



CITY COUNCIL

CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII 96813-3077

COMMITTEE ON ZONING AND PLANNING

Voting Members:

Brandon J.C Elefante, Chair
Esther Kia'aina, Vice Chair
Radiant Cordero
Calvin K.Y. Say

Item No. 1 - Resolution 22-173 -
Performance audit of the DPP's
selection of employees for
temporary assignments has been
cancelled.

AGENDA

REGULAR MEETING
CITY COUNCIL CHAMBER
THURSDAY, AUGUST 25, 2022
9:00 A.M.

Meeting is in recess until 1:10 p.m.

PUBLIC PARTICIPATION AND TESTIMONY

Pursuant to Act 220, Session Laws of Hawaii 2021, in order to allow public participation in a manner consistent with safe COVID-19 practices, this meeting will be conducted as a remote meeting by interactive conference technology, with the following procedures in effect for the meeting:

VIEWING THE MEETING

The meeting will be viewable: (1) by internet live streaming through <https://www.honolulucitycouncil.org/meetings> or [olelo.org](https://www.olelo.org); (2) by televised live broadcast on 'Olelo TV Channel 54; and (3) on the monitor situated outside the Council Chamber. Viewers who experience a loss of viewing signal should try switching to another viewing option.

After the meeting, the meeting will be viewable on demand at <https://www.honolulucitycouncil.org/meetings>. Copies of older meeting videos may be requested by calling the City Clerk's Office at (808) 768-5822, charges may apply.

Some Councilmembers and presenters may be participating in the meeting by interactive conference technology from remote locations.

ORAL TESTIMONY

Oral testimony will be permitted on all items on the agenda, subject to the following restrictions:

Each speaker may not have anyone else read their statement and is limited to a one-minute presentation.

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Remote Testimony

1. Persons may submit oral testimony remotely through the Zoom video conferencing platform. To participate, persons should visit <https://hnlldoc.ehawaii.gov/hnlldoc/testimony>. Videoconference access information will be provided upon submission of testimony/registration. Zoom testifiers are strongly encouraged to register at least 24 hours before the start of the meeting.
2. To submit oral testimony by phone only, please contact the Council Information Section at (808) 768-5822 to register and obtain telephone access information.

In-Person Testimony in the Council Chamber

Persons may also submit oral testimony in the Council Chamber.

Persons wishing to testify are requested to register by 9:00 a.m. by filling out the registration form in person outside the Council Chamber. Persons who have not registered will be given an opportunity to speak following the oral testimonies of the registered speakers.

Members of the public entering the Council Chamber are requested to spread themselves out. If the Chamber becomes crowded, members of the public may be requested to wait outside the Chamber until called to testify.

Oral testimony, both remote and in-person, will be allowed:

1. **For all agenda items, at the start of the agenda; and**
2. **For each agenda item, when the item is taken up.**

Persons may choose to present their testimony either at the start of the agenda or when the item or items is/are taken up, but not both. Registered testifiers wishing to testify when an item is taken up should state their preference when their names are called during the testimony period at the start of the agenda.

WRITTEN TESTIMONY

Written testimony may be uploaded via the internet at <https://hnlldoc.ehawaii.gov/hnlldoc/testimony>, or mailed to Office of the City Clerk, Attention: Information Section, 530 South King Street, Room 100, Honolulu, HI 96813.

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If submitted, written testimonies, including the testifier's address, e-mail address, and phone number, will be available to the public at <https://hnlldoc.ehawaii.gov>.

Should you have any questions, please call (808) 768-3801 or send an email to guehara@honolulu.gov.

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MATERIALS AVAILABLE FOR INSPECTION

Meeting materials ("*board packet*" under HRS Section 92-7.5) are accessible at <https://hnlldoc.ehawaii.gov/hnlldoc/browse/agendas> by clicking on the appropriate Council meeting.

Accommodations are available upon request to persons with disabilities. Please call (808) 768-3801 or send an email to guehara@honolulu.gov at least three working days prior to the meeting.

FOR ACTION

1. **RESOLUTION 22-173 – PERFORMANCE AUDIT OF THE DEPARTMENT OF PLANNING AND PERMITTING'S SELECTION OF EMPLOYEES FOR TEMPORARY ASSIGNMENTS.** Directing the City Auditor to conduct a performance audit of the Department of Planning and Permitting's selection of employees for temporary assignments. **CANCELLED**
2. **RESOLUTION 22-181 – EXTENDING THE DEADLINE FOR COMMENCEMENT OF CONSTRUCTION OF THE KAPOLEI PARKWAY MIXED-USE AFFORDABLE RENTAL HOUSING PROJECT.** Amending Resolution No. 20-272, CD1 to extend the deadline for commencement of construction of the Kapolei Parkway Mixed-Use Affordable Rental Housing Project at Honouliuli, Ewa, Oahu, Hawaii, Tax Map Key 9-1-160: 018 (por). (Applicant: Kobayashi Group, LLC) (Transmitted by Communication D-570 [2022])

Related communications:

M-207 (2022) R.M. Towill Corporation, submitting request for an Extension of Time for Resolution 20-272, CD1.

