HONOLULU CITY COUNCIL

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MEMORANDUM

DATE: September 23, 2024

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

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

SUBJECT: Response to Council Communication 241 (2024) from Councilmember Andria Tupola, relating to Proposed Amendments to Agricultural Uses in Bill 64 (2023), FD1

Attached for consideration by the Committee on Planning and the Economy are my proposed recommendations regarding the amendments to Bill 64 (2023), FD1, relating to land use regulations, offered by Councilmember Tupola in Council Communication 241 (2024).

Attachment:

Chair of the Committee on Planning and the Economy's Responses to Council Communication 241 (2024) from Councilmember Tupola.

COUNCIL COM. 246
P&E

AMENDMENT FORM
Bill 64 (2023), FD1
Relating to Use Regulations
AGRICULTURAL USES

TOTAL PAGES: 5
DATE: 08/15/24
COUNCILMEMBER: Tupola

<table>
<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><th>Planning and the Economy Chair's Response</th></tr>
<tr><td>1</td><td>3</td><td>Table 21-5.1 Table of Permitted Uses Agricultural uses</td><td>3</td><td>Amending “Animal Raising, confined” to “Animal Raising, Major”.
Adds “Animal Raising, Minor” to table as a permitted use for P-2, AG-1, AG-2, and country.</td><td rowspan="2">
<table>
<tr><td>Animal raising, ~~confined~~ Major</td><td>--</td><td>P*</td><td>P*</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>§ 21-5.40-2(a)</td></tr>
<tr><td>Animal Raising, Minor</td><td>[1] P</td><td>P</td><td>P</td><td>[1] P</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>§ 21-5.40-2(a)</td></tr>
</table>

["~~***Livestock Production***~~ ***Animal Raising, Major.*** Agricultural establishments primarily engaged in commercial livestock keeping or feeding as a principal land use that, because of operational characteristics, may generate dust, odors, pollutants, or visual impacts that could adversely affect adjacent properties. These include piggeries, dairies, dairy and beef cattle feedlots, and chicken, turkey, and other poultry farms. The term includes feedlots, defined as any animal feeding operation that concentrates animals, feed, manure and urine, dead animals, and production operations on a small land area. In feedlots, feed is brought to the animals rather than the animals grazing or otherwise seeking feed in pastures, fields, or on rangeland. The term does not include the boarding and care of household pets owned by other persons (see animal care) or animal shelters (see animal care)."

