

Article 19. Stored Property

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Sec. 29-19.1 Declaration of legislative intent—Purpose.

Public property should be accessible and available to residents and the public at large for its intended uses. The unauthorized use of public property for the storage of personal property interferes with the rights of other members of the public to use public property for its intended purposes and can create a public health and safety hazard that adversely affects residential and commercial areas. The purpose of this article is to maintain public areas in clean, sanitary, and accessible condition, to prevent harm to the health or safety of the public, to prevent the misappropriation of public property for personal use, and to promote the public health, safety and general welfare by ensuring that public property remains readily accessible for its intended uses.

(Added by Ord. 11-29)

Sec. 29-19.2 Definitions.

As used in this article, unless the context otherwise requires:

“Medial strip” means the same as “medial strip” in Section 15-2.23.

“Personal property” means any and all tangible property, and includes, but is not limited to, items, goods, materials, merchandise, furniture, equipment, fixtures, structures, clothing, and household items. The term shall not include any vehicle as defined in HRS Section 291C-1, any vessel as defined in HRS Section 200-23, or any property subject to HRS Chapter 523A.

“Public property” means all property that is owned, managed or maintained by the city, and shall include, but not be limited to any street, sidewalk, replacement sidewalk, medial strip, space, ground, mall, building, structure, public park, and any other property of the city.

“Sidewalk” means the same as “sidewalk” in HRS Section 291C-1.

(Added by Ord. 11-29)

Sec. 29-19.3 Stored property—Impoundment.

- (a) No person shall store personal property on public property. All stored personal property may be impounded by the city. In the event personal property placed on public property interferes with the safe or orderly management of the premises or poses a threat to the health, safety, or welfare of the public, it may be impounded at any time by the city.
- (b) Personal property placed on public property shall be deemed to be stored personal property if it has not been removed from public property within twenty-four hours of service of the written notice required by Section 29-19.4, which requires such removal, and the city may cause the removal and impoundment of such stored personal property; provided that moving the personal property to another location on public property shall not be considered to be removing the personal property from public property; and provided further that this section shall not apply to personal property that, pursuant to statute, ordinance, permit, regulation, or other authorization by the city or state, is placed on property that is owned or controlled by the city.

(Added by Ord. 11-29)

Sec. 29-19.4 Notice.

- (a) The written notice required to be served by subsection (b) of Section 29-19.3 shall be deemed to have been served if a copy of the written notice is served on the person storing the personal property or is posted prominently and conspicuously on the stored personal property. The written notice shall contain the following:
- (1) A description of the personal property to be removed (such description may refer to an attached photograph).
 - (2) The location of the personal property.
 - (3) The date and time the notice was posted.
 - (4) The section of the ROH that is being violated.
 - (5) A statement that the personal property will be impounded if not removed within 24 hours.
 - (6) The location where the removed property will be stored.
 - (7) A statement that impounded property will be sold or otherwise disposed of if not claimed within 30 days after impoundment.
 - (8) A statement that the property owner shall be responsible for all costs of removal, storage and disposal.
- (b) Shopping Carts. If a shopping cart is removed and impounded pursuant to Section 29-19.3, the city shall notify the Retail Merchants Association or its successor organization, of the location where the shopping cart may be claimed. The Retail Merchants Association or its successor organization shall notify the owner of the shopping cart or owner's agent of the location where the shopping cart may be claimed. The owner or owner's agent shall have three business days from the date the city notifies the Retail Merchants Association or its successor organization to retrieve the shopping cart without charge. If the owner or owner's agent fails to retrieve the shopping cart within three business days, the shopping cart shall become impounded property as provided in Section 29-19.5(a), written notice shall be provided as in Section 29-19.5(b), and the owner shall be subject to any applicable fees and costs imposed pursuant to Section 29-19.5(a). Any shopping cart not reclaimed by the owner or owner's agent within 30 days after the date of written notice may be disposed of as personal property valued at less than \$1,000.

(Added by Ord. 11-29)

Sec. 29-19.5 Storage and disposal.

