HONOLULU CITY COUNCIL

KE KANIHELA O KE KALANA O HONOLULU

CITY AND COUNTY OF HONOLULU

No. 26-17

RESOLUTION

PROPOSING AN AMENDMENT TO CHAPTER 21, REVISED ORDINANCES OF HONOLULU 2021 (THE LAND USE ORDINANCE), RELATING TO CONDITIONAL USE PERMITS.

WHEREAS, the zoning maps and the Land Use Ordinance ("LUO") of the City and County of Honolulu ("City") establish zoning districts and zoning district regulations for the utilization of land in the City pursuant to Section 6-1514, Revised Charter of the City and County of Honolulu 1973 (Amended 2017 Edition), as amended ("Charter"); and

WHEREAS, each zoning district is designated for certain uses and restricted for other uses to encourage orderly development in accordance with adopted land use policies, including the O'ahu General Plan and the applicable development plans or sustainable community plans, and to promote and protect the public health, safety, and welfare; and

WHEREAS, a conditional use permit ("CUP") is a discretionary permit approved by the Director of Planning and Permitting ("DPP Director") that allows for certain land uses in certain zoning districts if certain minimum LUO standards and conditions are satisfied; and

WHEREAS, LUO Table 21-5.1 ("Use Table") identifies the types of uses that require a CUP, the zoning districts in which a use is permitted with a CUP, and whether a CUP-minor or CUP-major is required; and

WHEREAS, the DPP Director may approve a CUP if the proposed use satisfies all of the following criteria:

1. The proposed use is permitted as a conditional use in the underlying zoning district and complies with LUO requirements;

2. The site is suitable for the proposed use, considering size, shape, location, topography, infrastructure, and natural features;

3. The proposed use will not alter the character of the surrounding area by substantially limiting, impairing, or precluding the use of surrounding properties for the principal uses permitted in the underlying zoning district; and

4. The proposed use at its proposed location will provide a service or facility that will contribute to the general welfare of the community-at-large or surrounding neighborhood; and

WHEREAS, under a CUP, the DPP Director may modify application of sign regulations; zoning district regulations relating to yards, landscaping, and lot dimensions; and parking requirements for uses that have an unusual peak-hour parking demand; however, the DPP Director may not modify LUO minimum standards for a specific conditional use; and

WHEREAS, if the applicant for a CUP does not comply with any of the conditions of approval, the DPP Director may terminate any uses or development authorized by the permit, halt operations until all conditions are satisfied, declare the permit void, or seek civil enforcement of the conditions; and

WHEREAS, other than for an applicant's failure to comply with the conditions of approval, the LUO does not currently expressly provide for other circumstances under which the DPP Director may reconsider a previously approved CUP, such as when new information that was not available at the time the CUP was approved is presented, circumstances existing at the time the CUP was approved significantly change with the passage of time, or when the conditional use is detrimental to public health, safety, or welfare; and

WHEREAS, the LUO also does not currently provide for the expiration of an approved CUP if no action to proceed with the approved conditional use is taken within a reasonable amount of time; if an applicant is not able to satisfy conditions of approval required in the CUP, the applicant may seek a modification to the approved CUP instead of submitting a new CUP application; and

WHEREAS, under the current Use Table, the agritourism use, which is an accessory agricultural use on zoning lots primarily used for ongoing crop production or livestock and poultry keeping, requires a CUP-minor; however, agritourism uses may have adverse environmental and other impacts on surrounding agricultural uses and neighboring property owners, and a CUP-major may be more appropriate to address these impacts; and

WHEREAS, the City Council ("Council") believes that the LUO should be amended to expressly set forth certain circumstances under which the DPP Director may reconsider a previously approved CUP, require an applicant to take action to proceed with an approved conditional use within a reasonable amount of time after a

RESOLUTION

CUP is approved, and require a CUP-major for agritourism uses in the agricultural zoning districts; and

WHEREAS, Charter Section 6-1513 provides that "[a]ny revision of or amendment to the zoning ordinances may be proposed by the council and shall be processed in the same manner as if proposed by the director [of planning and permitting]"; and

WHEREAS, the term "zoning ordinances," as used in Charter Section 6-1513, includes both amendments to the LUO and to ordinances designating particular parcels of property in terms of the LUO; and

