BILL NO. 113

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 2 OF THE HAWAI'I COUNTY CODE 1983 (2016 EDITION, AS AMENDED), BY ADDING A NEW ARTICLE RELATING TO COMMERCIAL SPONSORSHIP OF COUNTY ASSETS.

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF HAWAI'I:

SECTION 1. The purpose of this ordinance is to establish a process to obtain sponsorships for County facilities, parks, programs, equipment, and tangible property for the purpose of optimizing non-property tax revenue sources.

SECTION 2. Chapter 2 of the Hawai'i County Code 1983 (2016 Edition, as amended) is amended by adding a new article to be appropriately designated and to read as follows:

“Article __. Commercial sponsorship of County assets.

Section 2-__ . Findings and purpose.

The County needs additional revenue streams to increase its capacity to finance public programs and maintain County assets. Additional financial resources will facilitate the County's efforts to provide levels of service and maintenance beyond the basic levels funded by the County's operating and capital budgets. As a result, the Council finds that it is in the best interest of the County to create and enhance relationships with the private sector, including individuals, corporations and other organizations, to generate additional financial resources through commercial sponsorships of County programs, real property, facilities, equipment, or other assets.

In appreciation of such support, it is the policy of the County to provide sponsors with suitable acknowledgment of their contribution. Such recognition, which will be defined in sponsorship agreements, should be consistent with the purpose and aesthetic character of County programs and assets. Appropriate recognition should neither detract from the public's experience or expectation, nor impair the visual qualities of a County asset, in the opinion of the County. The public recognition of commercial sponsorship envisioned in this arrangement is not intended to create a public forum for communication and debate.

The purpose of this article is to establish the criteria and parameters for the granting of sponsorship opportunities in relation to County programs and assets. In doing so, it is solely the Council's intention to establish a means to enhance the delivery of public services and maintenance of County assets.

Section 2-__ . Definitions.

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

“Administrative head” means a director of a department, administrator of an agency, or an official holding an equivalent position, including, but not limited to, managing director, chief of police, fire chief, prosecuting attorney, or manager-chief engineer of the department of water supply.

“Cash sponsorship” means a type of sponsorship where a sponsor provides cash.

“Contribution” means cash, goods, or services, paid or provided to the County at such time or times as set forth in the sponsorship agreement.

“County asset” means a County facility, park, program, equipment, or tangible property.

“Equipment” means any vehicle, construction equipment, machine, device, gear, apparatus, or tool valued in an amount no less than \$20,000 used in the operation of the County but does not include buses operated by the County.

“Facility” means any building, including any stadium, arena or station, owned, managed or operated by the County.

“In-kind sponsorship” means a type of sponsorship where a sponsor provides a good or service.

“Person” means the same as defined in section 1-4 of this Code.

“Program” means any program, festival, contest, event, fair, athletic activity, gala, or similar event provided by a County department in connection with the operations of a department.

“Sponsor” means a person that enters into a sponsorship agreement with the County.

“Sponsorship” means a mutually beneficial arrangement between the County and a person, wherein the person provides a financial contribution to the County in return for sponsor recognition on or in connection with one or more County assets, for a specified period of time.

“Sponsorship agreement” means a written agreement executed between the County and sponsor governing a sponsorship, on terms and conditions acceptable to the County and the sponsor. A sponsorship agreement may include provisions that allow for the recognition of the sponsor.

“Sponsorship recognition” means a tangible acknowledgment and expression of gratitude issued as part of the sponsorship agreement.

Section 2-__ . Commercial sponsorships.

- (a) In accordance with the provisions of this article, executive agencies of the County may accept contributions valued in an amount no less than \$20,000, from sponsors in exchange for sponsor recognition. This article and sponsorship agreements entered into pursuant to this article, shall be implemented and executed in accordance with all applicable laws, including chapter 89, Hawai‘i Revised Statutes.
- (b) The following sponsorships shall not be allowed:
 - (1) Sponsorships with persons that practice or promote discrimination based on race, color, creed, religion, gender, including gender identity and expression, sexual orientation, age, marital status, ancestry, national origin, or disability;
 - (2) Sponsorships with persons that have a pending open application with the County for a discretionary approval; or

- (3) Sponsorships with persons opposing the County in a pending or ongoing legal proceeding.

Section 2-__ . Exclusions.

This article does not apply to:

- (1) Gifts, grants, or donations accepted pursuant to article 30 of this chapter, where no sponsorship agreement exists or is required;
- (2) Naming of facilities pursuant to chapter 15, article 8; and
- (3) Events sponsored or co-sponsored by the County pursuant to other ordinances or rules.

Section 2-__ . Sponsorship agreement.

- (a) The County possesses sole and final decision-making authority for determining the appropriateness of a sponsorship and reserves the right to refuse to enter into any proposed sponsorship agreement.
- (b) The administrative head of a County department, office, or agency, with the concurrence of the director of finance, shall have the authority to enter into a sponsorship agreement, for a contribution valued in an amount no less than \$20,000.
- (c) Each sponsorship agreement must specify whether the sponsorship for a particular asset will be exclusive or non-exclusive. All sponsorship agreements must be approved by the council by resolution.
- (d) Sponsorships may be terminated in writing at any time during the term of the sponsorship agreement when, in the sole determination of the County, the sponsorship is no longer in the best interest of the County.

