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MEMORANDUM

DATE: May 11, 2023

TO: Irene Limos
Clerk, Committee on Planning & the Economy

FROM: Esther Kia'āina, Chair
Committee on Planning & the Economy 

SUBJECT: Kia'āina Proposed Amendments to Commercial Uses in Bill 10 (2022),
CD1 for the May 25, 2023 P&E Meeting (continuation of Commercial
Uses)

Attached for consideration by the Committee on Planning & the Economy are my proposed amendments to Commercial Uses in Bill 10 (2022), CD1, relating to use regulations for the May 25, 2023 Committee and Planning & the Economy Meeting.

Attachments (1):
Amendment Form, Commercial Uses, Bill 10 (2022), CD1, Relating to Use Regulations

COUNCIL COM. 133
P&E

AMENDMENT FORM
Bill 10 (2022), CD1
Relating to Use Regulations
COMMERCIAL USES

TOTAL PAGES: 6

DATE: May 11, 2023

COUNCILMEMBER: Kia'āina

Item No.	Bill SECTION	ROH Section, Exhibit, or Figure, and Title	Page No.*	Amendment Description	Amendment Text (in Ramseyer Format)	Comments or Clarification																																																																																											
1	SECTION 3	§ 21-5.30 Use Table Commercial Uses Lodging Hotel, Minor and Major	6	Amends hotel entry to combine minor and major hotels. Requires CUP-major in the BMX-4 and IMX-1 Districts.	<table><tr><td>Hotel</td><td>=</td><td>=</td><td>=</td><td>=</td><td>=</td><td>=</td><td>=</td><td>=</td><td>=</td><td>=</td><td>=</td><td>=</td><td>P</td><td>=</td><td>=</td><td>C*</td><td>P</td><td>=</td><td>=</td><td>=</td><td>C*</td><td>§ 21-5.70-3(b)</td></tr><tr><td>[Minor</td><td>-</td><td>-</td><td>-</td><td>-</td><td>-</td><td>-</td><td>-</td><td>-</td><td>-</td><td>-</td><td>-</td><td>-</td><td>P</td><td></td><td></td><td>Cm*</td><td>P</td><td>-</td><td>-</td><td>-</td><td>Cm*</td><td>§ 21-5.70-3(b)]</td></tr><tr><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr><tr><td>[Major</td><td>-</td><td>-</td><td>-</td><td>-</td><td>-</td><td>-</td><td>-</td><td>-</td><td>-</td><td>-</td><td>-</td><td>-</td><td>P</td><td>-</td><td>-</td><td>C*</td><td>P</td><td>-</td><td>-</td><td>-</td><td>C*</td><td>§ 21-5.70-3(b)]</td></tr></table>	Hotel	=	=	=	=	=	=	=	=	=	=	=	=	P	=	=	C*	P	=	=	=	C*	§ 21-5.70-3(b)	[Minor	-	-	-	-	-	-	-	-	-	-	-	-	P			Cm*	P	-	-	-	Cm*	§ 21-5.70-3(b)]																							[Major	-	-	-	-	-	-	-	-	-	-	-	-	P	-	-	C*	P	-	-	-	C*	§ 21-5.70-3(b)]	
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2	SECTION 3	§ 21-5.30 Use Table Commercial Uses Outdoor Recreation Nature-Based Recreation	7	Adds a new nature-based recreation entry. Permitted in the P-2 and AG-2 Districts.	<table><tr><td>Nature-based recreation</td><td>C*</td><td>=</td><td>C*</td><td>=</td><td>=</td><td>=</td><td>=</td><td>=</td><td>=</td><td>=</td><td>=</td><td>=</td><td>=</td><td>=</td><td>=</td><td>=</td><td>=</td><td>=</td><td>=</td><td>=</td><td>=</td><td>§ 21-5.70-8(c)</td></tr></table>	Nature-based recreation	C*	=	C*	=	=	=	=	=	=	=	=	=	=	=	=	=	=	=	=	=	=	§ 21-5.70-8(c)																																																																					
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3	SECTION 3	§ 21-5.70-3(b) Commercial Uses Lodging Hotel - standards	53	Amends hotel standards to delete the distinction between minor and major hotel, and reflects one set of standards.	<p>(b) <i>Hotel – standards.</i></p> <p>(1) [Minor:</p> <p> (A)] In the BMX-3 zoning district, [minor] hotels are permitted within the Primary Urban Center Development Plan, Ewa Development Plan, or Central Oahu Sustainable Communities Plan areas[.]; <u>provided that all of the following are satisfied:</u></p> <p> (A) <u>The hotel does not exceed a floor area ratio of 2.0, excluding floor area dedicated to separate permitted uses.</u></p> <p> (B) <u>The hotel may not be used or include facilities for weddings, conventions, or special events as an accessory use, and specific uses must be permitted as a principal use in the underlying zoning district; and</u></p> <p> (C) <u>Guest rooms must be offered or used for transient accommodations for a minimum of 275 days per year, unless unavailable for occupancy due to necessary repair or maintenance.</u></p> <p>[(B)](2) In the IMX-1 zoning district, [minor] hotels are permitted in the areas situated in close proximity to the Daniel K. Inouye International Airport, as designated in Figure 21-5.4.</p> <p>[(C) May not be used or include facilities for weddings, conventions, or special events as an accessory use. Specific uses must be permitted as a principal use in the underlying zoning district.</p> <p>(D) Guest rooms must be offered or used for transient accommodations for a minimum of 275 days per year, unless unavailable for occupancy due to necessary maintenance or repair.</p> <p>(2) Major:</p> <p> (A) In the BMX-3 zoning district, major hotels are permitted within the Primary Urban Center Development Plan, Ewa Development Plan, or Central Oahu Sustainable Communities Plan areas.</p> <p> (B) In the IMX-1 zoning district, major hotels are permitted in the areas situated in close proximity to the Daniel K. Inouye International Airport, as designated in Figure 21-5.4.</p>																																																																																												