M-321 (2022) Submitted by R.M. Towill Corporation, presentation titled "Kapolei Parkway Mixed-Use Affordable Rental Housing" for Resolution 22-181.
3. **BILL 43 (2022) – ADMINISTRATIVE ENFORCEMENT OF THE BUILDING, ELECTRICAL, PLUMBING, AND SIDEWALK CODES.** Addressing the administrative enforcement of the building, electrical, plumbing, and sidewalk codes. (Bill passed Second Reading and Public hearing held on 8/10/22)
4. **RESOLUTION 22-175 – 58-2 MAKANALE STREET - KAUNALA, NORTH SHORE (2022/SMA-34).** Granting a Special Management Area (SMA) Use Permit to allow the construction of three single-family detached dwelling units, two shallow swimming pools, two garages, landscaping elements, and supporting infrastructure at Tax Map Key 5-8-003: 012 in Kaunala, North Shore. (Applicant: John and Fumie Winebarger) (Transmitted by Communication D-542 [2022]) (Current deadline for Council action: 9/17/22)

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PROPOSED CD1 TO RESOLUTION 22-175 (Submitted by Councilmember Elefante) – The Proposed CD1 (OCS2022-0650/8/10/2022 10:59 AM) makes the following amendments:

- A. Amends the title and 1st WHEREAS clause by replacing "three single-family detached dwelling units" with "one single-family detached dwelling unit and one two-family detached dwelling unit (three dwelling units total)."
- B. Makes miscellaneous technical and nonsubstantive amendments.

Related communication:

M-322 (2022) SWCA, submitting presentation titled "Reso 22-175 – SMA Permit for 58-2 Makaanale Street, Haleiwa".

- 5. **BILL 46 (2022) – HEIGHT LIMITS FOR ROOFTOP STRUCTURES.** Increasing the proliferation of rooftop solar panels by allowing rooftop solar panels to be placed above rooftop equipment and allowing the creation of new rooftop gathering space underneath rooftop solar panels. (Transmitted by Communication D-439 [2022]; Bill passed First Reading on 8/10/22)

PROPOSED CD1 TO BILL 46 (2022) (Submitted by Councilmember Elefante) – The Proposed CD1 (OCS2022-0655/8/9/2022 3:30 PM) makes the following amendments:

- A. In SECTION 3 of the bill, clarifies in ROH Section 21-4.100 that for a rooftop gathering space that is not enclosed, outdoor lighting must be shielded with full cut-off fixtures to eliminate direct illumination beyond the rooftop gathering space.
- B. In SECTION 5 of the bill, deletes instructions to the Revisor of Ordinances regarding replacement of the phrase "effective date of this ordinance" with the actual date on which the ordinance takes effect (the bill does not refer to the "effective date of this ordinance").
- C. Makes miscellaneous technical and nonsubstantive amendments.

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6. **BILL 39 (2022) – STATE PLUMBING CODE.** Adopting the Hawai'i State Plumbing Code, as required by HRS Sec.107-28, subject to local amendments. (Transmitted by Communication D-421 [2022]; Bill passed First Reading on 7/6/22).

PROPOSED CD1 TO BILL 39 (2022) (Submitted by Councilmember Elefante) – The Proposed CD1 (OCS2022-0618/8/17/2022 10:26 AM) makes the following amendments:

- A. Conforms the style of amendments being proposed to the style of proposed amendments to the Building Code (ROH Chapter 16 – See Ordinance 20-7).
- B. Deletes the attached "SUMMARY OF PROPOSED CHANGES TO 2018 CODE" matrix.
- C. Clarifies in Section 106.7 (Item (22) in the proposed draft) that the section pertains to a notices of order.
- D. In Section 220.0 (Item (30) in the proposed draft), deletes the addition of "Registered professional engineer" and instead amends the definition of "Registered Design Professional" to mean an engineer licensed in the State of Hawaii under HRS Chapter 464, as amended, and makes conforming amendments throughout the bill where appropriate.
- E. Amends Section 411.2 (relating to Water Consumption and referenced as Item (42) in the proposed draft) at the request of the Department of Planning and Permitting through Departmental Communication 552 (2022).
- F. Clarifies in Section 814.5 (Item (70) in the proposed draft) that a condensate drain must be trapped in accordance with the appliance manufacturer's instructions or as approved by the Authority Having Jurisdiction.
- G. Adds a new SECTION 4 of the bill to require that the Revisor of Ordinances, pursuant to the Revisor's authority under ROH Section 1-16.3(b)(1), replace the phrase "effective date of this ordinance" or similar phrase with the actual date on which the bill takes effect, and renumbers SECTION 4 as SECTION 5.

