



A BILL FOR AN ORDINANCE

A BILL FOR AN ORDINANCE TO AMEND CHAPTER 21, REVISED ORDINANCES OF HONOLULU 1990, AS AMENDED (THE LAND USE ORDINANCE), RELATING TO THE LAND USE ORDINANCE.

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

SECTION 1. Purpose and Intent. The purpose of this ordinance is to make miscellaneous amendments to the Land Use Ordinance.

SECTION 2. Section 21-1.20, Revised Ordinances of Honolulu 1990, as amended ("Purpose and Intent"), is amended by amending subsection (a) to read as follows:

"Sec. 21-1.20 Purpose and Intent.

- (a) The purpose of the LUO is to regulate land use in a manner that will encourage orderly development in accordance with adopted land use policies, including the [Oahu] City's general plan, and development and sustainable communities plans, and, as may be appropriate, adopted neighborhood plans, and to promote and protect the public health, safety and welfare by, more particularly:
- (1) Minimizing adverse effects resulting from the inappropriate location, use or design of sites and structures;
 - (2) Conserving the city's natural, historic and scenic resources and encouraging design which enhances the physical form of the city; and
 - (3) Assisting the public in identifying and understanding regulations affecting the development and use of land."

SECTION 3. Section 21-2.20, Revised Ordinances of Honolulu 1990, as amended ("Administrative procedures"), is amended by amending subsection (k) to read as follows:

- "(k) (1) Except as otherwise provided herein, the director may administratively authorize minor alterations, additions, or modifications to any approved permit required by this chapter, provided the minor modification request is reasonable, and consistent with the intent of the respective permit; does not significantly increase the intensity or scope of the use; and does not create adverse land use impacts upon the surrounding neighborhood.



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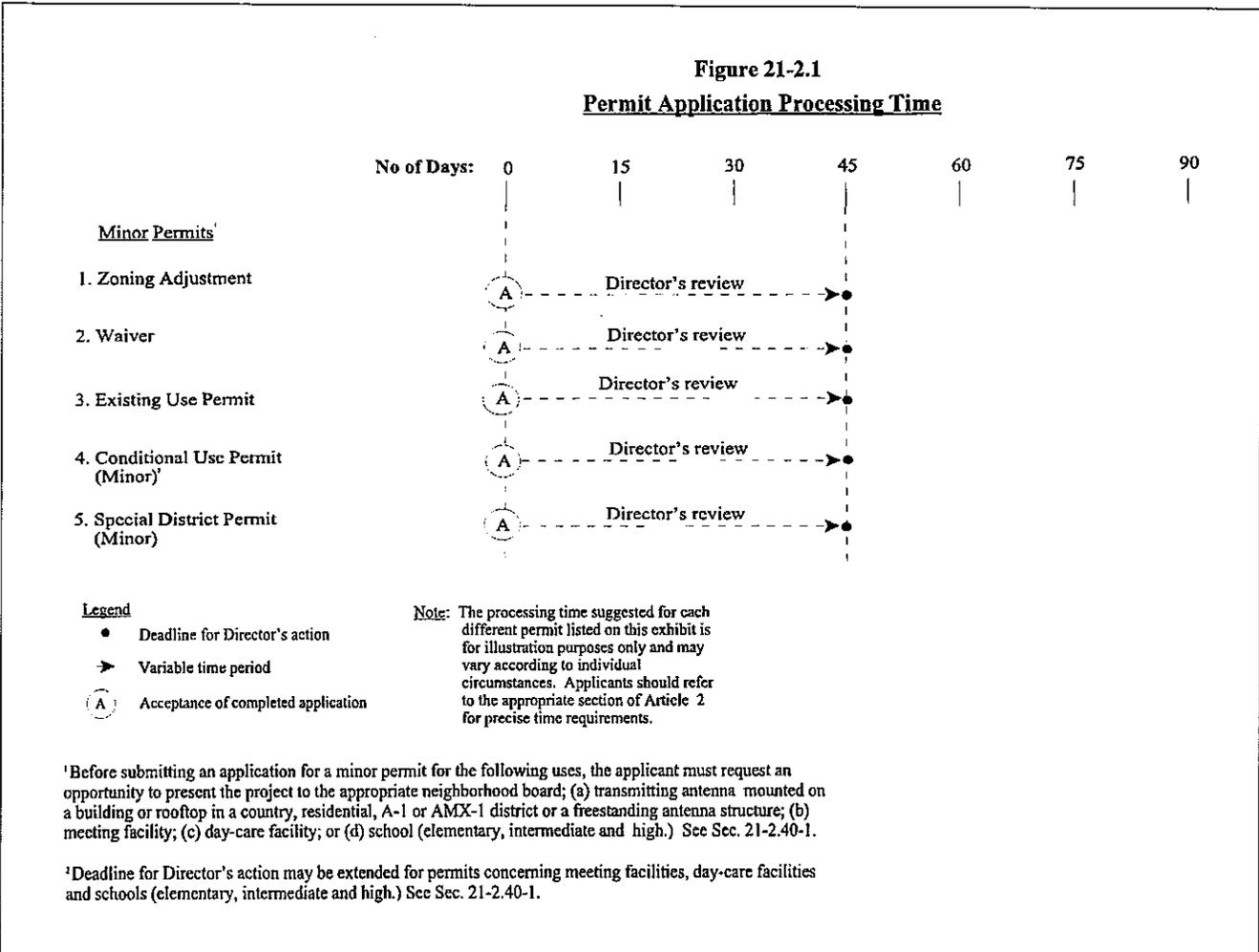
- (2) Subdivision (1) shall not apply to:
- (A) Zone changes; and
 - (B) [The following council] Council approvals pursuant to Sections 21-2.110-2 (Planned developments) and 21-2.120 et seq. (Plan Review Uses), except to the extent that minor modifications are permitted by the express language of the council's approving resolution[:
 - (i) Plan Review Use approvals; and
 - (ii) Approvals of conceptual plans for Planned Development-Resort and Planned Development-Commercial projects in the Waikiki special district pursuant to Section 21-9.80-4(d)].
- (3) Major alterations, additions, or modifications, and other alterations, additions, or modifications excepted by subdivision (2), shall be processed under the provisions for the applicable permit or approval."

SECTION 4. Figure 21-2.1 ("Permit Application Processing Time"), Revised Ordinances of Honolulu 1990, as amended, is repealed and replaced to read as follows:



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"Figure 21-2.1 Permit Application Processing Time