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					(C) Guest rooms must be offered or used for transient accommodations for a minimum of 275 days per year, unless unavailable for occupancy due to needed maintenance or repair.	
4	SECTION 3	§ 21-5.70-3(a) Commercial Uses Lodging Bed and breakfast home; Transient vacation unit - standards	38	Adds text that describes the areas where bed and breakfast homes and transient vacation units are permitted.	<p>(a) <i>Bed and breakfast home; Transient vacation unit – standards.</i></p> <p>(1) <i>Permitted districts[.].</i> Bed and breakfast homes and transient vacation units are permitted as described in paragraphs (A) and (B), and as depicted in the figures referred to in paragraph (C); provided that if there is any inconsistency between the descriptions in paragraphs (A) and (B), and the depiction in the figures referred to in paragraph (C), the figures referred to in paragraph (C) will prevail.</p> <p><u>(A) Bed and breakfast homes and transient vacation units are permitted in [the following areas:] the A-1 low-density apartment zoning district and the A-2 medium-density apartment zoning district; provided that:</u></p> <p><u>(i) They are within 3,500 feet of a resort zoning district of greater than 50 contiguous acres; and</u></p> <p><u>(ii) The resort district and the A-1 or A-2 district have been rezoned pursuant to the same zone change application as part of a master-planned resort community;</u></p> <p><u>(B) Bed and breakfast homes and transient vacation units are permitted in the apartment precinct of the Waikiki special district on the zoning lots identified as tax map keys (1) 2-6-025:005 and (1) 2-6-028:011; and</u></p> <p><u>(C) The areas in which bed and breakfast homes and transient vacation units are permitted as set forth in paragraphs (A) and (B) are depicted in the following figures:</u></p> <p><u>[(A)](i) The areas located within the [Apartment Precinct] apartment precinct of the Waikiki [Special District] special district mauka of Kuhio Avenue, as designated in Figure 21-5.1;</u></p> <p><u>[(B)](ii) The areas located within the A-1 low-density apartment zoning district and the A-2 medium-density apartment zoning district situated in close proximity to the Ko Olina Resort, as designated in Figure 21-5.2; and</u></p> <p><u>[(C)](iii) The area located within the A-1 low-density apartment zoning district situated in close proximity to the Turtle Bay Resort, as designated in Figure 21-5.3.</u></p>	
5	SECTION 3	§ 21-5.70-3(c) Commercial Uses Lodging Timeshare – standards	56	<p>Adds existing text that describes where timeshare units are permitted.</p> <p>Revises Figure 21-5.5 and deletes Figure 21-5.6 to reflect that timeshare units are not permitted in the A-1 District.</p>	<p>(c) <i>Timeshare – standards.</i> Timeshare units are permitted [in:] <u>as described in subdivision (1) and as depicted in the figure referred to in subdivision (2); provided that if there is any inconsistency between the description in subdivision (1) and the depiction in the figure referred to in subdivision (2), the figure referred to in subdivision (2) will prevail.</u></p> <p><u>(1) Timeshare units are permitted in the A-2 medium density apartment zoning district; provided that:</u></p> <p><u>(A) They are within 3,500 feet of a resort zoning district of greater than 50 contiguous acres; and</u></p> <p><u>(B) The resort district and the A-2 district have been rezoned pursuant to the same zone change application as part of a master-planned resort community; and</u></p> <p><u>[(1)](2) The areas in which timeshare units are permitted as set forth in subdivision 1 are depicted as the areas located within the [A-1 low-density apartment zoning district and the] A-2 medium-density apartment zoning district situated in close proximity to the Ko Olina Resort, as [designed] designated in Figure 21-5.5[; and</u></p> <p><u>(2) The area located within the A-1 low-density apartment zoning district situated in close proximity to the Turtle Bay Resort, as designated in Figure 21-5.6].</u></p> <p>Revise Figure 21-5.5 to delete shading of the A-1 District, and delete Figure 21-5.6.</p>	