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- H. Revises SECTION 5 to specify that the bill takes effect 90 days after its approval; provided that in the interim period after approval, applicants for a Plumbing Code permit may use the Plumbing Code adopted hereby as an alternative to the existing Plumbing Code.
- I. Makes miscellaneous technical and nonsubstantive amendments.

Related communication:

D-552 (2022) Department of Planning and Permitting, transmitting notification of a typographical error in their submission of the draft Bill 39 (2022).

- 7. **BILL 41 (2022) – SHORELINE SETBACKS.** Updating ROH Chapter 23, relating to shoreline setbacks, to incorporate amendments made by Act 16, Session Laws of Hawaii 2020, to HRS Chapter 205A, the State Coastal Zone Management law, and to implement an erosion-rate-based shoreline setback formula. (Transmitted by Communication D-444 [2022]; Bill passed First Reading on 7/6/22)

PROPOSED CD1 TO BILL 41 (2022) (Submitted by Councilmember Elefante) – The Proposed CD1 (OCS2022-0567/8/10/2022 4:22 PM) makes the following amendments:

- A. Section 23-1.3 is amended by:
 - 1. Amending the definition of "dwelling unit" to read as follows:

"Dwelling unit" means the same as defined in Section 21-10.1. For purposes of this chapter, dwelling units include farm dwellings, ohana units, accessory dwelling units, and caretaker units.
 - 2. Adding definitions of "Hawaii Sea Level Rise Vulnerability and Adaptation Report," "Hawaii Sea Level Rise Viewer," and "Hawaii Shoreline Study web map."
 - 3. Amends the definition of "shoreline area" to refer to the revised term "shoreline setback area" and places the definition in alphabetical order.

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- B. Section 23-1.4(a) is amended by amending the date after which the shoreline setback line will be established at distances mauka from the certified shoreline pursuant to subdivisions (1), (2), and (3) to January 1, 2024 (instead of January 1, 2023). (Requested by the DPP.)
- C. Section 23-1.7(a)(1) is amended by providing that the shoreline setback line for subdivision actions involving an existing shoreline zoning lot and the creation of new zoning lots will be established at 130 feet mauka of the certified shoreline effective January 1, 2024 (instead of upon approval of the ordinance).
- D. Section 23-1.7(c)(2) is amended to delete the reference to a 130-foot shoreline setback (only refers to outside of the shoreline setback area).
- E. Section 23-1.9(b) is amended to clarify that structures, activities, and uses approved by a shoreline setback variance within the shoreline setback area are not eligible for a subsequent shoreline setback variance to construct shoreline hardening in the shoreline setback area, and hardship may not be determined as a result of a former shoreline setback variance approval.
- F. SECTION 4 of the bill is amended by changing the effective date to "upon approval"; provided that:
 - 1. Any application for a shoreline setback variance submitted to the Director of Planning and Permitting and accepted as complete prior to January 1, 2024, is not affected by:
 - a. The determination of the shoreline setback line under Section 23-1.4, Revised Ordinances of Honolulu 1990, or any successor ordinance; and
 - b. The determination of the shoreline setback line for subdivision actions involving an existing shoreline zoning lot and the creation of new zoning lots under Section 23-1.7(a)(1), Revised Ordinances of Honolulu 1990, or any successor ordinance; and
 - 2. The ordinance does not affect any shoreline setback variances that have been approved prior to the effective date of the ordinance.
- G. Makes miscellaneous technical and nonsubstantive amendments.

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Related communication:

D-613 (2022) Department of Planning and Permitting, submitting presentation titled "Revisions to the Special Management & Shoreline Setback Regulations" for Bills 41 (2022) and 42 (2022).

8. **BILL 42 (2022) – SPECIAL MANAGEMENT AREA.** Updating ROH Chapter 25, relating to the special management area, and to incorporate amendments made by Act 16, Session Laws of Hawaii 2020, to HRS Chapter 205A, the State Coastal Zone Management law. (Transmitted by Communication D-444 [2022]; Bill passed First Reading on 7/6/22)

PROPOSED CD1 TO BILL 42 (2022) (Submitted by Councilmember Elefante) – The Proposed CD1 (OCS2022-0648/8/16/2022 12:33 PM) makes the following amendments:

A. In SECTION 2 of the bill:

1. Revises the definition of "dwelling unit" in ROH Section 25-1.3 ("Definitions") to mean the same as defined in ROH Section 21-10.1 and clarifies that for purposes of ROH Chapter 25, "dwelling unit" includes farm dwellings, ohana units, accessory dwelling units, and caretaker units; and
2. Adds definitions for "Hawaii Sea Level Rise Vulnerability and Adaptation Report," "Hawaii Sea Level Rise Viewer," and "shoreline setback line;"
3. Further revises the title of ROH Section 25-5.1 to read "Information—Preliminary determination;"
4. In ROH Section 25-5.2(a), reinstates the enumerated required submittals to the agency, and, in subdivision (1), provides that the application form must be filled out in accordance with the agency's application instructions; and
5. Clarifies in ROH Section 25-5.3 that an applicant for a special management area major permit must submit to the Department of Planning and Permitting, among other things, the same application materials required for a special management area minor permit.