WHEREAS, Chapter 2, Article 24, Part A,Revised Ordinances of Honolulu 2021, establishes procedures and deadlines for the processing of Council proposals to revise or amend the general plan, the development plans, the zoning ordinances, and the subdivision ordinance, and clarifies the responsibility of the Director of Planning and Permitting to assist the Council in adequately preparing its proposals for processing; now, therefore,

BE IT RESOLVED by the Council of the City and County of Honolulu that the Director of Planning and Permitting and the Planning Commission are directed, pursuant to Section 6-1513 , Revised Charter of the City and County of Honolulu 1973 (Amended 2017 Edition), as amended, and Chapter 2, Article 24, Part A, Revised Ordinances of Honolulu 2021 ("ROH"), to process the proposed amendment to ROH Chapter 21 (the "Land Use Ordinance"), attached hereto as Exhibit A, in the same manner as if the proposal had been proposed by the Director of Planning and Permitting; and

BE IT FURTHER RESOLVED that the Director of Planning and Permitting is directed to inform the Council upon the transmittal of the Director of Planning and Permitting's report and the proposed Land Use Ordinance amendment to the Planning Commission; and

HONOLULU CITY COUNCIL

KE KANIHELA O KE KALANA O HONOLULU

CITY AND COUNTY OF HONOLULU

No. 26-17

RESOLUTION

BE IT FINALLY RESOLVED that, pursuant to ROH Chapter 2, Article 24, Part A, the City Clerk shall transmit copies of this resolution and the Exhibit A attached hereto to the Director of Planning and Permitting and the Planning Commission of the City and County of Honolulu, and shall advise them in writing of the date by which the Director of Planning and Permitting's report and accompanying proposed ordinance are required to be submitted to the Planning Commission.

INTRODUCED BY:

Esther Kiaʻaina

Tommy Waters

DATE OF INTRODUCTION:

JAN 27 2026

Honolulu, Hawaiʻi

Councilmembers

EXHIBIT A

HONOLULU CITY COUNCIL

KE KANIHELA O KE KALANA O HONOLULU

CITY AND COUNTY OF HONOLULU

ORDINANCE _____

BILL _____

A BILL FOR AN ORDINANCE

RELATING TO CONDITIONAL USE PERMITS

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Purpose. The purpose of this ordinance is to amend provisions relating to conditional use permits.

SECTION 2. Section 21-2.20, Revised Ordinances of Honolulu 2021 ("Administrative procedures") is amended by amending subsection (f) to read as follows:

"(f) [~~Applications previously approved, other than by an ordinance, shall~~] Except as otherwise provided in this article, previously approved applications, other than applications approved by ordinance, will continue as approved; provided that any reference to an approving body [~~shall~~] will be construed as the approving body [~~contained~~] specified in the applicable regulation of this chapter."

SECTION 3. Section 21-2.90-2, Revised Ordinances of Honolulu 2021, is amended to read as follows:

"**§ 21-2.90-2 General requirements.**

(a) The director may allow a conditional use [~~on a finding~~] if the director finds that the proposed use satisfies the following criteria:

(1) The proposed use is permitted as a conditional use in the underlying zoning district and [~~conforms to~~] complies with the requirements of this chapter;

(2) The site is suitable for the proposed use considering size, shape, location, topography, infrastructure, and natural features;

(3) The proposed use will not alter the character of the surrounding area in a manner substantially limiting, impairing, or precluding the use of surrounding properties for the principal uses permitted in the underlying zoning district; and

(4) The use at its proposed location will provide a service or facility [~~which~~] that will contribute to the general welfare of the community-at-large or surrounding neighborhood.

(b) In addition to the general or specific standards set forth in this chapter [~~concerning~~] regarding the proposed use, which [~~shall be~~] are considered minimum requirements with respect to the permit, additional requirements, conditions, and safeguards may be added by the director as required for the protection of the public interest in the specific case.

(c) The director may grant conditional use permits by modifying application of the sign regulations; zoning district regulations relating to yards, landscaping, and zoning lot dimensions; and parking requirements for uses that have an unusual peak-hour parking demand. No modification [~~shall~~] may be made[~~,~~] unless the proposed conditional use otherwise meets the requirements of subsections (a) and (b). [~~At no time may the~~] The director may not modify the minimum standards for a specific conditional use[~~,~~] under Article 5.