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6	SECTION 3	§ 21-5.70-7(a) Commercial Uses Personal service General personal services – standards	61	Adds wall or fence requirements and limits hours of operation if the principal entrance is less than 75 feet or the parking area is less than 20 feet from any adjoining zoning lot in the country, residential, apartment, or apartment mixed-use zoning district.	<p>(a) <i>General personal services – standards.</i></p> <p>(1) In the apartment mixed-use zoning district:</p> <p>(A) All services involving amplified music or music instruction must be located in a fully enclosed, sound-attenuated structure, and hours of operation are limited to between 6:00 a.m. and 10:00 p.m.</p> <p>(B) The density requirements of Table 21-3.3 and § 21-3.90-1(c)(4) apply.</p> <p>(2) In the industrial mixed-use zoning district, the density requirements of Table 21-3.5 and § 21-3.140-1(c) apply.</p> <p>(3) <u>When the principal entrance is less than 75 feet or its parking area is less than 20 feet from any adjoining zoning lot in the country, residential, apartment, or apartment mixed-use zoning district:</u></p> <p>(A) <u>A solid wall or fence (not a chain-link fence) or equivalent landscape buffer (such as a screening hedge), 6 feet in height, must be installed and maintained at the common property lines; and</u></p> <p>(B) <u>Hours of operation are limited to between 6:00 a.m. and 10:00 p.m. General personal services uses that are intended to operate beyond these hours may be permitted under a minor conditional use permit.</u></p>	
7	SECTION 3	§ 21-5.70-8(c) Commercial uses Outdoor recreation Nature-based recreation	62	Adds nature-based recreation standards in new subsection (c).	<p>(c) <i>Nature-based recreation – standards.</i></p> <p>(1) <u>In the AG-2 zoning district, a minimum of 50 percent of the zoning lot area must be dedicated to crop production, livestock keeping, or passive undeveloped recreational areas, such as natural open space, forests, and trails, through an agricultural easement or similar legal encumbrance for as long as the nature-based recreation is in operation.</u></p> <p>(2) <u>Cabins are limited to one per acre, and must not have kitchens or wet bars.</u></p>	
8	SECTION 3	§ 21-5.70-10(a) Commercial Uses Vehicle-related Car wash – standards	64	Adds wall or fence requirements and limits hours of operation if the use occurs less than 75 feet from any adjoining zoning lot in the country, residential, apartment, or apartment mixed-use zoning district. Adds requirement that car wash be in a sound-attenuated structure.	<p>(a) <i>Car wash – standards.</i></p> <p>(1) <u>[The zoning lot must not adjoin any zoning lot in the residential or apartment zoning districts.] When the use occurs less than 75 feet from any adjoining zoning lot in the country, residential, apartment, or apartment mixed-use zoning district:</u></p> <p>(A) <u>A solid wall or fence (not a chain-link fence) or equivalent landscape buffer (such as a screening hedge), 6 feet in height, must be installed and maintained at the common property lines; and</u></p> <p>(B) <u>Hours of operation are limited to between 6:00 a.m. and 10:00 p.m. Car wash uses that are intended to operate beyond these hours may be permitted under a minor conditional use permit.</u></p> <p>(2) A closed-loop water recycling system with no offsite discharge or run-off must be used.</p> <p>(3) <u>The use must be in a sound-attenuated structure.</u></p>	
9	SECTION 3	§ 21-10.1 Definition "Hospital"	183	Amends definition to reference general medical services.	Hospital. An institution providing primarily in-patient, intensive, medical, or surgical care, including emergency care services. The term includes facilities for extended care, intermediate care and out-patient care, living facilities for staff, research and educational facilities, doctor offices, and any administrative offices necessary for the operation of the facility. <u>See also general medical services.</u>	
10	SECTION 3	§ 21-10.1 Definition "Hotel"	183	Amends definition to delete the distinction between minor and major hotel.	Hotel. A building or buildings, or a portion of a building or buildings, containing guest rooms that are offered and used for the provision of overnight transient accommodations to transient guests occupants. A hotel must include a lobby or 24-hour front desk and facilities used to provide housekeeping services to guests. The term includes activities, facilities, and services	

