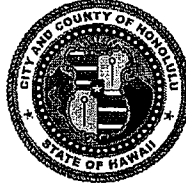


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DEPARTMENT OF PLANNING AND PERMITTING  
**CITY AND COUNTY OF HONOLULU**

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DEPT. WEB SITE: [www.honolulu.dpp.org](http://www.honolulu.dpp.org) • CITY WEB SITE: [www.honolulu.gov](http://www.honolulu.gov)

RICK BLANGIARDI  
MAYOR



DEAN UCHIDA  
DIRECTOR  
DAWN TAKEUCHI APUNA  
DEPUTY DIRECTOR

July 29, 2022

The Honorable Brandon Elefante, Chair  
and Members  
Committee on Zoning and Planning  
530 South King Street, Room 202  
Honolulu, Hawaii 96813

Dear Chair Elefante and Councilmembers:

SUBJECT: Departmental Response to Proposed Amendments in  
Bill 10, CD1 (2022) Relating to Use Regulations  
Chapter 21, Revised Ordinances of Honolulu  
Land Use Ordinance (LUO)

In response to Councilmember Elefante's request at the July 14, 2022, Zoning and Planning Committee meeting, the Department of Planning and Permitting (DPP) is respectfully providing two tables which summarize our responses to the proposed CD1 of Bill 10 (2022). For the most part, the DPP concurs with the proposed Committee Draft, as shown in the first table. We listed the items that warrant minor changes in the second table, along with the corresponding code sections and our reasoning.

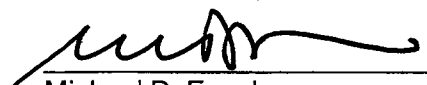
Should you have any questions, please contact me at (808) 768-8000.

Very truly yours,

  
Dean Uchida  
Director

Attachment

APPROVED:

  
Michael D. Formby  
Managing Director

DEPT. COM. 576

Response to Bill 10 (2022), CD1

Submitted by the Department of Planning and Permitting (DPP) – July 2022

CD1 Summary No.	Use	CD1 AMENDMENT PROPOSAL	DPP Comment
<b>Agricultural Uses</b>			
C.3.a	Agritourism	Require the dedication of 75 percent (instead of 50 percent) of the zoning lot to active agricultural use for as long as the agritourism use is in operation (instead of a minimum of 10 years).	OK
C.3.b		Remove allowance for bus, jeep, or off-road vehicle tours (off-road vehicle tours no longer permitted as an agritourism use).	OK
C.3.c		Limit weddings and similar accessory destination events to no more than one event (instead of two events) per week.	OK
C.2	Vertical Farms	Vertical farms only permitted in areas with soils that are rated a poor quality D or worse (instead of C or worse).	OK
C.4.a	Farm Dwelling	Require that crop production and livestock keeping must occupy a minimum of 75 percent (instead of 50 percent) of the zoning lot area.	ADDITIONAL AMENDMENT PROPOSED
C.4.a		Valid agricultural dedication status for farm dwelling site must be maintained as evidence of the agricultural activity.	OK
C.4.b		Provide that a farm dwelling is not permitted as an accessory use to boarding and care of horses and domestic animals.	REQUIRES DISCUSSION The boarding and care of certain animals may be appropriate on ag lands in conjunction with a farm dwelling. Recommend this change be removed or otherwise justified.
C.5	Farmers Market	Minimum of 75 percent (instead of 50 percent) of the zoning lot area to be dedicated to active agricultural use.	OK
<b>Residential Uses</b>			
I	Household	Amends the new definition of "household" to mean one or more <u>natural</u> persons, all related by blood, adoption, guardianship, marriage, or other duly authorized custodial relationship occupying a dwelling or lodging unit; or no more than five (instead of six) unrelated natural persons.	OK
C.1.b C.6	3-unit dwelling	Delete three-unit dwelling	OK
C.7	Multi-unit dwelling	Allowed in B-1 and B-2 if minimum 10,000 sq. ft. of commercial space for zoning lots larger than 4 acres but smaller than 7 acres if 8-foot-wide ped & bicycle path is provided.	OK
C.7		Allowed in B-1 and B-2 if minimum 40,000 sq. ft. of commercial space for zoning lots larger than 7 acres if 8-foot-wide ped & bicycle path is provided.	OK
C.7		Allowed in B-1 and B-2 if zoning lot has a minimum nonresidential FAR of 0.3 and 8-foot-wide ped & bicycle path is provided.	OK