Permit Application Processing Time

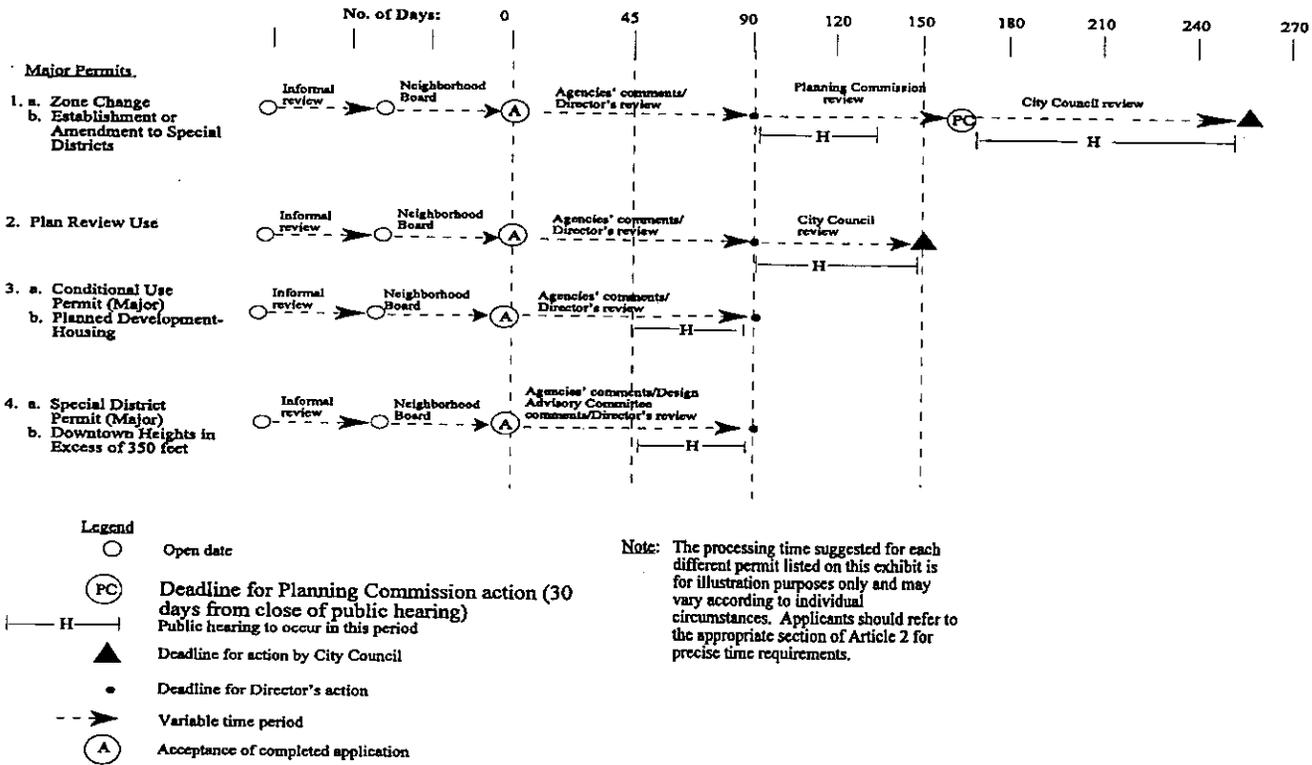
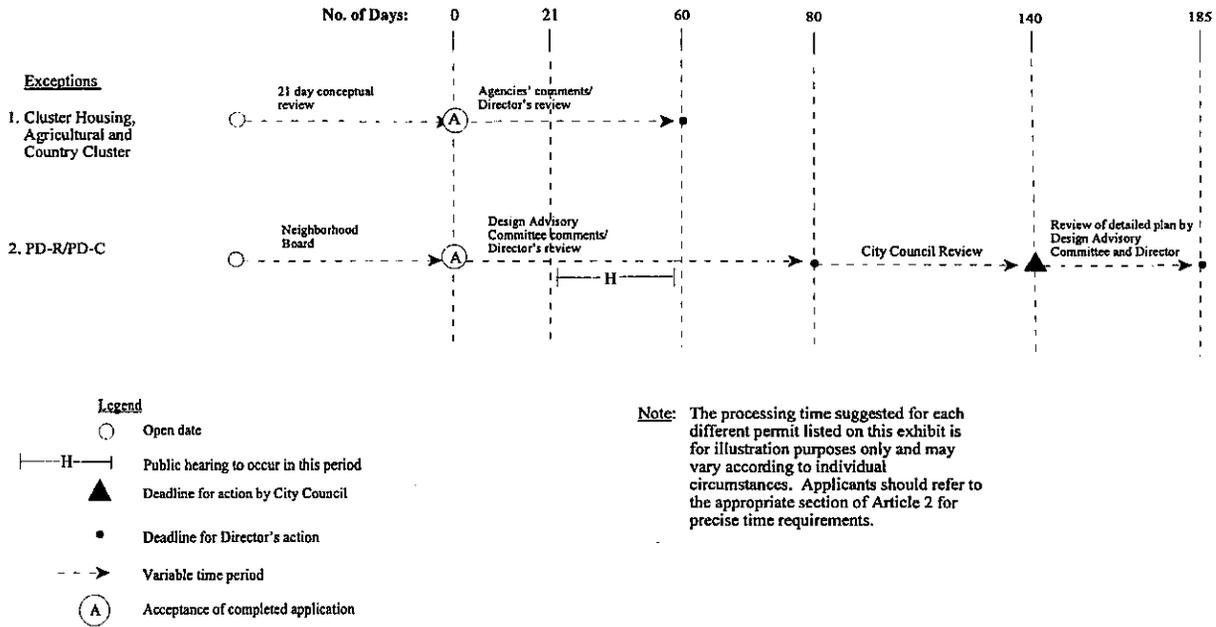


Figure 21-2.1 (continued)



Figure 21-2.1 (continued)
PERMIT APPLICATION PROCESSING TIME

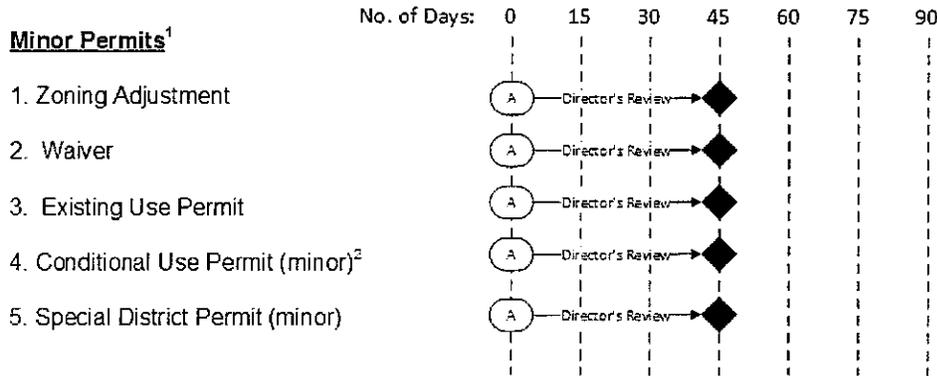




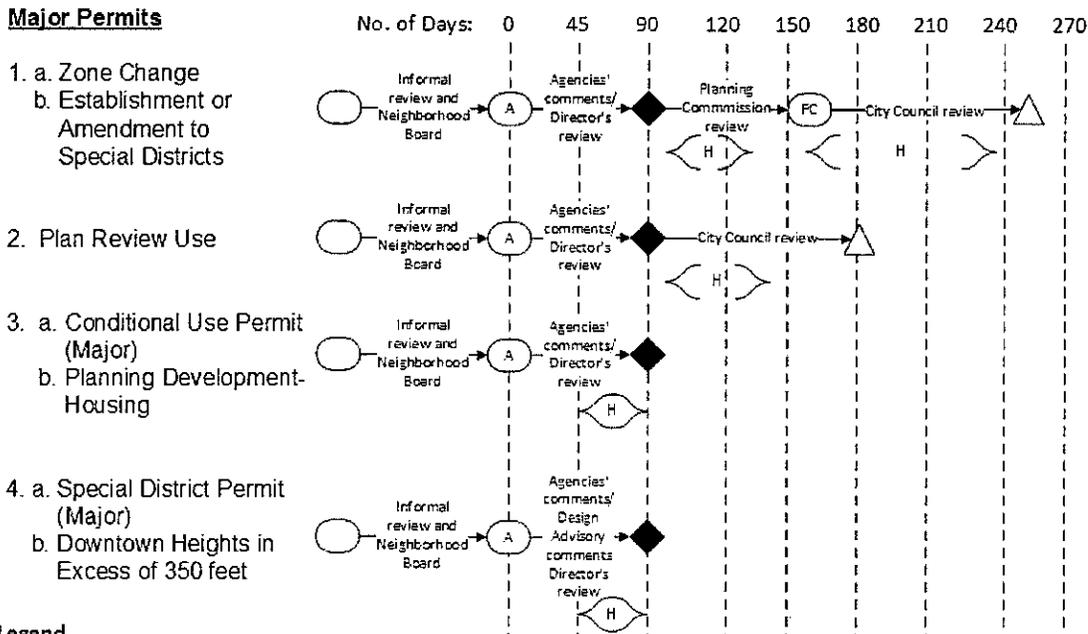
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“Figure 21-1 Permit Application Processing Time

Minor Permits¹



Major Permits



Legend

- (O) Open date
- (A) Acceptance of completed application
- (H) Public hearing occurring in this period
- ◆ Deadline for action by the Director
- (△) Deadline for action by City Council
- Variable time period
- (PC) Deadline for action by Planning Commission (30 days from close of public hearing)

Note: The processing time suggested for each different permit listed on this exhibit is for illustration purposes only and may vary according to individual circumstances. Applicants should refer to the appropriate section of Article 2 for precise time requirements.