"***Animal Raising, ~~Confined~~ Minor.*** Agricultural establishments primarily engaged in commercial livestock keeping or feeding as a principal land use that, because of operational characteristics, may generate dust, odors, pollutants, or visual impacts that are unlikely to adversely affect adjacent properties. Includes commercial small animal operations as a principal land use, such as rabbit farms, apiaries, aviaries, or raising and feeding of livestock and poultry such as cattle, horses, goats, sheep, swine, turkeys, chickens, ducks, and rabbits. ~~that are not raised as household pets or for purposes of personal use and companionship, primarily in confined indoor or outdoor areas, such as pens, stalls, or cages.The term includes feedlots, defined as any animal feeding operation that congregates animals, feed, manure and urine, dead animals, and production operations on a small land area. In feedlots, feed is brought to the animals rather than the animals grazing or otherwise seeking feed in pastures, fields, or on rangeland. The term does not include the boarding and care of household pets owned by other persons (see animal care) or animal shelters (see animal care)."~~</td><td></td><td>No changes to the Outdoor Animal Raising Use and Confined Animal Raising Use are recommended at this time.
This may be revisited at the P&E meeting on October 22, 2024.</td></tr>
<tr><td>2</td><td>3</td><td>SECTION 70. Section 21-10.1</td><td>194</td><td>Amending “Animal Raising, Confined” to “Animal Raising, Major” and Animal Raising, Minor”.</td><td></td><td>No changes to the Outdoor Animal Raising Use and Confined Animal Raising Use are recommended at this time.
This may be revisited at the P&E meeting on October 22, 2024.
As proposed, it appears that the raising and feeding of livestock and poultry such as cattle, swine, chicken, and turkeys could fall under either minor or major.
If the designation is changed to Minor and Major Animal Raising (instead of Outdoor Animal Raising and Confined Animal Raising), there are no proposed modifications for corresponding standards (Outdoor Animal Raising has no standards, but Confined Animal Raising is subject to standards).</td></tr>
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3	3	§ 21-5.70-7 Personal service.	72	Amending standards for “Animal care, minor and major”.	(b) *Animal care, minor and major – standards.* (1) In the agricultural and country districts, all structures and facilities associated with keeping animals overnight must be set back a minimum of 100 feet from any adjoining zoning lot. ~~(2) Animal shelters and areas must contain the kept animal securely and keep other animals from entering the enclosure.~~ ~~(3) The use of metal barrels, cars, refrigerators, and similar confinements as shelter structures for animals is prohibited.~~ ~~(4)~~ (2) In the apartment mixed-use, business, business mixed-use, and IMX-1 zoning districts, Associated odors must not be detectable from common areas within a building, abutting properties, or public areas such as public streets and sidewalks. Major animal care must be soundproofed and air-conditioned. (3) In the agricultural and country districts, dust, odors, pollutants, must not be detectable from abutting properties, or public areas such as streets and sidewalks. ~~(5)~~ (4) Except for occasional and infrequent incidents, animal noises must not be detectable from common areas within a building, abutting properties, or public areas such as streets and sidewalks. All animals kept overnight must be located in a fully-enclosed, noise-attenuated structure. ~~(6) For minor animal care, outdoor animal care areas are limited to supervised play areas and runs.~~ ~~(7) In the business, business mixed-use, and IMX-1 zoning districts, major animal care must be soundproofed and air-conditioned.~~		Minor and Major Animal Care is a Commercial Use, and may be considered at the October P&E Committee meeting when Miscellaneous Uses and Cleanup provisions will be considered.
4	3	§ 21-5.40-3(b) Agricultural uses Agricultural support. Agricultural equipment service – standards.	13	Adds “repair” to “Agricultural Equipment Service”.	(b) *Agricultural equipment repair service – standards.* (1) All structures and activities must be set back a minimum of 300 feet from the property line of any adjoining property within the residential, apartment, or apartment mixed-use zoning districts. (2) The building area of all agricultural support facilities must not exceed 25 percent of the lot area.		Not accepted. Agricultural Equipment Service is defined as "Selling and repairing machinery used in agricultural production, such as tractors, planters, and harvesters." So it is broader than only the repair of agricultural equipment.
5	3	§ 21-5.40-3(d) Agricultural uses Agricultural support. Feed store – standards.	13	In (2), Strikes “all agricultural support facilities”. Strikes (3).	(d) *Feed store – standards.* (1) Only products that are clearly incidental to agricultural activities may be sold or stored. (2) The building area ~~of all agricultural support facilities~~ must not exceed 25 percent of the zoning lot area. ~~(3) All structures and activities must be set back a minimum of 100 feet from the property line of any adjoining property within the residential, apartment, or apartment mixed-use zoning districts.~~		Not accepted. Note that existing feed stores that do not comply with the setback requirements would become nonconforming structures, and would not be required to relocate.

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6	3	Table 21-5.1 Table of Permitted Uses Agricultural uses	4	Change Agritourism to a conditional use permit minor for AG-1, AG-2, and Country	<table><tr><td>Agritourism</td><td>--</td><td>~~C*~~ Cm</td><td>~~C*~~ Cm</td><td>~~–~~ Cm</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>§ 21-5.40-4(b)</td></tr></table>		See CC-240 (2024), line item #2. Agritourism is being separated into minor and major, with a minor CUP required for minor Agritourism, and a major CUP required for Major Agritourism. By definition, Agritourism is limited to zoning lots primarily used for ongoing crop production or livestock and poultry keeping.
7	3	§ 21-5.40-4(b) Agricultural uses Accessory agricultural Agritourism – standards.	15-16	Strike (1) (3) and (4). Strikes second sentence in (2). Changes (5) to (2).	(b) *Agritourism – standards.* ~~(1) At least 51 percent of the activity on the zoning lot must be crop production or livestock keeping.~~ ~~(2~~)(1) Activities and improvements on the property may not diminish the long-term agricultural potential of the land~~. Improvements on the land used for agritourism must be capable of removal without unreasonable cost or effort.~~ ~~(3) Structures primarily dedicated to agritourism must not exceed 10 percent of the total zoning lot area.~~ ~~(4) Buildings and structures associated with agritourism that are not required as part of the crop production or livestock keeping on the zoning lot are limited to 10,000 square feet of total floor area for the zoning lot.~~ ~~(5)~~ (2) A minimum of 51 percent of the zoning lot area suitable for crop production or livestock keeping must be dedicated to crop production or livestock keeping through an agricultural easement or similar legal encumbrance for as long as the agritourism use is in operation. The director may adopt rules pursuant to HRS Chapter 91 to determine the zoning lot area considered to be suitable for crop production or livestock keeping.		See CC-243 (2024), line item #11.
8	3	§ 21-5.40-4(b)(6) Agricultural uses Accessory agricultural Agritourism – standards.	16	Change (6) to (3). Remove "Weddings and similar" from (6). Add "that they are accessory to agriculture and do not interfere with farm/ranch operations". Remove limit on total floor area sq. footage	(~~6~~)(3) ~~Weddings and similar a~~ Accessory destination events are subject to the following: (A) Events must take place at a designated event space; and (B) Predominantly open-air physical improvements associated with destination events, such as a roofed pavilion, are allowed; provided that that they are accessory to agriculture and do not interfere with farm/ranch operations. ~~the total floor area must not exceed 1,000 square feet.~~		The reference to "farms or ranches" has been incorporated in CC-243 (2024), line item #11.
9	3	§ 21-5.40-4(b)(7) Agricultural uses Accessory agricultural Agritourism – standards.	16	Change (7) to (4). Add Ranch and accessory language. Remove Major Conditional use and standards (A) and (B).	(~~7~~)(4) Bus, jeep, or off-road vehicle tours using motorized vehicles, including an all-terrain vehicle (ATV), quad, four-wheeler, off highway motorcycle, or any other all-terrain or four-wheel drive vehicle, may only be conducted on a working farm or ranch, provided that that they are accessory to agriculture, do not interfere with farm/ranch operations, and are not for entertainment or amusement purposes. ~~and require major conditional use approval subject to the following standards:~~ ~~(A) Tours must have an educational purpose related to the agricultural use of the property; and~~ ~~(B) Tours must not interfere with surrounding farm operations.~~		The reference to "farms or ranches" has been incorporated in CC-243 (2024), line item #11.