CD1 Summary No.	Use	CD1 AMENDMENT PROPOSAL	DPP Comment
C.1.c C.1.d	Group living	Add * to permits for group living (small and large) in the Apt, Apt mixed use, and Business mixed use	OK
C.9		For Large group living occupancy is more than five (instead of six) unrelated residents	OK
C.1.c C.1.d	Group Living	Delete Eu symbol and require C for group living (small and large) in the AG Districts.	OK
C.8		Group living must be of an agricultural nature. Minimum of 75 percent of the zoning lot area must be dedicated to active agricultural use	OK
C.1.e	Accessory dwelling units	Remove ADUs from AG districts.	OK
Public, Civic Institutional Uses			
C.1.f C.1.g	Meeting facilities	Delete Eu symbol from table and require C for meeting facilities in the AG Districts.	OK
C.10		A minimum of 75 percent of the zoning lot area must be dedicated to active agricultural use.	OK
C.1.h	Dish antennas	Add * to permits/requirements for dish antennas	OK
C.11.a		All dish antennas must be located or screened to minimize visual impacts, especially from public rights-of-way or public places.	OK
C.1.i	Tower antennas (Communication Tower)	Change "tower antenna" to "communication tower"	OK
C.11.b.i		Redefine: Any structure constructed for the sole or primary purpose of supporting any Federal Communications Commission-licensed or authorized antennas and associated facilities.	OK
C.1.i		Make tower antenna/communication tower P* in Industrial Districts (No CUP required)	OK
C.11.b.ix		In the industrial districts, require a minor CUP if the lot is adjacent to a lot in the residential, apartment, or apartment mixed use districts.	OK
C.11.b.vii		In the industrial districts, screening, such as solid walls, may be used instead of landscaping	OK
C.11.b.ii		Towers supported by guy wires do not need to be set back from property lines at least 1 foot for every 1 foot of height.	OK



CD1 Summary No.	Use	CD1 AMENDMENT PROPOSAL	DPP Comment
C.11.b.iii		Require the use of the smallest, least visually intrusive components (Instead of structural requirements to accommodate the maximum users)	OK
C.11.b.iv		Delete the standard for communication tower replacement, and provides that once an eligible facilities request for a communication tower is approved, as required by federal law, no other land use permits are required for the communication tower.	OK
C.11.b.v		Delete the standard that requires the discontinued use and removal of a communications tower if it is determined that the tower is harmful to the health of the surrounding population.	OK
C.11.b.vi		Require evidence of a lack of space to locate the proposed antenna on existing communication towers that meet the setback requirements and are located within 0.5 miles of the proposed communications tower site.	OK
C.11.b.viii		Amend the monotree installation standard to require that they be designed to be similar to surrounding trees, including appropriate species and heights, to blend in with the surrounding environment. Requires communication towers 9 in the residential zoning districts to use stealth design to minimize visual impacts.	OK
C.1.j	Stealth antenna	Change "stealth Antenna" to "communication tower alternative support structure"	ADDITIONAL AMENDMENT PROPOSED
C.11.c.i		Delete standards relating to setback requirements, screening requirements, and landscaping plans. Instead provides that communication tower alternative support structures must be concealed to minimize visual impacts using architecture, landscape, and site solutions. When located on the roof of an existing structure, the communication tower alternative support structure must be set back or located to minimize visual impacts, especially from public rights-of-way and public places.	OK
C.11.C.ii		Delete the standard for communication tower alternative support structure replacement, and instead provides that once an eligible facilities request for a communication tower is approved, as required by federal law, no other land use permits are required for the communication tower alternative support structure	OK
C.1.k	Schools	Make schools C in Ag districts.	OK
C.12		Add provision that 75 % of zoning lot are be dedicated to active ag use for as long as use is in operation.	OK
C.1.l	Cemetery	Add * to cemetery.	OK
C.13		Reverted to existing standards in the LUO Sec 21-5.60-5(a)(2)(C) requiring landscaped 50-foot buffer.	OK
C.1.m	Utility	Make medium utilities P* in the Industrial Districts (no CUP required)	OK
C.14.a.i		For small utilities, delete the maximum 20 kilowatt generation limit, and includes non-generation energy installations with minor impacts on adjacent land uses;	MODIFICATION RECOMMENDED BASED ON HECO'S COMMENTS
C.14.a.ii		For medium utilities, delete energy generation of over 20 kilowatts, includes non-generation energy installations with potential impact on adjacent land uses, but does NOT include other facilities associated with the transmission of electricity across the utility grid; and	OK