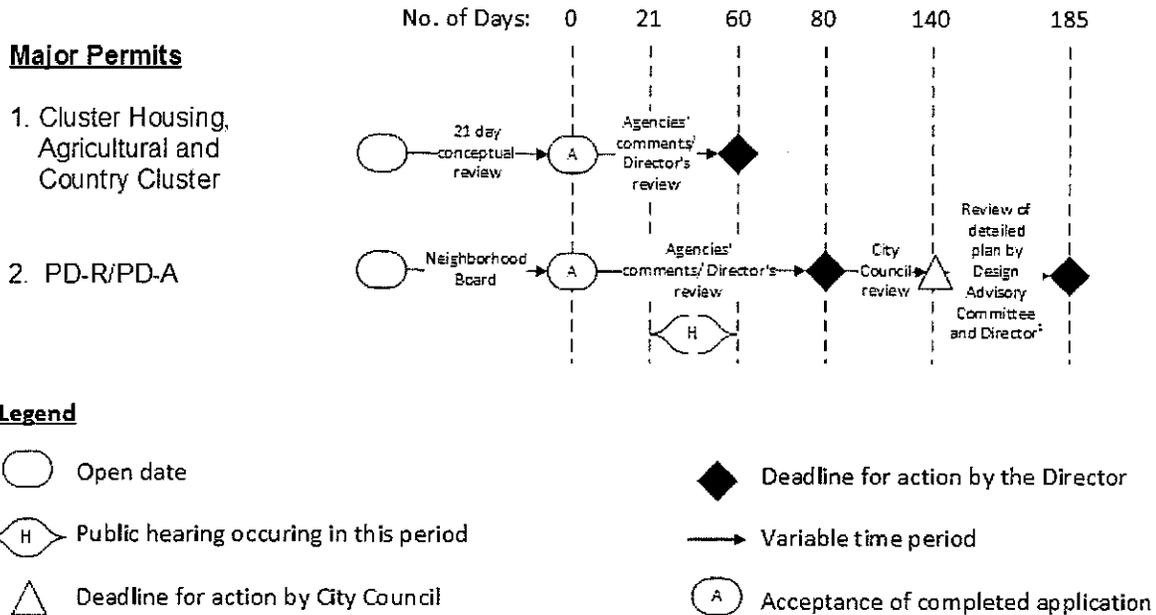
¹ Before submitting an application for a minor permit for the following uses, the applicant must request an opportunity to present to the appropriate neighborhood board: (a) transmitting antenna mounted on a building or rooftop in a county, residential, A-1 or AMX-1 District or a freestanding antenna structure; (b) meeting facility; (c) day-care facility; or (d) school (elementary, intermediate and high); or (e) hotel with up to 180 dwelling and/or lodging units in the BMX-3 district. See Sec. 21-2.40-1.

² Deadline for Director's action may be extended for permits concerning meeting facilities, day-care facilities and schools (elementary, intermediate and high). See Sec 21-2.40-1.



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Figure 21-1 (continued)



Note: The processing time suggested for each different permit listed on this exhibit is for illustration purposes only and may vary according to individual circumstances. Applicants should refer to the appropriate section of Article 2 for precise time requirements.

SECTION 5. Section 21-2.40-1, Revised Ordinances of Honolulu 1990, as amended (“Minor permits”), is amended by amending subsection (c) to read as follows:

“(c) **Application and Processing.** An applicant seeking a minor permit shall submit the appropriate application to the director for processing. Once the director has accepted an application for a conditional use permit (minor) involving a meeting facility, day-care facility, school (elementary, intermediate and high), or hotel with up to 180 dwelling and/or lodging units in the BMX-3 district, adjoining property owners and the appropriate neighborhood board or community association shall be notified of receipt of the application. Adjoining property owners shall be asked whether they wish to have a public hearing on the proposed project, and any potentially adverse external effects of the proposed project on the immediate neighborhood. If, in the judgment of the director, there is sufficient cause to hold a public hearing, the director shall hold a public hearing, which may be held within the area, no sooner than 45 days after acceptance of the completed application; and, the application shall henceforth be subject to the provisions of Sections 21-2.40-2(c)(2), (3), (4) and (6), and (d).



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[Within] Otherwise, within 45 days of the director's acceptance of the completed application, the director shall either:

- (1) Approve the application as submitted;
- (2) Approve the application with modifications and/or conditions; or
- (3) Deny the application and provide the applicant with a written explanation for the denial[; or
- (4) Extend the processing period to 90 days in order to conduct a public hearing for a conditional use permit (minor) involving a meeting facility, day-care facility, school (elementary, intermediate and high), or hotel with up to 180 dwelling and/or lodging units in the BMX-3 district].

Provided, however, that if an applicant substantially amends an application after acceptance by the director, the director shall have up to 45 days from the date of such amendment to act on the application as provided in this section."

SECTION 6. Section 21-2.140-1, Revised Ordinances of Honolulu 1990, as amended ("Specific circumstances"), is amended by amending subsection (i) to read as follows:

"(i) [Ohana Dwellings.

- (1) Rebuilding. Any ohana dwelling unit that is destroyed by any means to the extent of more than 50 percent of the unit's replacement value may be rebuilt to its previously existing dwelling type under the following conditions:
 - (A) It can be demonstrated that the ohana dwelling unit was legally constructed.
 - (B) It can be demonstrated that the replacement ohana dwelling unit will meet all current underlying district standards including but not limited to height limits, required yards and setbacks, maximum building area and parking.
 - (C) Any ohana dwelling unit rebuilt under the provisions of this subdivision (1) shall not be expanded to increase the floor area beyond the larger of:



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- (i) The floor area shown on approved building plans prior to its destruction; or development standard in the applicable zoning district.
 - (ii) The floor area allowable under the current maximum building area development standard in the applicable zoning district.
- (2) Expansion.
- (A) Notwithstanding subdivision (1), an ohana dwelling unit owner under the provisions of HRS Chapter 514A may be expanded; provided that:
 - (i) The declaration of condominium property regime or declaration of horizontal property regime was filed with the bureau of conveyances of the State of Hawaii on or before December 31, 1988; and
 - (ii) The building permit was issued prior to April 28, 1988, the effective date of Ordinance No. 88-48 which placed floor area restrictions on ohana dwellings.
 - (B) Expansion of an ohana dwelling unit pursuant to this subdivision (2) is subject to the following conditions:
 - (i) The maximum building area for each dwelling unit on the zoning lot shall not exceed the ratio of that unit's proportionate share of the common interest to the total common interest of all units on the same zoning lot multiplied by the maximum building area of the zoning lot. The common interest shall be as specified in the applicable condominium property regime documents.
 - (ii) Any such expansion shall conform to yard requirements and other development standards for the applicable zoning district.



