

REPORT OF THE COMMITTEE ON PARKS AND COMMUNITY SERVICES

Voting Members:

Augie Tulba, Chair; Heidi Tsuneyoshi, Vice-Chair;
Carol Fukunaga, Andria Tupola

Committee Meeting Held
February 4, 2021

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

Mr. Chair:

Your Committee on Parks and Community Services, which considered Bill 93 (2020) entitled:

"A BILL FOR AN ORDINANCE RELATING TO DEPARTMENT OF PARKS AND RECREATION PERMITS,"

introduced on November 4, 2020 and which passed first reading at the December 9, 2020 Council meeting, reports as follows:

The purpose of Bill 93 (2020) is to require gender equity for certain sports activities requiring a park use permit issued by the Department of Parks and Recreation.

Councilmember Tsuneyoshi provided a brief legislative history of the measure and spoke to the importance of the amendments in the proposed CD1.

Your Committee received written testimony in support of the Bill from the Department of Parks and Recreation. No oral testimony was received on the Bill.

Your Committee approved a CD1 version of the Bill which makes the following amendments:

- A. Inserts reference to "professional surfing contests" in subdivision (3) of Section 10-1.3(a).

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CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ADOPTED ON

FEB 17 2021

COMMITTEE REPORT NO. **48**

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- B. Makes miscellaneous technical and nonsubstantive amendments including adding ordinance material from recently enacted Ordinance 20-42.

Your Committee on Parks and Community Services is in accord with the intent and purpose of Bill 93 (2020), as amended herein, and recommends that it pass second reading, be scheduled for a public hearing, and be referred back to Committee in the form attached hereto as Bill 93 (2020), CD1. (Ayes: Tsuneyoshi, Tulba, Tupola – 3; Noes: None; Excused: Fukunaga – 1.)

Respectfully submitted,



Committee Chair

At the 2/17/21 Council meeting, the Bill was further amended and subsequently passed Second Reading as Bill 93 (2020), CD1, FD1.

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COMMITTEE REPORT NO. **48**



A BILL FOR AN ORDINANCE

RELATING TO DEPARTMENT OF PARKS AND RECREATION PERMITS.

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

SECTION 1. Purpose. The purpose of this ordinance is to require gender equity for certain sports activities requiring a park use permit issued by the Department of Parks and Recreation.

The Council finds that:

- (a) Equal opportunity to participate in and be involved in sport and physical activity, whether for the purpose of recreation, health promotion, or high performance, is the right of every person, and historically, women's sport and physical activities have often been subordinated to men's activities; and
- (b) City resources should be allocated fairly and without discrimination or preference on the basis of sex or gender and such allocation should redress any inequitable balance in the benefits available to women, men, and persons of any gender; and
- (c) Female competitive surfers face discrimination in terms of inclusion at certain professional surfing contests and events held on public land and in public waters, including access to venues and facilities, resources, competition time, and pay; and
- (d) Recent strides have been made to incorporate gender equity principles in professional surfing; in 2016, the International Olympic Committee made it a point to incorporate gender equity as a required goal as it confirmed the inclusion of surfing for the Tokyo 2020 sports program; in 2018, the World Surf League announced that it would become the first global United States-based sports league ever to offer equal prize money for men and women across all events; and for its 2018-2019 season, the Eddie Aikau Invitational surf competition at Waimea Bay invited its first female competitor in its decades-long history; and
- (e) The Department of Parks and Recreation has adopted rules relating to water shore events, including organized water sport events and surf events; such rules prohibit the issuance of a park permit if the issuance will result in a violation of federal, State, or City laws, rules, or regulations; and



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- (f) In recognition of promoting and supporting gender equity in the field of professional surfing, on January 29, 2020, the Council adopted Resolution 20-12, FD1, which urges the City Department of Parks and Recreation and the State Department of Land and Natural Resources to adopt new rules relating to City and State permits issued to surfing contest promoters to ensure gender equity for all competitive surfing events held on the North Shore of Oahu.

SECTION 2. Section 10-1.3, Revised Ordinances of Honolulu 1990 ("Permits"), as amended by SECTION 2 of Ordinance 20-42, is amended by amending subsection (a) 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, including professional surfing contests, conducted by a league, organization, association, group, or individual.

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 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.



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- (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.
- (5) Expressive Activities.
 - (A) Expressive activities held at Ala Moana Regional Park or in the following areas of Kapiolani 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 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.



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- (B) For all other public parks, and areas of Kapiolani Regional Park outside of the areas specified in Section 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 expressive activity, in which case the organizer must provide written notice to the city as soon as practicable prior to such 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.
- (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 Section 10-1.2(b)(8).



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- (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 ~~[and regulations promulgated]~~ 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 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 permit is entitled to a review by the circuit court within 30 days after the date of ~~[such]~~ the refusal. In ~~[such]~~ 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 restricted to a facility especially constructed for such purpose, such as the bandstand at Kapiolani 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



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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 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 permit may be issued for commercial activities, including permits for recreational stops by commercial tour companies, at Kailua Beach Park and Kalama Beach Park, except as otherwise provided in this chapter for commercial filming activities. No permit may be issued for recreational stops by commercial tour companies at:
 - (A) Waimanalo Beach Park, Kaiona Beach Park, Kaupo Beach Park, Makapuu Beach Park, and Bellows Field Beach Park; and
 - (B) Waimanalo Bay Beach Park from 6:30 p.m. on Fridays through 6:30 a.m. on Mondays, and on all state and federal holidays; provided that no more than five permits may be issued for recreational stops by commercial tour companies at Waimanalo Bay Beach Park, and such permits may only be issued to commercial tour companies for recreational stops by tour vans or vehicles that seat no more than 15 passengers.
- (12) Constructing, utilizing, placing, occupying, or in any other manner, situating any tent."

SECTION 3. If any provision of this ordinance, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the ordinance that can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are severable.



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SECTION 4. Administrative Rules. Within 120 days of the effective date of this ordinance, the Director of Parks and Recreation shall adopt administrative rules consistent with the new language in Section 10-1.3(a)(3) of the Revised Ordinances of Honolulu enacted in Section 2 of this ordinance. Until such new rules have been adopted, the current rules governing the issuance of permits for sports activities shall remain in effect, but the issuance of such permits shall be subject to Section 10-1.3(a)(3).

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 bracketed material, or the underscoring.



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SECTION 6. This ordinance takes effect upon its approval; provided that this ordinance shall not apply to any permits for sports activities issued by the city prior to the effective date of this ordinance.

INTRODUCED BY:

Heidi Tsuneyoshi

DATE OF INTRODUCTION:

November 3, 2020

Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Deputy Corporation Counsel

APPROVED this _____ day of _____, 20____.

RICK BLANGIARDI, Mayor
City and County of Honolulu