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B. In SECTION 4 of the bill, provides that:

1. The ordinance does not affect any special management area major or minor permits that have been issued prior to the effective date of the bill; and
2. All special management area major or minor permit applications received prior to the effective date of the bill and deemed complete for processing by the Department of Planning and Permitting must be processed in accordance with ROH Chapter 25 as it read prior to the effective date of the bill.

C. Makes miscellaneous technical and nonsubstantive amendments.

Related communication:

D-613 (2022) Department of Planning and Permitting, submitting presentation titled "Revisions to the Special Management & Shoreline Setback Regulations" for Bills 41 (2022) and 42 (2022).

9. **BILL 10 (2022) – LUO AMENDMENT RELATING TO USE REGULATIONS.** Addressing the regulation of uses throughout Chapter 21, Revised Ordinances of Honolulu 1990 ("Land Use Ordinance"). (Transmitted by Communication D-74 [2022]; Bill passed First Reading on 2/23/22) (Current deadline for Council action: 10/29/22)

PROPOSED CD1 TO BILL 10 (2022) (Submitted by Councilmember Elefante) – The CD1 (OCS2022-0540/7/8/2022 11:49 AM) makes the following amendments:

PART I. BRIEF SUMMARY BY SUBJECT MATTER

The PROPOSED CD1 includes some of the amendments recommended by the DPP, including in written testimony dated January 14, 2022, submitted to the Planning Commission. Other amendments are proposed by the Zoning and Planning Committee Chair. An overview of the key amendments by subject matter follows.

1. Agritourism. Requires 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), through an

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agricultural easement or similar legal encumbrance acceptable to the DPP Director. Deletes bus, jeep, or off-road vehicle tours using motorized vehicles as a permitted agritourism use. Limits weddings and similar accessory destination events to no more than one event (instead of two events) per week.

2. Three-unit dwellings. Deletes three-unit dwellings as a separate residential use. Multi-unit dwellings include buildings with three or more (instead of four or more) dwelling units.
3. Multi-unit dwellings in the B-1 and B-2 Districts. Permits multi-unit dwellings in the B-1 and B-2 Districts so long as certain minimum commercial area requirements are satisfied (minimum 10,000 sq. ft. of commercial space for zoning lots larger than 4 acres but smaller than 7 acres in size; minimum 40,000 sq. ft. of commercial space for zoning lots over 7 acres in size; zoning lots with a minimum non-residential FAR of 0.3); and requires the provision of certain pedestrian and bicycle access paths.
4. Household and large group living. "Household" is defined as occupancy of a single dwelling unit by more than five (instead of six) unrelated natural persons. Large group living includes the occupancy of a dwelling unit by more than five (instead of six) unrelated residents. (The existing LUO defines the term "family" as no more than five unrelated persons.)
5. Uses in the agricultural zoning districts. In the AG-1 and AG-2 Districts, certain uses (meeting facilities, group living, child daycare, adult daycare, and K-12 schools) are permitted with a major conditional use permit, and require a minimum of 75 percent of the zoning lot area to be dedicated to active agricultural use for as long as the applicable use is in operation, through an agricultural easement or similar legal encumbrance acceptable to the DPP Director.
6. Hotels. Minor and major hotels are permitted in the I-2 District, subject to a minor conditional use permit, and in the IMX-1 District subject to a major conditional use permit. Minor and major hotels in the I-2 or IMX-1 Districts are only permitted within 1.2 miles (instead of one mile) of the Daniel K. Inouye International Airport principal entrance located at the intersection of Paiea Street and Nimitz Highway. In the definition of "hotel," deletes reference to a stay period of less than 30 days, and adds reference to a lobby, desk or counter with 24-hour clerk service, and facilities for registration and keeping of records relating to hotel guests.

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7. New uses.

- a. Adds a new nature-based recreation use, 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. Permitted in the P-2, AG-1, and AG-2 Districts with a major conditional use permit. Includes horseback riding stables or ranches, which has been deleted from the general outdoor recreation use. 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, through an agricultural easement or similar legal encumbrance acceptable to the DPP Director.
- b. Adds a zoo use, 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. Permitted in the P-2 and AG-2 Districts with a major conditional use permit. Standards are the same as currently set forth in ROH Section 21-5.710.

8. Utilities. Amends the definitions of small, medium, and large utilities, and includes certain types of non-generation energy installations for small and medium utilities. Deletes provisions relating to electromagnetic interference ("EMF"). Establishes staggered time periods for the dismantling of abandoned utilities (90 days for small utilities, 180 days for medium utilities, and one year for large utilities). Adds new emergency work provisions. Provides for separate standards for solar energy generation and wind energy generation. Retains 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.