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- (iii) In the event the maximum building area has already been reached or exceeded, no additional expansion shall be permitted.
- (3) Notwithstanding the provisions of Section 21-8.20(c), requiring all new ohana units to be attached units, detached ohana dwelling units for which the building permit was issued prior to September 10, 1992 may be rebuilt and/or expanded as provided by subdivision (1) and (2).]

Rebuilding or Expansion of a Nonconforming Ohana Dwelling. Nonconforming ohana dwellings may be altered, enlarged, repaired, or rebuilt under the following conditions (all must apply):

- (1) The ohana dwelling is a nonconforming structure or dwelling unit. An ohana dwelling shall be deemed nonconforming when an "ohana" building permit was issued under any of the following circumstances:
 - (A) The ohana dwelling is no longer in an ohana-eligible area pursuant to Section 21-2.110-3; and/or
 - (B) The ohana dwelling unit is occupied by persons who are not related by blood, marriage or adoption to the family residing in the first dwelling, and the building permit for the ohana dwelling was issued prior to September 10, 1992 (the effective date of Ordinance 92-101, which was when the family occupancy requirement was established); and/or
 - (C) A declaration of condominium property regime or declaration of horizontal property regime was filed with either the bureau of conveyances of the State of Hawaii or the land court of the State of Hawaii on or before December 31, 1988.
- (2) The building area of the ohana dwelling in combination with the first dwelling shall not exceed the current maximum building area development standard for the underlying zoning district.
- (3) The ohana dwelling shall comply with all other development standards for the underlying zoning district, including off-street parking standards.
- (4) Unless the ohana dwelling was lawfully established prior to December 31, 1988, the owner or owners shall comply with Section 21-8.20(c)(8) prior to approval of any building permit."



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SECTION 7. Section 21-2.150-2, Revised Ordinances of Honolulu 1990, as amended ("Administrative enforcement"), is amended to read as follows:

"In lieu of or in addition to enforcement pursuant to Section 21-2.150-1, if the director determines that any person is violating any provision of this chapter, any rule adopted thereunder or any permit issued pursuant thereto, the director may have the person served, by registered or certified mail, restricted [or] delivery, return receipt requested, or hand delivery, or publication with a written notice of violation and order pursuant to this section. However, if the whereabouts of such persons are unknown and the same cannot be ascertained by the director in the exercise of reasonable diligence and the director provides an affidavit to that effect, then a notice of violation and order may be served by publishing the same once each week for two consecutive weeks in a daily or weekly publication in the city pursuant to HRS Section 1-28.5."

SECTION 8. Section 21-3.20, Revised Ordinances of Honolulu 1990, as amended ("Zoning Precinct Classifications"), is amended by removing "Resort commercial" and "Resort commercial precinct" and to read as follows:

"To carry out the purposes and provisions of this chapter, the following zoning precincts are established:

Title	Map Designation
Waikiki Special District	
Apartment	Apartment precinct
Apartment mixed use	Apartment mixed use subprecinct
Resort mixed use	Resort mixed use precinct
[Resort commercial]	[Resort commercial precinct]
Public	Public precinct"

SECTION 9. Section 21-3.50-4, Revised Ordinances of Honolulu 1990, as amended ("Agricultural uses and development standards"), is amended by amending subsection (c) to read as follows:

- "(c) Additional Development Standards.
 - (1) Height. The maximum height may be increased from 15 to 25 feet if height setbacks are provided.



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- (2) Height Setbacks. Any portion of a structure exceeding 15 feet shall be set back from every front, side and rear buildable area boundary line one foot for each two feet of additional height above 15 feet (see Figure 21-3.1)."

SECTION 10. Section 21-4.50, Revised Ordinances of Honolulu 1990, as amended ("Lots in two zoning districts"), is amended to read as follows:

"Sec. 21-4.50 Lots in two zoning districts.

The following shall apply to lots within two or more zoning districts or precincts:

- (a) For a use common to the districts or precincts, district or precinct boundary lines may be ignored for the purpose of yard, height setback and height requirements.
- (b) For uses not common to the districts or precincts, yard, height setback and height regulations of each individual district or precinct shall be applicable from the lot lines on the portions of the lot lying within that district or precinct.
- (c) Where a lot lies in two zoning districts and a permitted use is common to both districts, but the floor area ratios differ, the floor area ratios shall be calculated by the following formula, where:

A = FAR for total parcel in most intense district.

B = FAR for total parcel in least intense district.

C = Area of parcel in most intense district.

$$FAR = (A - B) \times \frac{C}{\text{Total Lot Area}} + B$$

- (d) Where a lot lies in two zoning districts and a permitted use is common to both districts, but the maximum building area differs, the maximum building area shall be calculated by the following formula, where:

A' = Maximum building area (percent of) for zoning lot A.

B' = Maximum building area (percent of) for zoning lot B.



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A' x (Lot area of zoning lot A) + B' x (Lot area of zoning lot B)"

SECTION 11. Section 21-4.110, Revised Ordinances of Honolulu 1990, as amended ("Nonconformities"), is amended by amending subsection (d) to read as follows:

- "(d) Nonconforming Dwelling Units. With the exception of ohana dwelling units, which are subject to the provisions of Section 21-2.140-1(i), nonconforming dwelling units are subject to the following provisions:
- (1) A nonconforming dwelling unit may be altered, enlarged, repaired, extended or moved, provided that all other provisions of this chapter are met[, except the requirements of Section 21-8.30].
 - (2) If a nonconforming dwelling unit is destroyed by any means to an extent of more than 50 percent of its replacement cost at the time of destruction, it shall not be reconstructed.
 - (3) When detached dwellings constructed on a zoning lot prior to January 1, 1950 exceed the maximum number of dwelling units currently permitted, they shall be deemed nonconforming dwelling units."

SECTION 12. Section 21-4.110-1, Revised Ordinance of Honolulu 1990, as amended ("Nonconforming use certificates for transient vacation units"), is amended to read as follows:

"Sec. 21-4.110-1 Nonconforming use certificates for transient vacation units.

- (a) The purpose of this section is to treat certain transient vacation units which have been in operation since prior to October 22, 1986 as nonconforming uses, or which are units in existing or former nonconforming hotels or time share units, and to allow them to continue subject to obtaining a nonconforming use certificate as provided by this section and subject to compliance with the requirements in this section.
- (b) The owner, operator, [or] proprietor or licensed rental agent of any transient vacation unit which is operating in an area where such use is not expressly permitted by this chapter shall, within nine months of December 28, 1989, establish to the satisfaction of the director that the use was in existence prior to October 22, 1986 and has continued through December 28, 1989, or shall cease its operation[.], as follows:



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- (1) The owner, operator, [or] proprietor or licensed rental agent shall have the burden of proof in establishing that the use is nonconforming.
- (2) Documentation substantiating existence may include records of occupancy or tax documents, such as State of Hawaii general excise tax records, transient accommodations tax records, and federal and/or State of Hawaii income tax returns, for the years 1986 to 1989.
- (3) Failure to obtain a nonconforming use certificate within nine months of December 28, 1989 shall mean that the alleged nonconforming use, as of December 28, 1989, is not a bona fide nonconforming use, and shall not continue as a nonconforming use but shall be treated as an illegal use.

Upon a determination that the use was in existence prior to October 22, 1986 and has continued through December 28, 1989, the director shall issue a nonconforming use certificate for the transient vacation unit.

