such~~] any other parties designated by the applicant as assureds, and generally the owners, lessees, and occupants of property abutting the public sidewalk or mall where each [~~public telephone enclosure~~] structure is located as assureds, covering any claim or liability for damages, injuries, or deaths, resulting from the placement, condition, or use of the [~~public telephone enclosure~~] structure or in any way connected with [~~such enclosure.~~] the structure. The policy [~~shall~~] must also include automatic coverage for [~~public telephone enclosures~~] structures added or relocated after the application is filed. The minimum amount of coverage under such policy [~~shall~~] must be $100,000 for injuries or death to any one person, $300,000 for injuries or deaths involving two or more persons arising from any one occurrence, and $10,000 property damage for each occurrence. The policy [~~shall~~] must be kept in force during the entire period of the permit. Neither the applicant nor the carrier [~~shall~~] may cancel the policy, except upon 30 days prior written notice to the director of budget and fiscal services.

(2) Written approval from the chief of police that the requested location and size of each [~~public telephone enclosure~~] structure does not constitute a hazard to or impede the traffic of pedestrians or vehicles.

(3) Written approval from the chief engineer of the department of facility maintenance that the size, design, construction, and specification of each particular type of [~~public telephone enclosure~~] structure are satisfactory for public safety.

(4) Written authorization signed by any mortgagee under a duly recorded mortgage to which the [~~public telephone enclosures~~] structures are subject.

[~~(i)~~] (h) *Hazardous [~~enclosures.~~] structures.*

(1) The chief of police shall send written notice to the permittee and the mortgagees mentioned herein whenever the chief determines that the condition or location of a [~~public telephone enclosure~~] curbside teller, freight elevator, or freight chute constitutes a hazard to the public or is

impeding traffic. [~~A~~] The chief of police shall send a copy of [~~such~~] the notice [~~shall be sent~~] to the director of budget and fiscal services.

(2) Within 24 hours of receipt of [~~such~~] the notice, the permittee or mortgagee, or both, shall remove, or correct the condition of the [~~public telephone enclosure.~~] structure. The chief of police shall send written notice to the director of budget and fiscal services at the end of [~~such~~] the 24-hour period stating what action, if any, the permittee or mortgagee, or both, has taken. [~~If the permittee or mortgagee, or both, has failed to take the necessary action, the chief of police shall remove and impound the enclosure. Upon the payment of a $25 charge for the removal and impounding of each of such enclosures, the permittee or mortgagee, or both, may reclaim the enclosure. Failure to pay such charge and to claim the enclosure within 30 days after notification of such impounding shall be deemed an authorization by the permittee or mortgagee, or both, to destroy or otherwise dispose of such enclosure.~~]

(3) Upon receipt of notification that the permittee or mortgagee, or both, has failed to take the necessary action, the director of budget and fiscal services shall suspend the permit and notify the council of the suspension.

[~~(j)~~] (j) *Conditions of permit.* [~~The permit shall~~] Permits will be issued subject to the following conditions:

(1) The permittee shall maintain a current public liability insurance policy, required by this section, at all times during the effective period of the permit.

(2) The permittee [~~shall~~] may not add or relocate any [~~public telephone enclosure~~] structure after the filing of the application, without amending the permit to specify the number and locations of additional [~~public telephone enclosures~~] structures and the new locations of relocated [~~public telephone enclosures~~] structures and without the approval of the chief of police and the chief engineer of the department of facility maintenance as provided under [~~subsection (h)~~] subsection (g) for [~~such~~] the additional or relocated [~~enclosures.~~] structures. The approval of the chief engineer of the department of facility maintenance [~~shall~~] is not [~~be~~] necessary if the [~~public telephone enclosure~~] structure is of a type previously approved.

(3) The permittee shall give written notice to the director of budget and fiscal services whenever a [~~public telephone enclosure site~~] structure is permanently vacated."

SECTION 6. Section 13-8.4, Revised Ordinances of Honolulu 2021, is amended to read as follows:

"**§ 13-8.4 Curbside tellers.**

(a) All provisions contained in §13-8.3 [~~shall be~~] are applicable to curbside tellers, [~~except as obviously limited to public telephone enclosures and~~] except as otherwise provided herein.

(b) The applicant need not be franchised; however, only applicants who are authorized to do business in Hawaii as a bank, savings and loan association, credit union, or financial services loan company [~~shall be~~] are eligible for such permit.

(c) A fee of $120 per year for each curbside teller covered by the permit, or added by amendment thereto, [~~shall~~] will be charged and collected by the director of budget and fiscal services at the time of issuance, reissuance, or amendment of the permit. Only one permit [~~shall~~] may be issued to each applicant.