Section 2-__ . Sponsorship recognition.

- (a) No sponsorship message may be placed on a County asset except as authorized in an approved sponsorship agreement.
- (b) Sponsorship recognition may include the following, or any combination thereof, during the term of the agreement:
 - (1) Recognition of the sponsor for a specific County program;
 - (2) Appropriate mention in media releases and promotional materials of a sponsor for the County program;
 - (3) Appropriate sponsorship recognition or display at the County program location;
 - (4) Appropriate recognition on the program website as a sponsor for the program; or
 - (5) Other possible benefits as negotiated.
- (c) No materials, communications, or advertisements including, but not limited to, print, video, internet, broadcast, or display items developed to promote or communicate information about the sponsorship, may use the County seal except pursuant to a sponsorship agreement that has been authorized by the council.
- (d) Sponsorship materials that advocate, contain price information or an indication of associated savings or value, request a response, or contain comparative or qualitative descriptions of products, services, or organizations are prohibited.
- (e) Sponsorship recognition shall not constitute a public forum for communication and debate.

- (f) Sponsorship recognition, branding, publicity, and advertising in conjunction with the sponsorship agreement must not contain the following:
 - (1) Obscenity;
 - (2) Pornography;
 - (3) Incitement to imminent lawless action;
 - (4) Speech presenting a grave and imminent threat;
 - (5) Fighting words;
 - (6) Fraudulent material;
 - (7) True threats;
 - (8) Defamatory, libelous, or slanderous material;
 - (9) Solicitations to commit, or speech integral to, criminal conduct;
 - (10) The promotion of drugs, alcohol, tobacco, gambling, or adult entertainment;
 - (11) Political campaign speech, or speech that supports or opposes or appears to support or oppose a ballot measure or initiative, or refers to any person in or campaigning for public office; or
 - (12) Religious speech that advocates or opposes a religion or religious belief.
- (g) Sponsorship recognition, publications, and publicity must conform to all applicable laws and rules, including but not limited to chapter 445, part IV, Hawai'i Revised Statutes, pertaining to outdoor advertising, including billboards, and chapter 3 of this Code, pertaining to sign regulations.
- (h) The County retains its rights and discretion to exercise full editorial control over the placement, content, appearance, and wording of sponsorship recognitions, affiliations, and messages.

Section 2-__ . General requirements.

- (a) The County shall not relinquish any aspect of the County's right to direct, manage, and control a County asset.
- (b) Except as required by law or expressly established by an affirmative action by the council, sponsorship shall not convey upon any person the right to access or use a County asset for any purpose other than the intended and authorized governmental purpose or service.
- (c) Sponsorships shall not be deemed to constitute an endorsement of the sponsor or its services and products, or create any proprietary interest of the sponsor in the County or the County assets.
- (d) The sponsorship must not confer a personal benefit, directly or indirectly, to any particular County officer or employee.
- (e) The sponsorship must not discriminate against any person on the basis of race, color, creed, religion, sex, including gender identity and expression, sexual orientation, age, marital status, ancestry, national origin, or disability.
- (f) Sponsors shall defend, indemnify, and hold harmless the County, its officers, agents, and employees against all liability, loss, damage, cost, and expense, including attorneys' fees, arising out of or resulting from the acts or omissions of the sponsor, its directors, employees, officers, agents, or contractors, in connection with the sponsorship and the sponsorship agreement.

Section 2-__ . Funds received from sponsorship agreements.

All funds received pursuant to sponsorship agreements will be deposited into the appropriate fund as determined by the director of finance, provided that such funds are expended for their designated purpose.

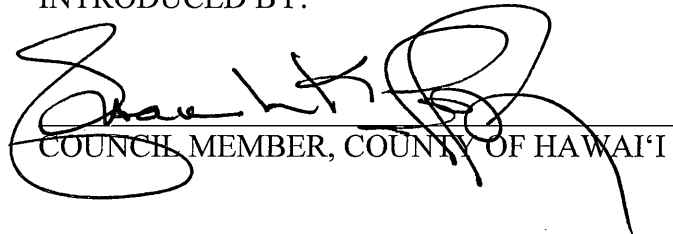
Section 2-__ . Adoption of rules.

The director of finance or other director as designated by the mayor shall adopt rules, pursuant to chapter 91, Hawai'i Revised Statutes, for the purposes of this article."

SECTION 3. Severability. 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 which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

SECTION 4. This ordinance shall take effect July 1, 2019.

INTRODUCED BY:



COUNCIL MEMBER, COUNTY OF HAWAI'I

_____, Hawai'i

Date of Introduction:

Date of 1st Reading:

Date of 2nd Reading:

Effective Date:

REFERENCE Comm. 780