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					<p>that are traditionally and customarily provided for the benefit and convenience of hotel guests. The term does not include transient vacation units, bed and breakfast homes, and timeshares.</p> <p>[(1) Minor:</p> <p>(a) A hotel that does not exceed any of the following thresholds:</p> <p>(i) 180 guest rooms; or</p> <p>(ii) 2,000 square feet of total floor area devoted to meeting facilities.</p> <p>(b) Must include a 24-hour front desk and facilities used to provide housekeeping services to guests.</p> <p>[(2) Major:</p> <p>(a) A hotel that exceeds any of the following thresholds:</p> <p>(i) 180 guest rooms; or</p> <p>(ii) 2,000 square feet or more of total floor area devoted to meeting facilities.</p> <p>(b) Must include a lobby, 24-hour front desk, and facilities used to provide valet, bell, and housekeeping services to guests.]</p>	
11	SECTION 70	§ 21-10.1 Definition "General Medical Services"	187	Amends definition to provide that general medical services does not include emergency care services, and references hospitals.	<p>Medical Services, General. Providing out-patient medical, surgical, or dental care by a physician or health care worker in a facility that does not include onsite overnight care. The term includes doctor offices, ambulatory surgery facilities, freestanding surgical out-patient facilities, freestanding birthing centers, chiropractor offices, dentist offices, orthodontist offices, physical therapist offices, kidney dialysis centers, blood donation or collection services facilities, acute care facilities, urgent care facilities, and any administrative offices necessary for operation of the facility. <u>The term does not include emergency care services (see hospital).</u></p>	
12	SECTION 70	§ 21-10.1 Definitions "Commercial Parking"	187	Adds reference to remote parking.	<p>Parking, Commercial. A facility that provides parking as a principal use on the zoning lot. <u>See also remote parking.</u></p>	
13	SECTION 70	§ 21-10.1 Definitions "General personal services"	188	Adds reference to other schools.	<p>Personal Services, General. Providing personal services. The term includes but is not limited to barbershops, beauty shops, computer repair, dance studios, martial arts studios, music studios, photographic studios or classrooms, day spas, dry cleaning drop-off, laundry cleaning and pressing, funeral homes, funeral parlors, mortuaries, undertaking establishments, hair salons, garment repair, gyms, fitness studios, pilates studios, yoga studios, gymnastic studios, cheerleading training, boxing training, climbing gyms, locksmith services, nail salons, tanning salons, tutoring[,], <u>and other schools</u>, travel agencies, tattoo or body piercing, tailoring, shoe repair, watch repair, jewelry repair, eyeglass repair, hearing aid repair, and smartphone repair.</p>	
14	SECTION 70	§ 21-10.1 Definitions "General indoor recreation"	188	Clarifies definition.	<p>Recreation, General Indoor. [Providing primarily] <u>Permanent facilities for indoor recreation and enjoyment, including for entertainment [or recreation in a permanent facility.] and related activities, that involve activities that are overseen by a manager or operator.</u> The term includes but is not limited to billiard or pool halls, bowling alleys, electronic gaming arcades, escape rooms, ice-skating or roller-skating rinks, playground or trampoline parks, sports facilities, miniature golf courses, or archery or gun ranges. The term also includes libraries or museums that do not meet the definition of a public facility. <u>The term does not include publicly-accessible parks (see park), government facilities (see public facility), or privately-owned clubs (see meeting facility, general eating and drinking, general marine).</u></p>	