9. Communications.

- a. Permits dish antennas in the AG-1 and AG-2 Districts with a minor conditional use permit, and adds a standard that all dish antennas must be located or screened to minimize visual impacts.

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- b. Amends the "tower antenna" use to "communication tower" use and clarifies the definition. Deletes communication tower standards relating to setbacks, and discontinued use and removal if harmful to the public health. Amends communication tower standards relating to structural design, information required in a communication tower application, landscaping plans, and monotree installation design. Deletes standards relating to communication tower replacement, and instead provides that once an eligible facilities request for a communication tower is approved pursuant to federal law, no other land use permits are required. Adds a standard requiring a minor conditional use permit in the industrial zoning districts if the zoning lot for the communication tower is adjacent to any zoning lot in the residential, apartment, or apartment mixed use zoning districts.
 - c. Amends the "stealth antenna" use to "communication tower alternative support structure" use. Deletes communication tower alternative support structure standards relating to setback requirements, screening requirements, landscaping plans, and instead provides that communication tower alternative support structures must be concealed to minimize visual impacts using architecture, landscape, and site solutions. Deletes standards relating to communication tower alternative support structure replacement, and instead provides that once an eligible facilities request for a communication tower is approved pursuant to federal law, no other land use permits are required.
10. Transfer of development. 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). Clarifies that for the transfer of development (floor area only) from a donor zoning lot with a historic site to a receiving zoning lot, or for the transfer of development (floor area or number of dwelling units only) from a donor zoning lot within the special management area to a receiving zoning lot, all other requirements and standards applicable to the receiving zoning lot and its underlying zoning district remain in effect.

PART II. DETAILED SUMMARY BY BILL SECTION

The **PROPOSED CD1** makes the following amendments, which are listed by bill SECTION:

- A. Combines SECTIONS 1 and 2 of the bill, which both relate to the purpose of the ordinance. Renumbers subsequent bill SECTIONS.
- B. In renumbered SECTION 3 of the bill, renumbers and reformats new LUO Article 5 to list each use type as a section (for example, Section 21-5.40 Agricultural uses); each use category as a separate section under that section (for example, Section 21-5.40-1 Crop production); and each use subcategory as a subsection under that section (for example, Section 21-5.40-1(a) Aquaculture).
 - 1. In Table 21-5.1 ("Table of Permitted Uses") amends the far right column, which lists the section number where use definitions and standards may be found, to correct citation references.
 - 2. Corrects citation references throughout LUO Article 5.
- C. In renumbered SECTION 3 of the bill:
 - 1. In Section 21-5.30 ("Use table"), amends Table 21-5.1 to:
 - a. Delete the EU (existing use only) symbol in the Table 21-5.1 legend.

Residential use

- b. Delete the three-unit dwelling entry (three-unit dwellings no longer a separate residential use).
- c. Amend the small group living entry to C* (instead of Eu*) in the AG-1 and AG-2 Districts.
- d. Amend the large group living entry to C* (instead of Eu*) in the AG-1 and AG-2 Districts; C* (instead of C) in the A-2, A-3, AMX-1, AMX-2, AMX-3, and BMX-3 Districts; and Cm* (instead of Cm) in the BMX-4 District.

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- e. Amend the accessory dwelling unit entry to delete P* in the AG-1 and AG-2 Districts (accessory dwelling units no longer a permitted use in the agricultural zoning districts).

Public, civic, and institutional use

- f. Amend the small meeting facility entry to C* (instead of Eu) in the AG-1, AG-2, and Country Districts.
- g. Amend the medium meeting facility entry to C* (instead of Eu) in the AG-1, AG-2, and Country Districts.
- h. Amend the dish antenna entry to Cm* in the AG-1 and AG-2 Districts; and P* (instead of P) in the Resort, B-2, BMX-3, BMX-4, I-1, I-2, I-3, and IMX-1 Districts.
- i. Amend the tower antenna entry to use the term communication tower, and P* (instead of C*) in the I-1, I-2, and I-3 Districts.
- j. Amend the stealth antenna entry to use the term communication tower alternative support structure, and P* (instead of P) in the A-2, A-3, AMX-1, AMX-2, AMX-3, Resort, B-1, B-2, BMX-3, and BMX-4 Districts.
- k. Amend the K-12 school entry to C* in the AG-1 District; and C* (instead of Cm*) in the AG-2 District.
- l. Amend the cemetery entry to P* (instead of P) in the P-2 and IMX-1 Districts.
- m. Amend the medium utility entry to P* (instead of Cm*) in the I-1, I-2, and IMX-1 Districts.

Commercial use

- n. Amend the child daycare entry to C* in the AG-1 District.
- o. Amend the adult daycare entry to C* in the AG-1 District; and C* (instead of C) in the AG-2 District.