- (c) [Failure to obtain a nonconforming use certificate within nine months of December 28, 1989 shall mean that the alleged nonconforming use, as of December 28, 1989, is not a bona fide nonconforming use, and shall not continue as a nonconforming use but shall be treated as an illegal use.] The owner, operator or proprietor of a unit within a nonconforming hotel, a former nonconforming hotel, or nonconforming time share unit, may apply for a nonconforming use certificate to establish a transient vacation unit after the September 28, 1990 deadline, provided:
- (1) The applicant shall have the burden of proof in establishing that the unit is within an existing or former nonconforming hotel or is a nonconforming time share unit;
 - (2) In the case of a former nonconforming hotel or time share unit, the applicant shall prove that the transient use of the unit began prior to the loss of the nonconformity and has continued uninterrupted from the time that the hotel or time sharing nonconformity was lost;
 - (3) Documentation substantiating existence shall include records of occupancy or tax documents, such as State of Hawaii general excise tax records, transient accommodations tax records, and Federal and/or State of Hawaii income tax returns; and



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(4) Uninterrupted transient use shall mean that transient occupancies (occupancies of less than 30 days duration) occurred for a total of at least 35 days during each calendar year, with no period of 12 consecutive months without a transient occupancy.

Upon a determination that the use was in existence prior to the loss of the hotel's or time share unit's nonconformity and has continued uninterrupted through the date of the application for a nonconforming use certificate, the director shall issue a nonconforming use certificate for the transient vacation unit.

(d) The owner, operator, [or] proprietor or licensed rental agent of any transient vacation unit who has obtained a nonconforming use certificate under this section shall [apply] submit an application to renew the nonconforming use certificate [in accordance with the following schedule:

- (1) between September 1, 2000 and October 15, 2000; then
- (2) between September 1 and October 15 of every even-numbered year thereafter.]

no later than September 30 of each year. Each application to renew shall include proof that (i) there were in effect a State of Hawaii general excise tax license and transient accommodations tax license for the nonconforming use during each calendar year covered by the nonconforming use certificate being renewed and that there were transient occupancies (occupancies of less than 30 days apiece) for a total of at least 35 days during each such year and that (ii) there has been no period of 12 consecutive months during the period covered by the nonconforming use certificate being renewed without a transient occupancy. If the applicant does not reside on Oahu, the application must include the name, address, and phone number of an on-island licensed rental agent for receipt of any notices or complaints, which shall be kept current with the department. Failure to meet these conditions will result in the denial of the application for renewal of the nonconforming use certificate[.]; except where the applicant establishes good cause for failing to meet conditions of renewal. The applicant shall notify the director in writing the reason for failing to meet conditions of renewal, then the director will make a decision and notify the applicant in writing. In such situations, an additional fee of \$1,000 shall be assessed against the applicant upon approval of each application. In no case shall an application for renewal received 45 days after the expiration of the renewal period be approved. The requirement for the 35 days of transient



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occupancies shall be effective on January 1, 1995 and shall apply to renewal applications submitted on or after January 1, 1996.

- (e) The owner, operator, [or] proprietor or licensed rental agent of any transient vacation unit who has obtained a nonconforming use certificate under this section shall display the certificate issued for the current year in a conspicuous place on the premises. In the event that a single address is associated with numerous nonconforming use certificates, a listing of all units at that address holding current certificates may be displayed in a conspicuous common area instead.

SECTION 13. Section 21-4.110-2, Revised Ordinances of Honolulu 1990, as amended (“Bed and breakfast homes—Nonconforming use certificates”), is amended to read as follows:

“Sec. 21-4.110-2 Bed and breakfast homes--Nonconforming use certificates.

- (a) The purpose of this section is to prohibit bed and breakfast homes, while permitting certain bed and breakfast homes, which have been in operation since prior to December 28, 1989, to continue to operate as nonconforming uses subject to obtaining a nonconforming use certificate as provided by this section and subject to compliance with the requirements in this section.
- (b) The owner, operator, [or] proprietor or licensed rental agent of any bed and breakfast home shall, within nine months of December 28, 1989, establish to the satisfaction of the director that the use was in existence as of December 28, 1989, or shall cease its operation[.]as follows:
- (1) The owner, operator, [or] proprietor or licensed rental agent shall have the burden of proof in establishing that the use is nonconforming.
 - (2) Documentation substantiating existence of a bed and breakfast home as of December 28, 1989 may include records of occupancy or tax documents, such as State of Hawaii general excise tax records, transient accommodations tax records, and federal and/or State of Hawaii income tax returns, for the year proceeding December 28, 1989.
 - (3) Failure to obtain a nonconforming use certificate within nine months of December 28, 1989 shall mean that the alleged nonconforming use as of December 28, 1989, is not a bona fide nonconforming use, and shall not continue as a nonconforming use, but shall be treated as an illegal use.



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Upon a determination that the use was in existence as of December 28, 1989, the director shall issue a nonconforming use certificate for the bed and breakfast home.

- (c) [Failure to obtain a nonconforming use certificate within nine months of December 28, 1989 shall mean that the alleged nonconforming use as of December 28, 1989, is not a bona fide nonconforming use, and shall not continue as a nonconforming use, but shall be treated as an illegal use.
- (d)] The owner, operator, [or] proprietor or rental agent of any bed and breakfast home who has obtained a nonconforming use certificate under this section shall apply to renew the nonconforming use certificate [in accordance with the following schedule:
- (1) between September 1, 2000 and October 15, 2000; then
 - (2) between September 1 and October 15 of every even-numbered year thereafter.]

no later than September 30 of each year. Each application to renew shall include proof that (i) there were in effect a State of Hawaii general excise tax license and transient accommodations tax license for the nonconforming use for each calendar year covered by the nonconforming use certificate being renewed and that there were bed and breakfast occupancies (occupancies of less than 30 days apiece) for a total of at least 28 days during each such year and that (ii) there has been no period of 12 consecutive months during the period covered by the nonconforming use certificate being renewed without a bed and breakfast occupancy. Failure to meet these conditions will result in the denial of the application for renewal of the nonconforming use certificate[.]; except where the applicant establishes good cause for failing to meet conditions of renewal. The applicant shall notify the director in writing the reason for failing to meet conditions of renewal, then the director will make a decision and notify the applicant in writing. In such situations, an additional fee of \$1,000 shall be assessed against the applicant upon approval of each application. In no case shall an application for renewal received 45 days after the expiration of the renewal period be approved. The requirement for the 28 days of bed and breakfast occupancies shall be effective on January 1, 1995 and shall apply to renewal applications submitted on or after January 1, 1996.

- [(e)](d) Except those bed and breakfast homes which are nonconforming uses, and, after nine months from December 28, 1989, for which a nonconforming use certificate has been issued and renewed, as required, pursuant to this section,



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bed and breakfast homes are prohibited in all zoning districts. Section 21-5.350 relating to home occupations shall not apply to bed and breakfast homes.

[(f)](e) Those bed and breakfast homes for which a nonconforming use certificate has been issued and renewed, as required, pursuant to this section shall operate pursuant to the following restrictions and standards:

- (1) Detached dwellings used as bed and breakfast homes shall be occupied by a family and shall not be used as a group living facility. Rooming shall not be permitted in bed and breakfast homes.
- (2) No more than two guest rooms shall be rented to guests, and the maximum number of guests permitted within the bed and breakfast home at any one time shall be four.
- (3) There shall be no exterior signage that advertises or announces that the dwelling is used as a bed and breakfast home.
- (4) One off-street parking space shall be provided for each guest room, in addition to the required spaces for the dwelling unit.

[(g)](f) The owner, operator, [or] proprietor or licensed rental agent of any bed and breakfast home who has obtained a nonconforming use certificate under this section shall display the certificate issued for the current year in a conspicuous place on the premises.”

SECTION 14. Section 21-5.10A, Revised Ordinances of Honolulu 1990, as amended ("Agribusiness activities"), is amended to read as follows:

"Sec. 21-5.10A Agribusiness activities.