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15	SECTION 70	§ 21-10.1 Definitions "General outdoor recreation"	188	Clarifies definition.	<i>Recreation, General Outdoor.</i> Facilities for outdoor recreation [or] and enjoyment, including for entertainment and related activities [-] , that involve activities overseen by a manager or operator, and may include motorized activities. The term includes amusement parks, batting cages, drive-in theaters, go-cart or automobile racetracks, golf driving ranges, miniature golf courses, [sports] outdoor sport facilities, amphitheaters, [botanical gardens,] [tennis] sport courts [-] and fields, [riding stables, recreational camps,] and water parks. The term does not include [public] publicly-accessible parks [-] (see park) , government facilities [-] (see public facility) , [hiking and biking trails,] golf courses (see golf course), privately-owned clubs (see meeting facility, general eating and drinking, golf course, general marine), riding stables (see animal raising, nature-based recreation), recreational camping (see nature-based recreation), or nature-based recreation uses such as hiking and biking trails that do not involve artificial lighting or support structures other than sanitary facilities [-, golf courses, or country clubs] . <u>See also agritourism, zoo.</u>	
16	SECTION 70	§ 21-10.1 Definitions "General retail"	191	Adds reference to financial institutions.	<i>Retail, General.</i> A facility involved in the sale, lease, or rental of new or used products. The term includes but is not limited to appliance stores; art galleries; automotive stores; banks [-] and other financial institutions; bicycle sales, rentals, and repair; bookstores; clothing stores; copy or shipping service centers; print shops; electronic stores; stores selling electronic cigarettes, vaping, and similar products; department stores; drug or pharmaceutical stores; fabric stores; florists; furniture, grocery or specialty food stores; hardware stores; liquor stores; scooter sales and rentals; musical instrument sales, rentals, and repair; eyeglass sales, pet stores, shoe stores, sporting good stores; toy stores; and other similar retail activities. (1) <i>Small:</i> Up to 2,500 square feet of total floor area. (2) <i>Medium:</i> More than 2,500 square feet of total floor area, up to 25,000 square feet of total floor area. (3) <i>Large:</i> More than 25,000 square feet of total floor area.	
17	SECTION 71	§ 21-10.1 Definitions "Golf Course"	197	Adds reference to general outdoor recreation.	<i>Golf Course.</i> A facility for playing nine holes or more of golf. Includes associated clubhouses and driving ranges. The term does not include miniature golf courses or stand-alone driving ranges <u>(see general outdoor recreation)</u> .	
18	SECTION 71	§ 21-10.1 Definitions "Remote Parking"	199	Adds reference to commercial parking.	<i>Parking, Remote.</i> The use of a zoning lot to provide parking for vehicles to support a principal use occurring on a different zoning lot. <u>See also commercial parking.</u>	
19	SECTION 71	§ 21-10.1 Definitions "Zoo"	201	Adds references to public facility and general retail.	<i>Zoo.</i> A facility where animals live in captivity and are put on display for the public to view. The term does not include government facilities <u>(see public facility)</u> , uses involving the display of live animals for sale or adoption <u>(see general retail)</u> , or displays that are accessory to principal commercial or hotel use.	
20	Add to SECTION 70	§ 21-10.1 Definitions "Bed and Breakfast Home"	n/a	Adds reference to transient vacation unit.	<i>Bed and Breakfast Home.</i> A use in which overnight accommodations are advertised, solicited, offered, or provided [-] (or a combination of any of the foregoing [-]) to transient occupants, for compensation, for periods of less than 90 consecutive days, in the same dwelling unit occupied by an owner, lessee, operator, or proprietor of the dwelling unit. <u>See also transient vacation unit.</u> For purposes of this definition: 1. Compensation includes but is not limited to monetary payment, services, or labor of transient occupants; and 2. Month to month holdover tenancies resulting from the expiration of long-term leases of 90 consecutive days or more are excluded.	
21	Add to SECTION 70	§ 21-10.1 Definitions "Transient Vacation Unit"	n/a	Adds reference to bed and breakfast home, timeshare, and hotel.	<i>Transient Vacation Unit.</i> A dwelling unit or lodging unit that is advertised, solicited, offered, or provided [-] (or a combination of any of the foregoing [-]) for compensation to transient occupants for less than 90 consecutive days, other than a bed and breakfast home [-] <u>(see bed and breakfast home)</u> , timeshare [unit,] <u>(see timeshare)</u> , or hotel [unit,] <u>(see hotel)</u> . For purposes of this definition: 1. Compensation includes but is not limited to monetary payment, services, or labor of transient occupants; and 2. Month-to-month holdover tenancies resulting from the expiration of long-term leases of 90 consecutive days or more are excluded.	

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22	Add to SECTION 71	§ 21-10.1 Definitions "Nature-based recreation"	n/a	Add a new definition of "nature-based recreation"	<u>Nature-Based Recreation.</u> A privately-owned and managed permanent facility or area dedicated to 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. The term includes picnic grounds, greenways, hiking and bicycling trails, areas for fishing and hunting, limited accessory sports courts and fields, non-motorized access to scenic interests, horseback riding tours, recreational camping, and campgrounds with tents, pavilions, lodges, and cabins. The term does not include publicly-accessible parks (see park), golf courses (see golf course), accessory agriculture-related tourism or recreation (see agritourism), community recreation centers (see meeting facility), hotels (see hotel), and timeshares (see timeshare). See also general outdoor recreation.	

* Bill 10 (2022), CD2 (OCS2023-0233/3/16/2023 1:33 PM)