CD1 Summary No.	Use	CD1 AMENDMENT PROPOSAL	DPP Comment
C.14.a.iii		For large utilities, include energy generation over 5 megawatts, and wind energy generation facilities with a rated capacity of 100 kilowatts or more.	OK
C.14.b		Delete provisions relating to electromagnetic interference ("EMF"), including the authority of the DPP Director to require the operator of a small, medium, or large utility to mitigate EMF.	OK
C.14.c		For the abandonment of small, medium, and large utilities, add an exception for transfer of ownership or operation, and includes staggered time periods for dismantling abandoned utilities (previously dismantle period was 30 days for all utilities), and adds a good faith exception. (i) For small utilities, dismantle period is 90 days; (ii) For medium utilities, dismantle period is 180 days; and (iii) For large utilities, dismantle period is one year.	MODIFICATION RECOMMENDED BASED ON PLANNING COMMISSION HEARING AND TESTIFIERS' INPUT
C.14.d		Provide that a utility may undertake emergency work on small utilities, and that emergency work on medium and large utilities does not require a minor conditional use permit.	ADDITIONAL AMENDMENT PROPOSED
C.14.e		Clarify the types of "nongeneration energy installations" for small and medium utilities. Large utilities include only energy generation installations.	MODIFICATION RECOMMENDED BASED ON PLANNING COMMISSION HEARING AND TESTIFIERS' INPUT
C.14.f		For small and medium utilities, include separate additional standards for solar energy generation and wind energy generation. For large utilities, solar energy generation is subject to the general standards, and wind energy generation is subject to additional standards.	OK
C.14.g		Retain the setback requirement for small and medium wind energy generation facilities of a minimum distance equal to the height of the facility. The setback requirement for large wind energy generation facilities is a minimum distance equal to the height of the facility, and a minimum of 1 mile (instead of 1.25 miles) from the property lines of any zoning lot located in the country, residential, apartment, apartment mixed use, and resort zoning districts.	OK
Commercial uses			
C.1.n C.1.o	Daycare	Add daycare (child and adult) in AG-1 w/ C*	OK
C.15 C.16.b		Added provision that 75 % of zoning lot are be dedicated to active ag use for as long as use is in operation.	OK
C.16.a		Require that adult day care facilities with more than 25 care recipients provide an onsite pickup and drop-off area equivalent to four standard-sized parking spaces	OK
C.18.a	Hotel	In the definition of hotel, delete reference to a stay period of less than 30 days, and add reference to a lobby, desk or counter with 24-hour clerk service, and facilities for registration and keeping of records relating to hotel guests.	OK
C.1.q		Amend the minor hotel entry to add Cm* in the I-2 District; and C* (instead of P*) in the IMX-1 District.	OK
C.1.r		Amend the major hotel entry to add Cm* in the I-2 District; and C* in the IMX-1 District.	OK
C.18.b		Provide that in the I-2 and IMX-1 Districts, minor and major hotels are only permitted within 1.2 miles (instead of one mile) of the 12 Daniel K. Inouye International Airport principal entrance located at the intersection of Paiea Street and Nimitz Highway.	OK