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10	3	§ 21-5.40-4(c) Agricultural uses Accessory agricultural Beekeeping – standards	16-17	Remove "standards" for "Beekeeping	~~(c) *Beekeeping – standards.* See also § 7-2.5(b), relating to honeybees.~~ ~~(1) Zoning lot size: The minimum zoning lot size required for beekeeping is 5,000 square feet.~~ ~~(2) Zoning lot area required:~~ ~~(A) No more than two beehives may be established on zoning lots less than 10,000 square feet;~~ ~~(B) No more than four beehives may be established on zoning lots of 10,000 up to 20,000 square feet;~~ ~~(C) No more than six beehives may be established on zoning lots greater than 20,000 square feet; and~~ ~~(D) No beehive may exceed 7 cubic feet in volume.~~ ~~(3) *Setbacks:* Beehives must be set back a minimum of 25 feet from any property line except:~~ ~~(A) When situated behind a solid fence, dense hedge, or similar barrier, at least 6 feet in height, parallel to the property line, established in front of the entrance of all ground-level beehives so that bee departures and arrivals occur at no less than 6 feet in height at interior property lines. The barrier for purposes of influencing the flyway must extend 2 feet from each side of the hive openings; or~~ ~~(B) When located at least 8 feet or more above adjacent ground level.~~		Incorporated in CC-243 (2024), line item #12. Beekeeping as an accessory use and the related standards are being deleted. Accessory beekeeping will NOT be regulated as a separate accessory use.
11	3	§ 21-5.40-4(e) Agricultural uses Accessory agricultural Farm dwelling – standards.	18	Strike 1,3, and 4. Change #s.	(e) *Farm dwelling – standards.* ~~(1) Crop production and livestock keeping must occupy a minimum of 51 percent of the zoning lot area suitable for crop production or livestock keeping, and valid agricultural dedication status must be maintained through an agricultural easement or similar legal encumbrance for as long as the farm dwelling use continues. The director may adopt rules pursuant to HRS Chapter 91 to determine the zoning lot area considered to be suitable for crop production or livestock keeping.~~ ~~(2)~~(1) Each farm dwelling (including eaves, overhangs, carports, garages, trellised areas, stairways, decks, storage sheds, and swimming pools) must be contained within an area not to exceed 5,000 square feet, confined to a polygon for which no exterior angle is greater than 180 degrees. ~~(3)~~(2) ~~In the AG-1 zoning district, the number of farm dwellings must not exceed one for every 5 acres of zoning lot area.~~ ~~(4)~~(3) ~~In the AG-2 zoning district, the number of farm dwellings must not exceed one for every 2 acres of zoning lot area.~~ ~~(5)~~(2) If multiple farm dwellings are permitted on a zoning lot, they must not exceed 10 percent of the total zoning lot area.		Deletion of the standard that requires 51 percent of the activity on the zoning lot to be an agricultural activity has been incorporated in CC-243 (2024), line item #14.
12	3	§ 21-5.40-4(f) Agricultural uses Accessory agricultural Farm stand – standards.	18-19	Strike utility prohibition on farm stands	(f) *Farm stand – standards.* (1) No more than one farm stand for the growers and producers of agricultural products is permitted on a zoning lot. More than one grower or producer is allowed at a farm stand. (2) Enclosed floor area for the farm stand must not exceed 500 square feet. Additional unenclosed floor area may be roofed, but must otherwise be open to the elements. ~~No electricity, sewer, water, or other utility services are allowed in conjunction with a farm stand.~~ (3) The farm stand must be located on private property and not on any public right-of-way.		See CC-243 (2024), line item #14. With regard to preparing items for sale at a farm stand, see the Agricultural Processing Use. Farm stands are typically small structures on the side of the road.