(d) In determining whether the proposed conditional use meets the requirements of subsections (a) and (b), the director [~~will, where~~] shall, if applicable, consider traffic flow and control; access to and circulation within the property; off-street parking and loading; sewerage; drainage and flooding; refuse and service areas; utilities; screening and buffering; signs; setbacks; yards and other open spaces; zoning lot dimensions; height, bulk, and location of structures; location of all proposed uses; hours and manner of operation; and noise, lights, dust, odor, and fumes.

(e) Notwithstanding the requirements of subsections (b) and (c) relating to minimum development standards, in the apartment, apartment mixed-use, and business mixed-use zoning districts, the director may grant a conditional use permit for large group living, as defined in this chapter, which may modify district regulations within the limits, [~~and~~] subject to the standards established for this conditional use in Article 5.

(f) For certain conditional use permits, the director may require all or a portion of the site to be dedicated for a minimum of 10 years to active agricultural use. If the active agricultural use ceases before the expiration of the minimum period of dedication, the director may nullify the dedication [~~upon a determination that the permit is revoked or rescinded.~~] if the permit is revoked or considered void under subsection (g), subsection (h), or § 21-2.60(a)(4).

A BILL FOR AN ORDINANCE

(g) The director may reconsider a previously approved conditional use permit, and upon reconsideration affirm, modify, or revoke the previous conditional use permit if:

(1) The conditional use permit application contains any false information;

(2) The applicant fails to comply with conditions of approval or the scope of the approval;

(3) New information that was not available when the conditional use permit was approved is presented;

(4) Facts or circumstances existing when the conditional use permit was approved have significantly changed; or

(5) The conditional use is detrimental to public health, safety, or welfare.

(h) Except as provided in subdivision (2), an approved conditional use permit will be null and void unless the conditional use is established within 36 months after the permit approval date.

(1) A conditional use is considered established if:

(A) Construction has commenced on the conditional use structures; or

(B) If the conditional use does not require the construction of structures, the conditional use is operational.

(2) The director may extend the 36-month period by not more than 12 months after the initial 36-month period, if:

(A) The applicant submits an application for an extension to the director;

(B) The applicant demonstrates good cause; and

(C) The director approves the extension prior to the 36-month deadline."

A BILL FOR AN ORDINANCE

SECTION 4. Table 21-5.1, Revised Ordinances of Honolulu 2021 ("Table of Permitted Uses"), is amended by amending the "Agritourism" use entry in the "Accessory Agricultural" category to read as follows:

"

Uses (Note: Certain uses are defined in Article 10)	Preservation, Agricultural, Country				Residential, Apartment					Apartment Mixed-Use, Resort				Business, Business Mixed-Use				Industrial, Industrial Commercial Mixed-Use				Standards
	P-2	AG-1	AG-2	Country	R-20, R-10	R-7.5, R-5, R-3.5	A-1	A-2	A-3	AMX-1	AMX-2	AMX-3	Resort	B-1	B-2	BMX-3	BMX-4	I-1	I-2	I-3	IMX-1	
AGRICULTURAL USES																						
Accessory Agricultural																						
Agritourism	--	~~[Cm*]~~ C*	~~[Cm*]~~ C*	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	§ 21-5.40-4(b)

"

SECTION 5. Ordinance material to be repealed is bracketed and stricken. New ordinance material is underscored. When revising, compiling, or printing this ordinance for inclusion in the Revised Ordinances of Honolulu, the Revisor of Ordinances need not include the brackets, the material that has been bracketed and stricken, or the underscoring.

A BILL FOR AN ORDINANCE

SECTION 6. This ordinance takes effect upon its approval.

INTRODUCED BY:

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_____

DATE OF INTRODUCTION: _____

_____

_____ _____

Honolulu, Hawai'i Councilmembers

APPROVED AS TO FORM AND LEGALITY:

_____

Deputy Corporation Counsel

APPROVED this _____day of _____, 20 ____.

_____

RICK BLANGIARDI, Mayor
City and County of Honolulu

Report Title:
Land Use Ordinance ("LUO"); Conditional Use Permit ("CUP"); Use Regulations; Permitted Use Table; Accessory Agricultural; Agritourism; Planning Commission; Department of Planning and Permitting ("DPP")

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.