CD1 Summary No.	Use	CD1 AMENDMENT PROPOSAL	DPP Comment
C.1.p	BnB & TVU	Update BnB & TVU regulations to reflect ORD 22-7	OK
C.17		Combines the B&B and TVU provisions (previously duplicate separate provisions).	OK
C.17		Adds a new Section 21-5.70-3(a)(4) to incorporate the previous footnote in the existing Table 21-3 ("Master Use Table") that applies to B&Bs and TVUs relating to instances where the applicable development plan or sustainable communities plan prohibits the establishment of new B&Bs or TVUs.	OK
E & F		Updates references to Nonconforming Use Certificates for TVUs and BnBs.	OK
C.1.s C.20	Nature-Based Recreation	Add a new nature-based recreation entry, with C* in the P-2, AG-1, and AG-2 Districts. Defined as a permanent facility for outdoor play or recreation, often containing recreational equipment and facilities intended to promote or enhance access to natural areas on land with preserved wildlife and natural features.	RECOMMEND FIXING TABLE 21-5.1. Summary suggests it will be allowed in P-2 District, but Table 21-5.1 does not show it.
C.20.a		In the AG-1 and AG-2 Districts, a minimum of 75 percent of the zoning lot must be dedicated to agricultural or passive undeveloped recreational areas.	OK
C.20.b		Cabins are limited to one per acre, and must not have kitchens or wet bars.	OK
G		Adds Nature-Based Recreation use to parking table (parking determined by director)	OK
C.19	Outdoor Recreation	Delete horseback riding stables or ranches as a general outdoor recreation use (adds horseback riding stables or ranches to the new nature-based outdoor recreation use).	OK
C.1.t C.21	Zoo	Add a new zoo entry, with C* in the P-2 and AG-2 Districts. Defined as a facility usually with indoor and outdoor settings, where animals live in captivity and are put on display for the public to view. Standards are the same as currently set forth in ROH Section 21-5.710.	REQUIRES DISCUSSION Honolulu zoo is a public use allowed in every district. Does this proposal include a petting zoo on AG land that could be part of another use, like agribusiness? Or livestock keeping? So, is this new use necessary?
C.1.u	Mobile Commercial Establishment	Remove mobile commercial establishments from Country District, add * in the Resort District.	OK
	Miscellaneous		
C.22.a	Transfer of Development	For historic site donors, only floor area may be transferred to receiving lot, all other standards of the receiving lot zoning district remain in effect.	OK
C.22.b		For SMA site donors, only floor area or # of dwelling units may be transferred, and all other standards of the receiving lot zoning district remain in effect.	OK.
C.22.c		The agreement running with the land for all donor and receiving zoning lots must remain in effect for a minimum of 60 years (instead of 30 years).	OK

On 7/14/22 P&Z Agenda: Changes included in "Part II: Detailed Summary by Bill Section," letters A, B, D, H, J, K & L are all OK.

**Proposed Amendments to Bill 10 (2022), CD1**  
**Submitted by the Department of Planning and Permitting (DPP) – July 2022**