- (a) Impounded personal property shall be moved to a place of storage, and the owner shall be assessed moving, storage, and other related fees and costs. Additionally, the owner of impounded personal property shall bear the responsibility for the risk of any loss or damage to the impounded property.
- (b) At least 30 days prior to disposal of impounded personal property, the city shall serve notice in writing apprising the owner of the personal property of the description and location of the impounded personal property and of the intent of the city to sell, donate, or otherwise dispose of the impounded property. Service of written notice shall be by personal service or by certified mail, return receipt requested, to the last known address of the owner of the impounded property if the owner is known or can be determined. Where the identity or the address of the owner is unknown or cannot be determined through the exercise of reasonable diligence, the notice shall be posted for three consecutive days on the public property where the property was stored or seized. If notice cannot be posted as provided heretofore, then it shall be posted on the internet website of the city for three consecutive days.
- (c) If any item of impounded personal property has an estimated value of \$1,000 or more, the city shall also give public notice of its disposal, including a brief description of the property, details of the time and place of the auction and giving notice to all persons interested in claiming the property that unless claims are made by persons who can provide satisfactory proof of ownership before a specified date, the property will be sold at public auction to the highest bidder. Such public notice shall be published at least once in a publication of statewide circulation or in a publication of local circulation where the property was impounded; provided that the disposal shall not take place less than five days after public notice has been given. Following proper notices as provided in subsections (b) and (c), any item of impounded personal property having an estimated value of \$1,000 or more shall be disposed of by public auction, through oral tenders, or by sealed bids. Where no bid is received, the impounded personal property may be sold by negotiation, disposed of or sold as junk, kept by the city or donated to any other government agency or charitable organization.

- (d) The requirement for public notice and public auction shall not apply when the estimated value of the impounded personal property is less than \$1,000. In that event, the impounded personal property may be sold by negotiation, disposed of or sold as junk, kept by the city or donated to any other government agency or charitable organization.
- (e) Any impounded property of a perishable nature may be disposed of immediately in any manner without notice after impoundment by the city.
- (f) The city shall maintain a record of the date and method of disposal of the impounded personal property, including the consideration received for the property, if any, and the name and address of the person taking possession of the property. Such record shall be kept as a public record for a period of not less than one year from the date of disposal of the property.

(Added by Ord. 11-29)

Sec. 29-19.6 Proceeds of sale.

All fees and unpaid rent, debts and charges owing and all expenses of handling, storage, appraisal, advertising, and other sale expenses incurred by the city shall be deducted from the proceeds of any sale of the impounded property. Any amount remaining shall be held in trust for the owner of the property for 30 days after sale, after which time the proceeds shall be paid into the general fund.

(Added by Ord. 11-29)

Sec. 29-19.7 Repossession.

The owner or any other person entitled to the impounded personal property may repossess the property prior to its disposal upon submitting satisfactory proof of ownership or entitlement and payment of all unpaid rent, debts, and charges owing and all handling, storage, appraisal, advertising, and other expenses incurred by the city in connection with the proposed disposal of the impounded property.

(Added by Ord. 11-29)

Sec. 29-19.8 City not liable.

The City and County of Honolulu, its officers, employees, and agents shall not be liable to the owner of impounded personal property because of any disposal of the property made pursuant to this article. The remedies available to the owner of impounded property are limited to those provided in this article.

(Added by Ord. 11-29)

Article 20. Creating, Causing, or Maintaining Obstructions on Public Sidewalks Prohibited

Sections:

29-20.1 Prohibition—Exceptions—Citations.

29-20.2 Penalty.

Sec. 29-20.1 Prohibition—Exceptions—Citations.