- (a) Except as otherwise specified under principal uses, retail activities in an enclosed structure may be permitted, but shall be limited to [a structure not exceeding] not more than 500 square feet of floor area, and all products for sale therein shall be predominantly [(i)] agricultural products grown [on the parcel, (ii) agricultural products grown] or produced in the City and County of Honolulu[,] and the State of Hawaii, and [(iii) jams, jellies, candies and pickled or dried produce] finished foods, drinks and other goods substantially made from those products. Non-food items may be sold, provided these are constructed primarily from those agricultural products grown or produced on the site, in the City and County of Honolulu, and the State of Hawaii. An incidental amount of general merchandise may also be sold that features the brand, name and/or logo of the



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- agribusiness operator, but which must occupy no more than five percent of the floor area permitted for and devoted to retail sales, as provided herein. The limitations enumerated above notwithstanding, an agribusiness activity may also include facilities for the preparation, sale and consumption of food and drink on the site, which must feature agricultural products grown or produced on the site, in the City and County of Honolulu, and in the State of Hawaii. [A minimum of 50 percent of the floor area of the structure used for the display of products for sale shall display promotional items; and the remainder of the floor area used for display purposes shall display only agricultural products grown in the City and County of Honolulu or the aforesaid products made therefrom.]
- (b) A non-motorized, or motorized transportation system such as, but not limited to, tramways, trains, and other forms of connected, motorized vehicles used for guided or self-guided tours may be permitted only if in conjunction with and incidental to the existing agricultural operation on the same site.
- (c) [One] No more than one farmer's market for the growers and producers of agricultural products to display and sell agricultural products grown in the City and County of Honolulu [shall] and the State of Hawaii may be permitted on a zoning lot. [Jams, jellies, candies, and pickled or dried produce or similar items made] Finished products produced primarily from these agricultural products also may be included for display [or] and sale.
- (1) Markets shall operate only during daylight hours and shall not operate on parcels of less than five (5) acres[.]; and
- (2) Structures in the farmer's market may have a wall area, but any wall shall be at least 50 percent open and all structures shall have a rural or rustic appearance.
- [(3) The market shall be on a scale appropriate to the size of the lot and surrounding area, and adequate parking and vehicular access shall be provided as determined by the director.]
- (d) Agribusiness activities shall always be accessory and incidental to the primary agricultural use of the lot; and, individually and collectively permitted agribusiness activities shall be on a scale appropriate to the size of the lot and the surrounding area, and adequate parking and vehicular access shall be provided as determined by the director.
- (e) As a condition of approval, dedication of [a] 50 percent or more of the project site, as the director determines is necessary to preserve the purpose and intent



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of the agricultural districts, for a minimum of 10 years to active agricultural use shall be required by way of an agricultural easement or comparable mechanism acceptable to the director."

SECTION 15. Section 5.160, Revised Ordinances of Honolulu 1990, as amended ("Convenience Stores"), is amended by amending subsection (c) to read as follows:

"(c) Floor area shall be limited to 2,500 square feet in the apartment mixed use and industrial districts."

SECTION 16. Section 21-5.380, Revised Ordinances of Honolulu 1990, as amended ("Joint development of two or more adjacent subdivision lots"), is amended by amending subsection (a) to read as follows:

"(a) Whenever two or more subdivision lots are developed in accordance with the provisions of this section, they shall be considered and treated as one zoning lot; except that whenever such lots involve two or more zoning districts, they shall be subject to the provisions enumerated in Section 21.4.50."

SECTION 17. Section 21-5.390, Revised Ordinances of Honolulu 1990, as amended ("Joint use of parking facilities"), is amended to read as follows:

"Sec. 21-5.390 Joint use of parking facilities.

- (a) Joint use of private off-street parking facilities in satisfaction of appropriate portions of off-street parking, bicycle parking and/or loading requirements may be allowed, provided the requirements of the following subsections are met.
- (b) The distance of the entrance to the parking and/or loading facility from the nearest principal entrance of the establishment or establishments involved in such joint use shall not exceed 400 feet by normal pedestrian routes.
- (c) The amount of off-street parking, bicycle parking and/or loading which may be credited against the requirements for the use or uses involved shall not exceed the number of spaces reasonably anticipated to be available during differing periods of peak demand.
- (d) A written agreement assuring continued availability of the number of spaces at the periods indicated shall be drawn and executed by the parties involved, and a certified copy shall be filed with the department. In such cases, no change in use or new construction shall be permitted which increases the requirements for



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off-street parking, bicycle parking and/or loading space unless such additional space is provided. The agreement shall be subject to the approval of the corporation counsel.

- (e) When joint parking or loading facilities serving eating or drinking establishments adjoin a zoning lot in a residential, apartment, or apartment mixed use district, the director shall require a solid fence or wall six feet in height to be erected and maintained on the common property line. The director may modify the requirements of this subsection if warranted by topography.”

SECTION 18. Section 21-5.700, Revised Ordinances of Honolulu 1990, as amended ("Wind machines"), is amended to read as follows:

- "(a) All horizontal-axis wind machines and ground-mounted vertical-axis wind machinery shall be set back from all property lines a minimum distance equal to the height of the system. Height shall include the height of the tower or its vertical support structure and the farthest vertical extension of the wind machine. Section 21-4.60(c)(7) notwithstanding, for rooftop mounted vertical-axis wind machines, the machinery shall be set back pursuant to the height setbacks enumerated in Article 3 and/or 9 of this Chapter for the underlying zoning and/or special district precinct.
- (b) In residential zoning districts, in addition to the above, the following shall be applicable:
- (1) [Tower] For any ground-mounted wind machine, tower climbing apparatus and blade tips of the wind machine shall be no lower than 15 feet from ground level, unless enclosed by a six-foot high fence and shall no be within seven feet of any roof or structure unless the blade are completely enclosed by a protective screen or fence [.]; and
 - (2) A public safety sign shall be posted at the base of the tower warning of high voltage and dangerous moving blades[.]; and
 - (3) The system base and rotor blade shall be a minimum of 15 feet from any overhead electrical transmission or distribution liners.
 - (4) Anchor points for guy wires for [the] any wind machine shall be located within property lines and not on or across any overhead electrical transmission or distribution lines. Guy wires shall be equipped with devices that will, in a safe manner, prevent them from being climbed and shall be securely fastened.



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- (5) The applicant shall provide manufacturer's specifications which certify the safety of the machine, provided, that the appropriate [tower was] equipment, structures and devices were used and proper installation procedures followed, as outlined in the manual.
 - (6) The wind machine shall be operated so that no disruptive electromagnetic interference is caused. If it can be demonstrated to the director that the system is causing harmful interference, the operator shall promptly mitigate the interference.
 - (7) The system shall be kept in good repair and operating condition at all times.
 - (8) The system shall be deemed abandoned if not in continuous use for at least one year. Upon determination that the use is abandoned, the structure shall be dismantled and removed within 30 days upon written notice.
 - (9) The system shall be restricted to a rated capacity of no more than 15 kilowatts.
 - (10) The system shall be deemed abandoned if not in continuous use for at least one year. Upon the determination of the director that a wind machine has been abandoned, the structure shall be dismantled and removed within 30 days upon written notice.
- (c) In the agricultural and country zoning districts, accessory wind machines shall have a rated capacity of no more than 100 kilowatts. Wind machines with a rated capacity of more than 100 kilowatts shall require a conditional use permit (minor). The system shall be deemed abandoned if not in continuous use for at least one year. Upon the determination of the director that a wind machine has been abandoned, the structure shall be dismantled and removed within 30 days upon written notice.
- (d) In the business zoning districts, wind machines shall have a rated capacity of no more than 15 kilowatts. The system shall be deemed abandoned if not in continuous use for at least one year. Upon determination by the director that the use is abandoned, the structure shall be dismantled and removed within 30 days upon written notice."



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SECTION 19. Section 21-7.40, Revised Ordinances of Honolulu 1990, as amended ("Specific district sign standards"), is amended by amending subsection (e) to read as follows:

"(e) Resort District.

