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MEMORANDUM

DATE: May 14, 2024

TO: Pearlene Sotelo
Clerk, Committee on Planning & the Economy

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

SUBJECT: Kia'āina Proposed Amendments to Public, Civic, and Institutional Uses in Bill 64 (2023), FD1, for the P&E Committee Meeting on May 23, 2024

Attached for consideration by the Committee on Planning & Economy are my proposed amendments to Public, Civic, and Institutional uses in Bill 64 (2023), FD1, relating to use regulations, for consideration at the May 23, 2024 Committee on Planning & the Economy Meeting.

Attachments (1):
Amendment Form, Public, Civic, and Institutional Uses, Bill 64 (2023), FD1, Relating to Use Regulations

COUNCIL COM. 146
P&E

AMENDMENT FORM
Bill 64 (2023), FD1
Relating to Use Regulations
PUBLIC, CIVIC, AND INSTITUTIONAL USES

TOTAL PAGES: 3

DATE: May 14, 2024

COUNCILMEMBER: Esther Kiaʻāina

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<tr><th>Item No.</th><th>Bill SECTION</th><th>ROH Section, Exhibit, or Figure, and Title</th><th>Page No.</th><th>Amendment Description</th><th>Amendment Text (in Ramseyer Format)</th><th>Comments or Clarification</th></tr>
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<tr><td>1</td><td>SECTION 3</td><td>Table 21-5.1
Table of Permitted Uses
Public, civic, and institutional uses category
Communication subcategory
Communication tower entry</td><td>5</td><td>Amend communication tower entry in the Use Table.</td><td><table><tr><td>Communication tower</td><td>Cm*</td><td>Cm*</td><td>Cm*</td><td>Cm*</td><td>C*</td><td>C*</td><td>C*</td><td>C*</td><td>C*</td><td>C*</td><td>C*</td><td>C*</td><td>C*</td><td>C*</td><td>C*</td><td>C*</td><td>C*</td><td>[~~Cm*~~] P*</td><td>[~~Cm*~~] P*</td><td>[~~Cm*~~] P*</td><td>C*</td><td>§ 21-5.60-2(b)</td></tr></table></td><td>Replace "Cm*" with "P*" in the I-1, I-2, and I-3 Districts.</td></tr>
<tr><td>2</td><td>SECTION 3</td><td>§ 21-5.60-2(b)
Public, civic, and institutional uses
Communication
Communication tower – standards</td><td>31</td><td>Amend communication tower standards.</td><td>(b) Communication tower – standards.
(1) Communication towers must be set back from all property lines a minimum of 1 foot for every 5 feet of height.
(2) Communication towers must be enclosed by fencing a minimum of 6 feet in height, and towers must be equipped with an anti-climbing device.
(3) All communication towers in the residential zoning districts must use monotree (designed to blend in with surrounding trees) or other stealth design to minimize visual impacts.
(4) In the industrial zoning districts, [~~a minor conditional use permit is required if the zoning lot for~~] the communication tower [~~is adjacent to~~] must be set back a minimum of 100 feet from the property line of any adjoining zoning lot in the residential, apartment, or apartment mixed-use zoning districts.
(5) Modifications to communication towers that qualify as an eligible facility requests under 47 U.S.C. § 1455(a) and 47 C.F.R § 1.6100, as may be amended or superseded, do not require any additional land use permits or approvals under this chapter; provided that the modifications comply with all conditions of the initial land use permit or approval.</td><td>Clarifies that monotree design must blend in with surrounding trees.
Provides that in the industrial zoning districts, the communication tower must be set back a minimum of 100 feet from the property line of any adjoining zoning lot in the residential, apartment, or apartment mixed-use zoning districts.
Adds a provision regarding communication towers that qualify as an eligible facility request under federal law.</td></tr>
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Item No.	Bill SECTION	ROH Section, Exhibit, or Figure, and Title	Page No.	Amendment Description	Amendment Text (in Ramseyer Format)	Comments or Clarification
3	SECTION 3	§ 21-5.60-2(b) Public, civic, and institutional uses Communication Communication support structure – standards	31	Amend communication support tower standards	(c) *Communication support structure – standards.* (1) At-grade equipment [~~shelters~~] must be [~~surrounded by a minimum 10-foot wide buffer.~~] screened by a solid wall or fence, or by a landscape hedge of sufficient height and width to screen the equipment. (2) Communication support structures: (A) Must be concealed within the communication support structure or obscured to minimize visual impacts. Integration with existing structures or with existing uses must be accomplished through the use of architecture, landscape, and site solutions. Acceptable concealment includes screening antennas, or painting or coloring antennas to match abutting building materials. Paint color alone is not sufficient to minimize visual impacts if the antenna or equipment extends above the roofline, or if the antenna or equipment is installed against a building but there is no integration with abutting architectural features or elements, such as alignment with corners or columns. (B) When located on the roof of an existing structure without architectural integration or concealment, antennas must be set back or located to minimize visual impacts, especially from public rights-of-way and public places. (3) Modifications to communication towers that qualify as an eligible facility requests under 47 U.S.C. § 1455(a) and 47 C.F.R § 1.6100, as may be amended or superseded, do not require any additional land use permits or approvals under this chapter; provided that the modifications comply with all conditions of the initial land use permit or approval.	For at-grade equipment, requires screening (instead of a minimum 10-foot wide buffer). Clarifies that paint color alone is not sufficient to conceal a communication support structure if it extends above the roofline, or there is no integration with abutting architectural features or elements. Adds a provision regarding communication towers that qualify as an eligible facility request under federal law.
4	SECTION 3	§ 21-5.60-6(b)(1)(C) Public, civic, and institutional uses Utility Medium – standards General	38	Amend medium utility abandonment standards.	(C) Medium utilities will be deemed abandoned if operations cease for one continuous year, with the exception of periods related to necessary maintenance, transfer of ownership or operation, or repairs to the system. Upon determination by the director that a medium utility has been abandoned, the structure must be dismantled and removed or repurposed [~~with~~] within 180 days after receipt of written notice from the director, unless the medium utility owner or operator demonstrates to the satisfaction of the director the owner or operator's good faith efforts to sell, repurpose, dismantle, or remove the medium utility in a timely manner, or to otherwise restore the site on which the abandoned medium utility was located.	Technical amendment.
5	SECTION 3	§ 21-5.60-6(c)(2)(E) Public, civic, and institutional uses Utility Large – standards Wind energy generation	40	Amend large wind energy generation facility setback standards.	(E) Large wind energy generation facilities must be set back from all property lines a minimum distance equal to the height of the facility, measured from the highest vertical extension of the facility; and a minimum distance of 1.25 miles from the property lines of any zoning lot located in the country, residential, apartment, apartment mixed-use, or resort zoning districts[~~; provided that the setback requirements in this paragraph only apply to new large wind energy generation facilities and do not apply to the repair, maintenance, or component replacement of any existing facility covered by a power purchase contract with an electric public utility during the term of the contract, including any renewal or extension thereof~~]. Height includes the height of the tower or its vertical support structure and the farthest vertical extension of the tower.	Existing large wind energy generation facilities that do not meet the setback requirements would become nonconforming. The State Energy Office indicated that power purchase agreements typically are not extended or renewed (instead, a new power purchase agreement would be executed).