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- p. Amend the bed and breakfast home entry to reflect the current permitted uses as amended in Ordinance 22-7 (delete P* in the AG-1, AG-2, Country, R-20, R-10, R-7.5, R-5, R-3.5, AMX-1, AMX-2, AMX-3, BMX-3, and BMX-4 Districts).
 - q. Amend the minor hotel entry to add Cm* in the I-2 District; and C* (instead of P*) in the IMX-1 District.
 - r. Amend the major hotel entry to add Cm* in the I-2 District; and C* in the IMX-1 District.
 - s. Add a new nature-based recreation entry, with C* in the P-2, AG-1, and AG-2 Districts.
 - t. Add a new zoo entry, with C* in the P-2 and AG-2 Districts.
 - u. Amend the mobile commercial establishment entry to delete Cm* in the Country District (mobile commercial establishments no longer permitted in the Country District), and add P* in the Resort District.
- 2. Amends renumbered ROH Section 21-5.40-1(h) to provide that vertical farms are only permitted in areas with soils that are rated a poor quality D or worse (instead of C or worse).
 - 3. Amends renumbered ROH Section 21-5.40-4(b) (relating to agritourism) to:
 - a. Amend ROH Section 21-5.40-4(b)(2)(F) to 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), through an agricultural easement or similar legal entitlement acceptable to the DPP Director.
 - b. Delete ROH Section 21-5.40-4(b)(G), which allowed bus, jeep, or off-road vehicle tours using motorized vehicles as a permitted agritourism use (off-road vehicle tours no longer permitted as an agritourism use). Realphabetizes the subsequent paragraph.

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- c. Amend realphabetized ROH Section 21-5.40-4(b)(G) to limit weddings and similar accessory destination events to no more than one event (instead of two events) per week.
- 4. Amends renumbered ROH Section 21-5.40-4(e) (relating to farm dwellings) to:
 - a. Require that crop production and livestock keeping must occupy a minimum of 75 percent (instead of 50 percent) of the zoning lot area, and that valid agricultural dedication status must be maintained as evidence of the agricultural activity; and
 - b. Provide that a farm dwelling is not permitted as an accessory use to boarding and care of horses and domestic animals.
- 5. Amends renumbered ROH Section 21-5.40-4(h) (relating to farmers market) to require a minimum of 75 percent (instead of 50 percent) of the zoning lot area to be dedicated to active agricultural use for as long as the farmers market is in operation, through an agricultural easement or similar legal entitlement acceptable to the DPP Director.
- 6. Deletes renumbered ROH Section 21-5.50-1(d) (relating to three-unit dwellings). Realphabetizes the subsequent subsection. Makes conforming amendments throughout the bill to delete references to three-unit dwellings.
- 7. Amends renumbered and realphabetized ROH Section 21-5.50-1(d) to permit multi-unit dwellings in the B-1 and B-2 Districts so long as certain minimum commercial area requirements are satisfied (minimum 10,000 sq. ft. of commercial space for zoning lots larger than 4 acres but smaller than 7 acres in size; minimum 40,000 sq. ft. of commercial space for zoning lots over 7 acres in size; zoning lots with a minimum nonresidential FAR of 0.3); provided that a pedestrian and bicycle access path a minimum of 8 feet in width is required from adjacent rights-of-way to both residential and nonresidential uses on the zoning lot.

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8. Amends renumbered ROH Section 21-5.50-2 to provide that in the AG-1 and AG-2 Districts, small and large group living must be of an agricultural nature, and as a condition of approval, a minimum of 75 percent of the zoning lot area must be dedicated to active agricultural use for as long as the group living is in operation, through an agricultural easement or similar legal entitlement acceptable to the DPP Director.
9. Amends renumbered ROH Section 21-5.50-2(b) (relating to large group living) to include the occupancy of a dwelling unit by more than five (instead of six) unrelated residents.
10. Amends renumbered ROH Section 21-5.60-1(c) to provide that in the AG-1 and AG-2 Districts, small or medium meeting facilities may be permitted if as a condition of approval, a minimum of 75 percent of the zoning lot area must be dedicated to active agricultural use for as long as the meeting facility is in operation, through an agricultural easement or similar legal entitlement acceptable to the DPP Director.
11. Amends renumbered ROH Section 21-5.60-2 (relating to communication) to:
 - a. Add a standard that all dish antennas must be located or screened to minimize visual impacts, especially from public rights-of-way or public places.
 - b. Use the term "communication tower" (instead of tower antenna) and:
 - (i) Amend the definition to mean any structure constructed for the sole or primary purpose of supporting any Federal Communications Commission-licensed or authorized antennas and associated facilities (also provides examples of structures that are considered to be communication towers).
 - (ii) Delete the standard that requires communication towers supported by guy wires to be set back from all property lines a minimum of 1 foot for every 1 foot of height.

