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HONOLULU CITY COUNCIL

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MEMORANDUM

DATE: November 18, 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 284 (2024) from Councilmember Matt Weyer, relating to Proposed Amendments to Bill 64 (2023), FD1, CD1

Attached for consideration by the Committee on Planning and the Economy are my proposed recommendations regarding the amendments to Bill 64 (2023), FD1, CD1, relating to land use regulations, offered by Councilmember Matt Weyer in Council Communication 284 (2024).

Attachment:

Chair of the Committee on Planning and the Economy's Responses to Council Communication 284 (2024) from Councilmember Matt Weyer.

COUNCIL COM. 292
P&E

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

TOTAL PAGES: _____3_____
DATE: _____11/13/24_____
COUNCILMEMBER: _____Weyer___

Item No.	Bill SECTION	ROH Section, Exhibit, or Figure, and Title	Page No.	Amendment Description	Amendment Text (in Ramseyer Format)	Comments or Clarification	P&E Committee Chair's Recommendation
1	SECTION 3	§ 21-5.60-6(c)(2) Public, civic, and institutional uses Utility Large wind energy generation standards	44	Amend large wind energy generation standard G(ii)	(2) Wind energy generation. (A) Large wind energy generation facilities are not permitted in the preservation, residential, apartment, apartment mixeduse, business, business mixed-use, resort, industrial, and industrial mixed-use zoning districts. (B) For any ground-mounted wind energy generation facility, the tower climbing apparatus and blade tips of the facility may not be lower than 15 feet from ground level, unless enclosed by a 6-foot high fence, and may not be within 7 feet of any roof or structure, unless the blades are completely enclosed by a protective screen or fence. (C) A public safety sign must be posted at the base of the wind energy generation facility warning of high voltage and dangerous moving blades. (D) All guy wires must be anchored onsite and outside of any right-of-way, and equipped with safety devices that will prevent them from being climbed, and must be securely fastened. (E) Large wind energy generation facilities must be set back as follows: (i) From all property lines a minimum distance equal to the height of the facility; and (ii) From the property lines of any zoning lot located in the country, residential, apartment, apartment mixed-use, or resort zoning districts a minimum distance of 10 times the height of the facility or 1.25 miles, whichever is greater. For purposes of this paragraph, height is measured from the farthest vertical extension of the tower, which includes the height of the tower or its vertical support structure and the farthest vertical extension of the blade tip from the tower. (F) With regard to occupied buildings in proximity to the facility that exist on the submission date of the facility's conditional use permit application: (i) No portion of a large wind energy facility may cause more than 10 hours per year or 10 minutes per day of shadow flicker on existing occupied buildings; and (ii) During normal operation, facility noise levels may not exceed 10 dBA above ambient sound levels at existing occupied buildings. Prior to the issuance of a conditional use permit for the facility, the applicant shall submit to the department sitespecific data (such as weather, topography, and turbine operating characteristics) using software models such as WindPro or iNoise, demonstrating conformity with shadow flicker and noise restrictions. (G) For large wind energy generation facilities with approved land use permits that were legally established on the effective date of this ordinance, the repair, maintenance, or component replacement of the facility during the term of the facility's current power purchase agreement may involve an increase in the height of the facility as follows: (i) By an incremental amount not to exceed 7 percent of the original height of the facility; or		Accept. Incorporated in CC-290 (2024), Line Item 18.