Item No.	Bill SECTION	ROH Section, Exhibit, or Figure, and Title	Page No.	Amendment Description	Amendment Text (in Ramseyer Format)	Comments or Clarification
6	SECTION 25	§ 21-4.60(c)(4) General development standards Heights Utility poles and antennas	114	Amend provisions relating to additional height allowances for utility poles and antennas.	(4) *Utility poles and antennas.* The council finds and declares that there is a significant public interest served in protecting and preserving the aesthetic beauty of the city. Further, the council finds that the indiscriminate and uncontrolled installation, location, and height of antennas are detrimental to the city's appearance and image; may result in significant damage to the community's sense of well-being, particularly in residential areas; and may have negative economic impacts to the city's tourism industry, which relies heavily on the city's physical appearance. However, the council also finds that there is a need for additional height for certain types of utility poles and antennas, and that there is a clear public interest served by ensuring that those transmissions and receptions providing the public with power and telecommunication services are unobstructed. Therefore, in accord with the health, safety, and aesthetic objectives set forth in § 21-1.20, and considering the public interest needs associated with certain types of power and telecommunication services: (A) Utility poles and [~~communication towers~~] broadcasting antennas must not exceed 500 feet from existing grade; (B) [~~Antennas associated with utility installations~~] Communication towers and accessory communication structures must not exceed 10 feet above the governing height limit; provided that in residential zoning districts where utility lines are predominantly located underground, the governing height limit will apply; and (C) Accessory communication structures must not exceed the governing height limit, except as provided under § 21-2.140-1(j);	Correct references regarding additional height for utility poles and antennas by: • Referring to utility poles and broadcasting antennas (instead of utility poles and communication towers); and • Referring to communication towers and accessory communication structures (instead of antennas associated with utility installations).