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- (iii) Amend the standard that requires communication towers to be designed to structurally accommodate the maximum number of additional users technically practicable by deleting specific capacity and location requirements, and requiring the use of the smallest, least visually intrusive components.
- (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.
- (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.
- (vi) Amend the standard relating to communication tower applications to 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.
- (vii) Amend the standard requiring a landscape plan to provide that in the industrial zoning districts, screening, such as solid walls, may be used instead of landscaping if the communication tower zoning lot is not adjacent to any zoning lot in the residential, apartment, or apartment mixed use zoning districts.
- (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 in the residential zoning districts to use stealth design to minimize visual impacts.

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- (ix) In the industrial zoning districts, require a minor conditional use permit if the zoning lot for the communication tower is adjacent to any zoning lot in the residential, apartment, or apartment mixed use zoning districts.
- c. Use the term "communication tower alternative support structure" (instead of stealth antenna) and:
 - (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.
 - (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.
- 12. Amends renumbered ROH Section 21-5.60-3(a) (relating to K-12 schools) to provide that in the AG-1 and AG-2 Districts, K-12 schools may be permitted if a minimum of 75 percent of the zoning lot area is dedicated to active agricultural use for as long as the K-12 school is in operation, through an agricultural easement or similar legal entitlement acceptable to the DPP Director.
- 13. Amends renumbered ROH Section 21-5.60-5(a) (relating to cemeteries) to require a minimum 50-foot landscaped buffer from the property lines of any adjoining zoning lot in the country, residential, apartment, or apartment mixed use zoning district.

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14. Amends renumbered ROH Section 21-5.60-6 (relating to utilities) to:
 - a. Amend the definitions of small, medium, and large utilities.
 - (i) For small utilities, delete the maximum 20 kilowatt generation limit, and includes non-generation energy installations with minor impacts on adjacent land uses;
 - (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
 - (iii) For large utilities, include energy generation over 5 megawatts, and wind energy generation facilities with a rated capacity of 100 kilowatts or more.
 - 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.
 - 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.
 - 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.

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- e. Clarify the types of "nongeneration energy installations" for small and medium utilities. Large utilities include only energy generation installations.
 - 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.
 - 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.
15. Amends renumbered ROH Section 21-5.70-1(a) (relating to child daycare) to provide that in the AG-1 and AG-2 Districts, child daycare may be permitted if a minimum of 75 percent of the zoning lot area is dedicated to active agricultural use for as long as the child daycare is in operation, through an agricultural easement or similar legal entitlement acceptable to the DPP Director.
16. Amends renumbered ROH Section 21-5.70-1(b) (relating to adult daycare) to:
- a. Require that facilities able to accommodate more than 25 care recipients must provide an onsite pickup and drop-off area equivalent to four standard-sized parking spaces; and
 - b. Provide that in the AG-1 and AG-2 Districts, adult daycare may be permitted if a minimum of 75 percent of the zoning lot area is dedicated to active agricultural use for as long as the adult daycare is in operation, through an agricultural easement or similar legal entitlement acceptable to the DPP Director.

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17. Amends renumbered ROH Section 21-5.70-3(a) to reflect the current language for bed and breakfast homes ("B&Bs") and transient vacation units ("TVUs"), as amended by Ordinance 22-7. Combines the B&B and TVU provisions, which are applicable to both B&Bs and TVUs (previously duplicate separate provisions). 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.
18. Amends renumbered ROH Section 21-5.70-3(b) (relating to hotels) to:
 - a. 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; and
 - 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 Daniel K. Inouye International Airport principal entrance located at the intersection of Paiea Street and Nimitz Highway.
19. Amends renumbered ROH Section 21-5.70-9(a) (relating to general outdoor recreation) to 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).
20. Adds a new ROH Section 21-5.70-9(c) to establish a nature-based recreation use, 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. Standards include:
 - 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, through an agricultural easement or similar legal entitlement acceptable to the DPP Director; and

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- b. Cabins are limited to one per acre, and must not have kitchens or wet bars.
- 21. Adds a new ROH Section 21-5.70-9(d) to establish a zoo use, 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.
- 22. Amends renumbered ROH Section 21-5.90-3 ("Transfer of development") to provide that:
 - a. For the transfer of development from donor zoning lots with a historic site to a receiving zoning lot, only floor area may be transferred, and all other requirements and standards applicable to the receiving zoning lot and its underlying zoning district remain in effect.
 - b. For the transfer of development from donor zoning lots within the special management area to a receiving zoning lot, only floor area or number of dwelling units may be transferred, and all other requirements and standards applicable to the receiving zoning lot and its underlying zoning district remain in effect.
 - 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).
- D. In renumbered SECTION 12 of the bill, amends Table 21-3.2 ("Residential Districts Development Standards") to replace references to dwellings with single-unit, two-unit, and duplex-unit dwellings.
- E. In renumbered SECTION 24 of the bill, reflects the current language of ROH Section 21-4.110-1 ("Transient vacation units—Nonconforming use certificates"), as amended by Ordinance 22-7.
- F. In renumbered SECTION 25 of the bill, reflects the current language of ROH Section 21-4.110-2 ("Bed and breakfast homes—Nonconforming use certificates"), as amended by Ordinance 22-7.