- (1) In connection with any use permitted other than one- and two-family dwellings, only one wall or marquee fascia sign, not directly illuminated and not exceeding [12] 24 square feet in area, shall be permitted for each ground floor establishment with building frontage. One nonilluminated ground sign for identification or directory purposes, not exceeding eight square feet in area and not exceeding six feet in height, shall also be permitted for each street front having a principal pedestrian or vehicular entrance. If the above ground sign is not used and all buildings on the street frontage of the zoning lot are set back a minimum of 50 feet from the property line, one ground identification or directory sign, not directly illuminated and not exceeding [12] 24 square feet in area, shall also be permitted on each side of the building where a principal pedestrian or vehicular entrance is situated. Instead of the above ground signs, one garden sign may be permitted.
- (2) This subsection shall not apply to the Waikiki special district, which shall be governed by subsection (l).

SECTION 20. Section 21-7.40, Revised Ordinances of Honolulu 1990, as amended ("Specific district sign standards"), is amended by amending subsection (f) to read as follows:

"(f) B-1 Neighborhood Business District.

- (1) One wall or hanging sign on the building frontage side for each ground floor establishment is permitted. The sign shall not be directly illuminated. The maximum sign area per establishment for each building side on which the sign is permitted shall not exceed one square foot of sign area for each lineal foot of building frontage nor exceed 100 square feet in sign area. No illuminated signs shall be so placed or erected as to be visible in any portion of an adjoining residential lot after 10 p.m.
- (2) One garden sign per zoning lot instead of the signs permitted above.



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- (3) One wall or ground sign per building frontage, not directly illuminated and not exceeding 12 square feet in area, may be erected for building identification or directory purposes [as part of the total sign area permitted on the building side on which it is located]. When used, this ground sign shall not be illuminated and shall not exceed six feet in height.
- (4) For each second floor establishment with building frontage, one wall identification sign may be permitted. The maximum sign area shall be six square feet and the sign shall not be illuminated.”

SECTION 21. Section 21-7.40, Revised Ordinances of Honolulu 1990, as amended ("Specific district sign standards"), is amended by amending subsection (g) to read as follows:

“(g) B-2 Community Business and BMX-3 Community Business Mixed Use Districts.

- (1) Two business signs on the building frontages for each ground floor establishment. The signs may be illuminated and of the following types: hanging, marquee fascia, projecting or wall signs.
- (2) The maximum sign area per establishment for each building side on which signs are permitted shall not exceed one and one-half square feet for each lineal foot of building frontage; provided that no such sign area shall exceed 250 square feet in area [nor shall the total sign area exceed 15 percent of the wall area on which it is displayed or attached].
- (3) One ground sign, not directly illuminated, per zoning lot for identification or directory purposes may be erected [as part of the total sign area permitted on the building side on which it is located], provided that:
 - (A) A maximum 24-square-foot sign is permitted if all buildings on the street frontage of the zoning lot are set back greater than 50 feet from the front property line.
 - (B) [The ground sign shall be counted as one of the two permissible business signs against all ground floor establishments within the zoning lot on which it is located.
 - (C)] No portion of the sign shall be located in or overhang any required yard or public right-of-way.



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- (4) One garden sign per zoning lot[; provided that such sign shall be counted as one of the signs permitted in subdivision (1)].
- (5) One wall, ground or projecting sign per building frontage, which may be illuminated but not exceed 12 square feet in area, may be erected for building identification or directory purpose [as part of the total sign area permitted on the building side on which it is located, provided that the sign shall be counted as one of the signs permitted in subdivision (1) for each establishment]. When used, this ground sign shall not be directly illuminated and shall not exceed six feet in height.
- (6) For each second floor establishment with building frontage, one wall identification sign may be permitted. The maximum sign area shall be six square feet and the sign shall not be illuminated."

SECTION 22. Section 21-7.40, Revised Ordinances of Honolulu 1990, as amended ("Specific district sign standards"), is amended by amending subsection (i) to read as follows:

- "(i) Industrial and Industrial-Commercial Mixed Use Districts.
- (1) Two business signs on the building frontage for each ground floor establishment. The signs may be illuminated or moving and of the following types: hanging, marquee fascia, projecting, roof or wall signs.
 - (2) The maximum sign area per establishment for each building side on which signs are permitted shall not exceed two square feet for each lineal foot of building frontage, provided that no sign area shall exceed 250 square feet [nor shall the total sign area exceed 15 percent of the wall on which displayed].
 - (3) One ground sign, not directly illuminated, per zoning lot for identification or directory purposes may be erected as part of the total sign area permitted on the building side on which it is located, provided that:
 - (A) A maximum 32-square-foot sign is permitted if all buildings on the street frontage of the zoning lot are set back greater than 50 feet from the front property line.



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- (B) [The ground sign shall be counted as one of the two permissible business signs against all ground floor establishments within the zoning lot on which it is located.
- (C)] No portion of the sign shall be located in or overhang any required yard or public right-of-way.
- (4) One garden sign per zoning lot[, provided that such sign shall be counted as one of the signs permitted in subdivision (1)].
- (5) One wall, ground or projecting sign per building frontage, not directly illuminated and not exceeding 12 square feet in area for the ground sign or otherwise 24 square feet in area, may be erected for building identification or directory purposes [as part of the total sign area permitted on the building side on which it is located, provided that the sign shall be counted as one of the signs permitted in subdivision (1) for each establishment]. When used, this ground sign shall not be directly illuminated and shall not exceed six feet in height.
- (6) For each second floor establishment with building frontage, one wall identification sign may be permitted. The maximum sign area shall be six square feet and the sign shall not be illuminated. ”

SECTION 23. Section 21-8.20, Revised Ordinances of Honolulu 1990, as amended ("Housing--Ohana dwellings"), is amended by amending subsection (c) to read as follows:

- "(c) One ohana dwelling unit may be located on a lot zoned for residential, country, or agricultural use, with the following limitations:
 - (1) The maximum size of an ohana dwelling unit is not limited but will be subject to the maximum building area development standard in the applicable zoning district.
 - (2) Ohana dwelling units are not permitted on lots within a zero lot line project, cluster housing project, agricultural cluster, country cluster, planned development housing, R-3.5 zoning districts, or on duplex units lots.
 - (3) An ohana dwelling unit is not permitted on any nonconforming lot.



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- (4) The ohana dwelling unit and the first dwelling may be located within a single structure, i.e., within the same two-family detached dwelling, or the ohana dwelling unit may be detached from the first dwelling and located on the same lot as the first dwelling.
- (5) The ohana dwelling unit must be occupied by persons who are related by blood, marriage or adoption to the family residing in the first dwelling. Notwithstanding this provision, ohana dwelling units for which a building permit was obtained before September 10, 1992 are not subject to this restriction and their occupancy by persons other than family members is permitted.
- (6) All other provisions of the zoning district apply.
- (7) The parking provisions of this chapter applicable at the time the ohana building permit is issued apply and the provision of such parking is a continuing duty of the owner.
- (8) The owner or owners of the lot shall record in the bureau of conveyances of the State of Hawaii, or if the lot is subject to land court registration under HRS Chapter 501, they shall record in the land court, a covenant that neither the owner or owners, nor their heirs, successors or assigns of the owner or owners shall submit the lot or any portion thereof to the condominium property regime established by HRS Chapter [514A] 514B. The covenant must be recorded on a form approved by or provided by the director and may contain such terms as the director deems necessary to ensure its enforceability. The failure of an owner or of an owner's heir, successor or assign to abide by such a covenant will be deemed a violation of Chapter 21 and be ground for enforcement of the covenant by the director pursuant to Section 21-2.150, et seq., and will be grounds for an action by the director to require the owner or owners to remove, pursuant to HRS Section [514A-21] 514B-47, the property from a submission of the lot or any portion thereof to the condominium property regime made in violation of the covenant."