- (a) No person shall create, cause, or maintain an obstruction on a public sidewalk that interferes, impedes, and/or prevents the full, free, and unobstructed passage of pedestrians upon public sidewalks or interferes with the normal flow of pedestrian traffic upon a public sidewalk during the hours from 6:00 a.m. to 10:00 p.m.
- (b) The prohibitions in subsection (a) do not apply to a person:
 - (1) Unable to comply due to suffering a medical emergency;
 - (2) Unable to comply due to physical or mental incapacitation;
 - (3) Engaging in protected expressive activity;
 - (4) Participating in or attending a parade, festival, performance, rally, demonstration, or similar event conducted on the street pursuant to a permit issued by the city;
 - (5) Acting as authorized or allowed by ordinance, permit, or regulation issued by the City and County of Honolulu;
 - (6) Engaged in a maintenance, repair, or construction activity on behalf of a governmental entity or a public utility; and

- (7) In line for goods or services, unless the person or person's possessions impede the ability of pedestrians to travel along the length of the sidewalk or enter a doorway or other entrance alongside the sidewalk.
- (c) No law enforcement officer shall issue a citation, make an arrest, or otherwise enforce this section against any person unless:
- (1) The law enforcement officer visually observes the interference with, impediment to, or prevention of the full, free, and unobstructed passage of pedestrians; and
 - (2) The officer orally requests or orders the person to refrain from the alleged violation of this section and the person fails to comply after receiving the oral request or order.
- (d) As used in this section:

“Expressive activity” means speech or conduct, the principal object of which is the expression, dissemination, or communication by verbal, visual, literary, or auditory means of political, religious, philosophical, or ideological opinions, views, or ideas, and for which no fee is charged or required as a condition of participation in or attendance at such activity. Expressive activity generally would not include sports events, such as marathons, fundraising events, beauty contests, commercial events, cultural celebrations, or other events the principal purpose of which is entertainment.

“Obstruct” means to block up, stop up, or close up, or place an obstacle in or fill with obstacles or impediments that interfere with the passing of a pedestrian or to be or come in the way of a pedestrian’s free use of the sidewalk.

“Obstruction” means the act or condition of being obstructed, or a condition of being clogged or blocked.

“Public sidewalk” means a publicly owned or maintained “sidewalk,” as defined in Section 29-1.1, and includes a “replacement sidewalk” as defined in that section. Where the property line adjacent to a public sidewalk is not clearly established, then for purposes of this article, the sidewalk is deemed to extend 10 feet away from the roadway from the curb line or pavement of the roadway.

(Added by Ord. 18-34)

Sec. 29-20.2 Penalty.

Any person violating any provision of this article shall be subject to a \$100 fine. In lieu of a \$100 fine, a judge may sentence a person found in violation of this section to provide community service.

(Added by Ord. 18-34)

Article 21. Illegal Lodging on a Public Sidewalk or Other Public Place

Sections:

29-21.1 Prohibition—Exceptions—Citations.

29-21.2 Penalty.

Sec. 29-21.1 Prohibition-Exceptions-Citations.

- (a) No person shall lodge on a public sidewalk or other public place.
- (b) No law enforcement officer shall issue a citation, make an arrest, or otherwise enforce this section against any person unless:
 - (1) Shelter space is readily available;
 - (2) An offer has been made to transport the person to the available shelter; and
 - (3) The officer requests or orders the person to refrain from the alleged violation of this section.
- (c) A person may be cited or arrested for a violation of this section if the person fails to comply after receiving the oral request or order and refuses to go to or to be transported to the available shelter after being given one hour to relocate from the sidewalk or other public place.
- (d) As used in this section:

“Lodge or lodging” means to sleep; to come to rest and refuse to vacate the area when requested pursuant to subsection (b) above.

“Public place” means the same as the term is defined in Section 29-1.1.

“Public sidewalk” means the same as the term is defined in Section 29-15.1(d).

“Shelter” means a facility that provides temporary housing for individuals or families. A “shelter” may include an incarceration diversion program, a medical facility, or related supportive services.

(e) This article does not apply to any person engaging in an activity pursuant to a permit or license issued by the state, city, or federal government.

(Added by Ord. 18-35)

Sec. 29-21.2 Penalty.

Any person violating any provision of this article shall, upon conviction, be guilty of a petty misdemeanor and subject to punishment in accordance with HRS Sections 706-640 and 706-663, as amended.

(Added by Ord. 18-35)

REVISED ORDINANCES OF HONOLULU

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