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<tr><td>13</td><td>3</td><td>§ 21-5.40-4(h) Agricultural uses Accessory agricultural Agricultural farmers market – standards.</td><td>20</td><td>Strike 3.</td><td>(h) Agricultural farmers market – standards.

(1) Hours of operation are limited to between 6:00 a.m. and 8:00 p.m.

(2) Adequate parking and vehicular access must be provided, as determined by the director.

<s>(3) A minimum of 51 percent of the zoning lot area suitable for crop production or livestock keeping must be dedicated to crop production or livestock keeping through an agricultural easement or similar legal encumbrance for as long as the agricultural farmers market is in operation. The director may adopt rules pursuant to HRS Chapter 91 to determine the zoning lot area considered to be suitable for crop production or livestock keeping.</s></td><td></td><td>See CC-243 (2024), line item #17.</td></tr>
<tr><td>14</td><td>70</td><td>21-10.1, Revised Ordinances of Honolulu 2021 ("Definitions")</td><td>207</td><td>Strike "Recreation, General Outdoor." definition. Revert back to previous definition, but remove "riding stables"</td><td><s>["Recreation Facilities, Outdoor. Permanent facilities for active outdoor sports and recreation, other than golf courses. Typical uses include: parks; playgrounds; botanical gardens; golf driving ranges; tennis courts; riding stables; academies and trails; and recreational camps."] "Recreation, General Outdoor. Facilities for outdoor recreation 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 vehicle racetracks, golf driving ranges, miniature golf courses, outdoor sport facilities, amphitheaters, sport courts and fields, and water parks. The term does not include parks (see park), government facilities (see public facility), golf courses (see golf course), privately-owned clubs (see meeting facility, general eating and drinking, golf course, general marine), horseback riding tours (see 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. See also agritourism, zoo, animal raising."</s> "Recreation Facilities, Outdoor. Permanent facilities for active outdoor sports and recreation, other than golf courses. Typical uses include: parks; playgrounds; botanical gardens; golf driving ranges; tennis courts; [<s>riding stables;</s>] academies and trails; and recreational camps."</td><td></td><td>General Outdoor Recreation is a Commercial Use, and may be considered at the October P&E Committee meeting when Miscellaneous Uses and Cleanup provisions will be considered.</td></tr>
<tr><td>15</td><td>3</td><td>Table 21-5.1 Table of Permitted Uses Agricultural uses</td><td>8</td><td>Change Nature-based recreation to a conditional use permit minor for P-2, AG-2, and Country</td><td>
<table>
<tr><td>Nature-based recreation</td><td><s>[C*]</s>
Cm</td><td>--</td><td><s>[C*]</s>
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<u>Cm</u></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>
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</td><td></td><td>Nature-Based Recreation is a Commercial Use, and may be considered at the October P&E Committee meeting when Miscellaneous Uses and Cleanup provisions will be considered.</td></tr>
<tr><td>16</td><td>3</td><td>Table 21-5.1 Table of Permitted Uses Agricultural uses</td><td>7</td><td>Animal Care Minor – change to P* for AG-1, AG-2, and Country.

Animal Care Major – change to P* for AG-1, Ag-2, and Country</td><td>
<table>
<tr><td>Animal care</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></td></tr>
<tr><td>Minor</td><td>--</td><td>[--]
P*</td><td>[--]
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<tr><td>Major</td><td>--</td><td>[--]
P*</td><td><s>[P*+]</s>
P*</td><td>P*</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>P*</td><td>P*</td><td>P*</td><td>P*</td><td>P*</td><td>--</td><td>P*</td><td>§ 21-5.70-7(b)</td></tr>
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</td><td></td><td>Minor and Major Animal Care is a Commercial Use, and may be considered at the October P&E Committee meeting when Miscellaneous Uses and Cleanup provisions will be considered.</td></tr>
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17	3	Table 21-5.1 Table of Permitted Uses Agricultural uses	4	Adds “Repair” to Agricultural Equipment Service”	Agricultural Equipment <u>Repair</u> Service -- P* P* -- -- -- -- -- -- -- -- -- -- -- -- -- -- -- -- P P -- P § 21-5.40-3(b)		Not accepted. Agricultural Equipment Service is defined as "Selling and repairing machinery used in agricultural production, such as tractors, planters, and harvesters." So it is broader than only the repair of agricultural equipment.