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					(ii) Up to a maximum height of 575 feet; whichever is the lesser facility height; provided that the facility operates under and within the scope of its approved land use permits and shall conform to the minimum setback defined in paragraph (E)(i). ~~Any increase in height pursuant to this paragraph will not be deemed to increase the facility's setback nonconformity~~. (H) In the AG-1 and AG-2 zoning districts, 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 and poultry keeping through an agricultural easement or similar legal encumbrance for as long as the large wind energy generation facility is in operation.		
2	Section 13	Section 21-3.50(a) ("Agricultural districts—Purpose and intent")	102	Amend to clarify that agricultural operations should already be in existence before a land use permit can be granted for an accessory agricultural use or secondary supporting use	The purpose of the agricultural zoning districts is to maintain a strong agricultural economic base, to prevent unnecessary conflicts among incompatible uses, to minimize the cost of providing public improvements and services, and to manage the rate and location of physical development consistent with the city's adopted land use policies. To promote the viability and economic feasibility of an existing agricultural operation, accessory agricultural uses and secondary supporting uses may be permitted on the same site as an adjunct to agricultural uses. The accessory agricultural uses and secondary supporting uses must be compatible with the onsite agricultural operation and surrounding land uses[.] and the onsite agricultural operation must ~~already~~ be in existence ~~before a~~ prior to the issuance of any land use permit ~~can be granted for an~~ or building permit for the accessory agricultural use or secondary supporting use.		Accept as modified in red.
3	Section 3	Table 21-5.1 Table of Permitted Uses; Public, Civic, and Institutional Uses Category	6	Amends the use table to add "Facility, ʻĀina Based Education" as an entry under the Education subcategory	 **Education** Facility, ʻĀina Based Education: Cm* Cm* Cm* -- -- -- -- -- -- -- -- -- -- -- -- -- -- -- -- -- -- -- §		Not accepted. ʻĀina Based Education Facility has been included in Nature-Based Recreation. See CC-286 (2024), Line Items 3 and 29.
4	Section 3	§ 21-5.60-3 Education.	37	Adds a use standard for "Facility, ʻĀina Based Education"	(c) *Facility, ʻĀina Based Education – standards.* (1) In the AG-1, AG-2, and P-2 zoning districts, ʻĀina-Based Education Facilities must be facilities dedicated to agriculture, conservation, or ʻāina-based education programs that are accessory and secondary to the principal agricultural use of the zoning lot.		
5	Section 71	Section 21-10.1 Definitions	204	Adds a definition for "Facility, ʻĀina Based Education"	"**Facility, ʻĀina Based Education.** A facility designed to support educational programs that are grounded in the cultural, environmental, and community values of ʻāina and is not operated primarily for financial gain."		
6	Section 3	Table 21-5.1 Table of Permitted Uses; Miscellaneous Category	10	Amends the use table to add "Joint Development" as an entry under Miscellaneous Uses	**MISCELLANEOUS** Historic structure reuse: Cm* Cm* Cm* C* C* C* C* C* C* Cm* Cm* Cm* Cm* Cm* Cm* Cm* Cm* Cm* Cm* Cm* Cm* § Joint Development: Cm* Cm* Cm* Cm* Cm* Cm* Cm* Cm* Cm* Cm* Cm* Cm* Cm* Cm* Cm* Cm* Cm* Cm* Cm* Cm* §	Same uses as in Bill 10 (2022), as introduced.	Accept. Incorporated in CC-286 (2024), Line Item 3.
7	Section 3	New Use Standard following § 21-5.90-1	85	Adds a use standard for "Joint Development"	**§ 21-5.90-2 Joint Development.** The development of 2 or more adjacent subdivision lots under a single, unified project concept. (a) Whenever 2 or more adjacent subdivision lots are developed jointly in accordance with the provisions of this section, they will be considered and treated as 1 zoning lot. (b) Owners must be applicants and execute the conditional use permit and joint development agreement. (c) When applying for a conditional use permit for joint development under this section, the applicants must submit to the Director an agreement which binds themselves and their successors in title or lease, individually and collectively, to maintain the pattern of joint development proposed in such a way that there will be conformity with applicable zoning regulations. The development standards listed in Section 21-2.90-2(C) may not be modified through a conditional use permit for joint development unless allowed through another discretionary approval. The right to	Same use standard as in Bill 10 (2022), as introduced.	Accept. Modified and incorporated in CC-286 (2024), Line Item 20.

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					enforce the agreement must also be granted to the City. The agreement is subject to the approval of the Corporation Counsel of the City. (d) If the Director finds that the proposed agreement assures future protection of the public interest and meets the requirements for issuance of a conditional use permit, the Director may issue the conditional use permit. Upon issuance of the permit, the agreement, which must be one of the conditions of the permit, must be filed as a covenant running with the land with the Bureau of Conveyances or the Registrar of the Land Court. Proof of such filing in the form of a copy of the covenant certified by the appropriate agency must be filed with the Director prior to the issuance of any building permit.		
8	Section 71	Section 21-10.1 (“Definitions”)	205	Amends the definition of home-based childcare	"**Home-Based [~~Child Care.~~] Childcare.** A home occupation in which childcare services are provided [~~on a part-time basis~~] during ~~any part~~ a portion of a 24-hour day to no more than six children at any given time who are not members of the household, and that is licensed by the State department of human services. In addition to one employee of the home occupation who is allowed on the property at any given time, if the principal caregiver that is a household member becomes unavailable due to illness or emergency, an additional non-household member may be allowed on the property to provide childcare services to clients on a temporary basis to substitute for the principal caregiver ~~if the resident caregiver becomes unavailable due to illness or emergency~~. See also child daycare."	This amendment makes the definition consistent with the use standard by clarifying that a non-household member employee may be present and an additional non-household may substitute for the principal caregiver on a temporary basis in the case of an emergency.	Accept as modified in red.