[~~(d) The provisions regarding removal, impounding, and reclaiming of public telephone enclosures shall not apply to curbside tellers.~~]"

SECTION 7. Section 13-8.5, Revised Ordinances of Honolulu 2021, is amended to read as follows:

"**§ 13-8.5 Freight elevators and freight chutes.**

(a) All provisions contained in § 13-8.3 [~~shall be~~] are applicable to freight elevators and freight chutes, [~~except as obviously limited to public telephone enclosures and~~] except as otherwise provided herein.

(b) The applicant need not be franchised; however, the applicant must either own, lease, or be doing business on the property abutting the public sidewalk or mall at the location of the freight elevator or freight chute.

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(c) A fee of $120 per year for each freight elevator and freight chute covered by the permit [~~shall~~] will be charged and collected by the director of budget and fiscal services at the time of issuance, reissuance, or amendment of the permit. Only one permit [~~shall~~] may be issued to each applicant.

[~~(d) The provisions regarding removal, impounding, and reclaiming of public telephone enclosures shall not be applicable to freight elevators and freight chutes.~~

~~(e)~~] (d) The provisions contained in [~~§ 13-8.3(h)~~] § 13-8.3(g) pertaining to the approval of chief engineer of the department of facility maintenance [~~shall be~~] are applicable to freight elevators.

[~~(f)~~] (e) The provisions contained in [~~§ 13-8.3(h)~~] § 13-8.3(g) pertaining to automatic coverage for additional [~~enclosures shall~~] structures are not [~~be~~] applicable to freight elevators and freight chutes.

[~~(g)~~] (f) Freight chutes [~~shall~~] must be covered by two equal size doors each hinged to the side of the chute perpendicular to the length of the sidewalk or mall. The doors [~~shall~~] must be flush to the sidewalk or mall when closed and [~~shall~~] must be locked. The outside surface [~~shall~~] must be of a nonskid finish and contain no openings except as necessary for the locking mechanism. The doors [~~shall~~] must be capable of supporting 300 pounds per square foot evenly distributed. Each door [~~shall~~] must be locked into a [~~9-degree~~] 90-degree position when open. Before opening, an attendant [~~shall~~] must be stationed on the sidewalk at the side of the chute until the doors are locked into the 90-degree position. At no time [~~shall~~] may the doors and goods completely block the flow of pedestrians on the sidewalk or mall. The doors [~~shall~~] may not remain open nor [~~shall~~] may goods remain on the sidewalk or mall for more than 15 minutes during any period of use.

[~~(h)~~] (g) The applicant shall submit written approval of the department of facility maintenance [~~of the city~~] that the freight chute and doors are in compliance with this article when applying for a permit.

[~~(i)~~] (h) Nothing contained in this section shall be construed to permit the installation of freight elevators and chutes other than those in existence at the effective date of this article."

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SECTION 8. Section 13-8.11, Revised Ordinances of Honolulu 2021, is amended to read as follows:

"§ 13-8.11 Violation—Penalty.

Any person establishing, constructing, maintaining, keeping, or operating a newsstand, [~~public telephone enclosure,~~] curbside teller, freight elevator, freight chute, or any other structure or appliance on, above, or below a public sidewalk or mall without a valid permit as provided herein[~~, shall~~] will, upon conviction, be deemed guilty of a misdemeanor and punished by a fine not exceeding $1,000 or by imprisonment not exceeding one year, or by both."

SECTION 9. Section 13-10.3, Revised Ordinances of Honolulu 2021 ("Powers and duties of the department"), is amended by amending subsection (e) to read as follows:

"(e) *Newsstands, [~~public telephone enclosures,~~] dumpsters, and so forth.* The department shall confer with the director of budget and fiscal services relative to permits and placement of newsstands, [~~public telephone enclosures,~~] freight elevators, freight chutes, and curbside tellers, all of which are under the jurisdiction of the director of budget and fiscal services as provided in Article 8. The department, in consultation with the department of planning and permitting, may allow the temporary placement of dumpsters on a mall during a period of construction where the city has entered into a development agreement for construction on the mall and where the establishments abutting the mall cannot accommodate the dumpster on their property during the period of construction."

SECTION 10. Ordinance material is 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. The Revisor of Ordinances shall, pursuant to the Revisor's authority under SECTION 2 of Ordinance 23-7, update the Reporting Requirements Table to reflect the reporting requirement amended by SECTION 5 of this ordinance.

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SECTION 11. This ordinance takes effect upon its approval.

INTRODUCED BY:

Tyler Dos Santos Tam

DATE OF INTRODUCTION:

January 8, 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:
Public Telephone Enclosures; Permits; Public Sidewalks; Public Malls; Structures; Repeal

Description:
Repeals and amends provisions governing public telephone enclosures.

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