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- G. In renumbered SECTION 26 of the bill, amends Table 21-6.1 ("Minimum Off-Street Parking Ratios") to amend the commercial entry in the SPECIAL USES and CIRCUMSTANCES category to add nature-based recreation.
- H. In renumbered SECTION 53 of the bill, sets forth the entire Section 21-9.80-4(d) (inadvertently truncated in the as-introduced bill) and makes conforming amendments.
- I. In renumbered SECTION 63 of the bill, amends the new definition of "household" to mean one or more natural 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.
- J. Adds bill SECTIONS 65 through 77, to make conforming amendments throughout the ROH (other than in the LUO) to correct terminology that has been amended in LUO Article 5, and to correctly reference definition sections that have been moved from Section 21-10.1 to LUO Article 5. The affected ROH sections include:
 - 1. Bill SECTION 65 – ROH Section 8-7.1 ("Valuation—Considerations in fixing");
 - 2. Bill SECTION 66 – ROH Section 8-7.5 ("Certain property dedicated for residential use");
 - 3. Bill SECTION 67 – ROH Section 8-10.22 ("Exemption—Historic residential real property dedicated for preservation");
 - 4. Bill SECTION 68 – ROH Section 9-3.5 ("Food waste recycling");
 - 5. Bill SECTION 69 – ROH Section 10-1.7 ("Animals in public parks");
 - 6. Bill SECTION 70 – ROH Section 14-10.7 ("Waiver of wastewater system facility charges for accessory dwelling unit projects");
 - 7. Bill SECTION 71 – ROH Section 14-14.4 ("Permit fees");
 - 8. Bill SECTION 72 – ROH Section 15-29.1 ("Definitions");
 - 9. Bill SECTION 73 – ROH Section 16-15.1 ("Definitions");

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10. Bill SECTION 74 – ROH Section 22-7.5 ("Land area required for parks and playgrounds");
 11. Bill SECTION 75 – ROH Section 30-4.1 ("Definitions");
 12. Bill SECTION 76 – ROH Section 38-1.2 ("Definitions"); and
 13. Bill SECTION 77 – ROH Section 38-1.3 ("Applicability");
- K. In SECTION 79 of the bill, provides that the ordinance takes effect upon its approval; provided that certain ROH sections that incorporate the provisions of Ordinance 22-7 (relating to transient accommodations) take effect on the same effective date as Ordinance 22-7; provided further that the amendments made to ROH Section 14-10.7 ("Waiver of wastewater system facility charges for accessory dwelling unit projects") do not affect the repeal date for that section under Ordinance 20-20.
- L. Makes miscellaneous technical and nonsubstantive amendments for purposes of Ramseyering, formatting, consistency, grammar, and style.

Related communications:

<u>CC-230 (2022)</u>	Councilmember Elefante, submitting the process when proposing amendments to Bill 10 (2022), Relating to Use Regulations.
<u>CC-237 (2022)</u>	Councilmember Tupola, submitting further proposed amendments to Bill 10 (2022), CD1.
<u>CC-241 (2022)</u>	Council Chair Waters, submitting further proposed amendments to Bill 10 (2022), CD1.
<u>CC-249 (2022)</u>	Councilmember Elefante, submitting further proposed amendments to Bill 10 (2022), CD1.
<u>D-576 (2022)</u>	Department of Planning and Permitting, submitting Departmental Response to Proposed Amendments in Bill 10, CD1 (2022) Relating to Use Regulations Chapter 21, Revised Ordinances of Honolulu Land Use Ordinance (LUO).

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D-583 (2022) Department of Planning and Permitting, submitting Departmental Response to Councilmember Questions Bill 10, CD1 (2022) Relating to Use Regulations In the B-1 and B-2 Business Districts, Chapter 21, Revised Ordinances of Honolulu - Land Use Ordinance (LUO)

INFORMATIONAL BRIEFING:

10. **PRESENTATION ON A PROPOSED INTERIM PLANNED DEVELOPMENT-TRANSIT (IPD-T) PROJECT FOR A 337-UNIT MIXED-USE DEVELOPMENT AT 1538 KAPIOLANI BOULEVARD AND OFF-SITE 64-UNIT AFFORDABLE HOUSING DEVELOPMENT AT 765 AMANA STREET.**
11. **UPDATE BY THE DEPARTMENT OF PLANNING AND PERMITTING REGARDING THE STATUS OF ALL PENDING LAND USE ORDINANCE AMENDMENTS, DEVELOPMENT PLANS AND SUSTAINABLE COMMUNITIES PLAN REVISION BILLS; AND ALL NEIGHBORHOOD TRANSIT-ORIENTED DEVELOPMENT PLANS AND REGULATIONS.**

BRANDON J.C. ELEFANTE, Chair
Committee on Zoning and Planning