CD1 Summary No.	ROH Section Exhibit or Figure and Title	CD1 Page No.	Amendment Description	Amendment Text (in Ramseyer form with Bill 10 CD1 as the base language)	Comments or clarifications
C.4.a	21-5.40-4(e)(2)(A)	22	Allow sufficient space for farm dwellings on very small nonconforming AG lots.	(A) Crop production and livestock keeping must occupy a minimum of 75 percent of the zoning lot area and valid agricultural dedication status must be maintained as evidence of agricultural activity, <u>provided on a nonconforming lot that is less than 20,000 s.f., a farm dwelling may be situated on 25% of the lot area or 5,000 s.f., whichever is less.</u>	On very small lots, 75% of the lot area dedicated to crop production would leave insufficient space to accommodate a dwelling.
C.1.j	Table 21-5.	6	Rename Communication tower alternative support structure to alternative support structure.	<del>[Communication tower]</del> Alternative support structure	Use of “tower” in name not recommended. A tower is not a permitted design type under this land use classification, and this creates confusion with “communication tower.” We recommend either deleting “tower” from the name.
C.1.j	21-5.60-2(c) 21-5.60-2(c)(2)(B) 21-5.60-2(c)(2)(C) 21-5.60-2(c)(2)(D)	43		<del>[Communication tower alternative]</del> <u>Alternative</u> support structure	See above; changes required for consistency purposes.
C.14.e	21-5.60-5(a)(1)	48	Add specificity to definition of small utility.	Also includes nongeneration energy installations with minor impacts on adjacent land uses, such as <del>[facilities, devices, equipment, or distribution lines used directly in the distribution of utility services, such as water, gas, electricity,]</del> <u>46 kilovolt or lower voltage electrical substations, vaults, distribution equipment, and accessory telecommunications antennas to support these installations, minor residential gas infrastructure, and other</u> <del>[broadcasting antennas, and refuse collection other than facilities included in the waste disposal and processing use]</del> <u>similar uses.</u>	HECO requests the clarity afforded by including 46 KV electrical substations here. We recommend not including water, gas, broadcasting and refuse collection as those facilities are covered under other uses, or become accessory to the principal uses on sites. Current language is so broad that the boundary between utilities and communications uses (telecommunications) is muddled.
C.14.c	21-5.60-5(a)(2)(A)(iii) 21-5.60-5(b)(2)(A)(iii) 21-5.60-5(c)(2)(A)(iii)	49 52 54	Clarify when a small, medium or large utility will be deemed abandoned	...utilities will be deemed abandoned if <del>[not in]</del> <u>the use ceases for one</u> continuous <del>[use for a minimum of one]</del> year, with the exception of periods related to necessary maintenance, transfer of ownership or operation, or repairs to the system.	Recommend this change based on input from the Planning Commission and the testifiers at the Planning Commission hearing, including representatives of the solar industry and HECO.
C.14.d	21-5.60-5(a)(2)(A)(iv) 21-5.60-5(b)(2)(A)(iv) 21-5.60-5(c)(2)(A)(iv)	49 52 54	Specify that emergency work requires after-the-fact approval.	In an emergency, a utility may undertake corrective actions deemed necessary by the utility to avoid unacceptable hazard to life, significant loss of property, or significant economic hardship due to extended loss of power or service, <u>provided the applicable after-the-fact approvals are obtained.</u>	This allows the DPP to review and ensure our records are up to date relating to utilities, and where permits are warranted the applicant obtains them.

CD1 Summary No.	ROH Section Exhibit or Figure and Title	CD1 Page No.	Amendment Description	Amendment Text (in Ramseyer form with Bill 10 CD1 as the base language)	Comments or clarifications
C.1.s C.20	Table 21-5.1	8	Allow nature based recreation with a major CUP in P-2 District.	<i>Add to the Use Table within the P-2 District: <u>C*</u></i>	We agree with the CD1 summary that nature-based recreation should be allowed in the P-2 District with a major CUP because the purpose of the P-2 District is to serve as outdoor space for the public's use and enjoyment.
Discussed by testifiers	21-5.60-2	40	Specify that Communications facilities qualify for Zoning Waivers as utility installations.	Uses for transmitting radio waves or wireless services. Uses in the communication category <u>are considered utility installations for purposes of zoning waivers and</u> consist of the following subcategories in Table 21-5.1:	Next phase of LUO update will update references in Article 2. In the meantime, this will clarify that these facilities still qualify for waivers.
Discussed by testifiers	21-5.60-5(b)(2)(C)(ii) 21-5.60-5(c)(2)(B)(ii)	53 54	Specify wind energy blade tips may NOT be closer than 15 feet from the ground.	For any ground-mounted wind energy generation facility, the tower climbing apparatus and blade tips of the facility may <u>not</u> be lower than 15 feet from ground level, unless enclosed by a 6-foot high fence, and may not be within 7 feet of any roof or structure, unless the blades are completely enclosed by a protective screen or fence.	Appears that the medium and large wind machine blade tip minimum height above ground has inadvertently been changed to allow it to be closer than 15 feet above grade.
Discussed by testifiers	21-5.60-5	48	Add "other than public facilities" to definition of utility.	A facility for generating and distributing utility services such as electricity, gas, sewer, water, cable, and internet, <u>other than public facilities</u> .	This allows us to distinguish between utility uses and public facilities. HECO also prefers this language be added back in. It allows us to differentiate between a government public facility, like a wastewater pump station, and a private utility, like a HECO substation.