SECTION 24. Table 21-9.6(C) ('Waikiki Special District Project Classification'), Revised Ordinances of Honolulu 1990, as amended to read as follows:



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"

Table 21-9.6(C) Waikiki Special District Project Classification		
Activity/Use	Required Permit	Special Conditions
Signs	E	
Tree removal over six inches in diameter	m/E	Minor only when visible from a street, park or other public viewing area; otherwise exempt
Detached dwellings and duplex units and accessory structures	E	
Grading and stockpiling	E	
Major modification, alteration, repair or addition to historic structures	M	
Minor modification, alteration, repair or addition to historic structures	m	
Major exterior repair, alteration or addition to nonhistoric structures	m	
Minor exterior repair, alteration or addition to nonhistoric structures, which does not adversely change the character or appearance of the structure	E	
Planned development projects (PD-R and PD-[C]A)	M	Prior council approval of conceptual plan required. See Sec. 21-9.80-4(d)(4).
Permitted uses and structures under Sections 21-9.80-4(a), uses and activities allowed in required yards and setbacks; 21-9.80-4(e), nonconformity; and 21-9.80-4(g)(1), rooftop height exemption; when not otherwise covered by this table	M/m	Major for the reconstruction of existing nonconforming structures and/or adjustment of open space, off-street parking and/or height provided for nonconforming structures under Section 21-9.80-4(e)(1)
Exterior repainting that significantly changes the character or appearance of the structure	M/m	Major for murals exceeding length or width dimensions of 12 feet
Interior repairs, alterations and renovations to all structures	E	
Demolition of historic structures	M	
Demolition of nonhistoric structures	m/E	Minor only when structure is over 50 years old; otherwise exempt



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Table 21-9.6(C) Waikiki Special District Project Classification		
Activity/Use	Required Permit	Special Conditions
Fences and walls	E	
Streetscape improvements, including street furniture, light fixtures, sidewalk paving, bus shelters and other elements in public rights-of-way	m	
Major above-grade infrastructure* improvements not covered elsewhere, including new roadways, road widenings, new substations, new parks and significant improvements to existing parks	m	
Minor above-grade infrastructure* improvements not covered elsewhere; all below-grade infrastructure improvements; and all emergency and routine repair and maintenance work	E	
New buildings not covered above	M/m	Minor for accessory structures

SECTION 25. Section 21-9.80-3, Revised Ordinances of Honolulu 1990, as amended ("Prominent view corridors and historic properties"), is amended by amending subsection (b) to read as follows:

"(b) Development should preserve, maintain and enhance these views whenever possible. Additional yard area and spacing between buildings may be required by the director, in connection with the issuance of special district permits, and the council and/or the director, in connection with planned development-resort and [planned development-commercial] planned development-apartment approvals pursuant to Section 21-2.110-2, to protect these significant views."

SECTION 26. Section 21-9.80-4, Revised Ordinances of Honolulu 1990, as amended ("General requirements and design controls"), is amended by amending subsection (c) to read as follows:

"(c) Design Guidelines

- (1) General Guidelines. All structures, open spaces, landscape elements and other improvements within the district shall conform to the guidelines specified on the urban design controls marked Exhibit 21-9.15, set out at



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the end of this article, the design standards contained in this section and other design guidelines promulgated by the director to further define and implement these standards.

- (2) Yards. Yard requirement shall be as enumerated under development standards for the appropriate zoning precinct under Table 21-9.6(B).
- (3) [Automobile Service Stations and] Car Rental Establishments. [Automobile service stations and c] Car rental establishments shall comply with the following requirements:
 - (A) A minimum side and rear yard of five feet shall be required with a solid fence or wall at least six feet in height on the property line with the required yard substantially landscaped with planting and maintained.
 - (B) The [station] car rental establishment shall be illuminated so that no unshielded, unreflected or undiffused light source is visible from any public area or private property immediately adjacent to the station.
 - (C) All areas not landscaped shall be provided with an all weather surface.
 - (D) No water produced by activities on the zoning lot shall be permitted to fall upon or drain across public streets or sidewalks."

SECTION 27. Section 21-9.80-4, Revised Ordinances of Honolulu 1990, as amended ("General requirements and design controls"), is amended by amending subsection (d) to read as follows:

- "(d) Planned Development-Resort (PD-R) and Planned Development-Apartment (PD-A) Projects. The purpose of the PD-R and PD-A options is to provide opportunities for creative redevelopment not possible under a strict adherence to the development standards of the special district. Flexibility may be provided for project density, height, precinct, transitional height setbacks, yards, open space and landscaping when timely, demonstrable contributions benefiting the community and the stability, function, and overall ambiance and appearance of Waikiki are produced. Reflective of the significance of the flexibility represented by this option, it is appropriate to approve projects conceptually by legislative review and approval prior to more detailed review and approval by the department. PD-R and PD-A projects shall be subject to the following:



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- (1) PD-R and PD-A Applicability.
- (A) PD-R projects shall only be permitted in the resort mixed use precinct, and PD-A projects shall only be permitted in the apartment precinct.
 - (B) The minimum project size shall be one acre. Multiple lots may be part of a single PD-R or PD-A project if all lots are under a single owner and/or lessee holding leases with a minimum of 30 years remaining in their terms. Multiple lots in a single project must be contiguous, provided that lots that are not contiguous may be part of a single project if all of the following conditions are met:
 - (i) The lots are not contiguous solely because they are separated by a street or right-of-way that is not a major street as shown on Exhibit 21-9.15; and
 - (ii) Each noncontiguous portion of the project, whether comprised of a single lot or multiple contiguous lots, shall have a minimum area of 20,000 square feet, but subject to the minimum overall project size of one acre.

When a project consists of noncontiguous lots as provided above, bridges or other design features connecting the separated lots are strongly encouraged, to unify the project site. Multiple lots that are part of an approved single PD-R or PD-A project shall be considered and treated as one zoning lot for purposes of the project, provided that no conditional use permit-minor for a joint development shall be required therefore.

- (2) PD-R and PD-A Use Regulations. Permitted uses and structures shall be as enumerated for the underlying precinct in Table 21-9.6(A).
- (3) PD-R and PD-A Site Development and Design Standards. The standards set forth by this subdivision are general requirements for PD-R and PD-A projects. When, in the paragraphs below, the standards are stated to be subject to modification or reduction, such modification or reduction shall be for the purpose of accomplishing a project design consistent with the goals and objectives of the Waikiki special district and this subsection (d).



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- (A) In PD-R projects, maximum project floor area shall not exceed an FAR of 4.0, except:
 - (i) If the existing FAR is greater than 3.33, then an increase in maximum density by up to 20 percent may be allowed, up to but not exceeding a maximum FAR of 5.0; or
 - (ii) If the existing FAR is greater than 5.0, then the existing FAR may be the maximum density.
- (B) In PD-A projects, maximum project floor area shall not exceed an FAR of 3.0, except:
 - (i) If the existing FAR is greater than 3.0, then an increase in maximum density by up to 20 percent may be allowed, up to but not exceeding a maximum FAR of 4.0; or
 - (ii) If the existing FAR is greater than 4.0, then the existing FAR may be the maximum density.

In computing project floor area, the FAR may be applied to the zoning lot area, plus one-half the abutting right-of-way area of any public street or alley. Floor area devoted to acceptable public uses within the project, such as a museum or performance area (e.g., stage or rehearsal area), may be exempt from floor area calculations.

The foregoing maximum densities may be reduced.

~~[(B)]~~(C)Maximum building height shall be 350 feet, but this standard may be reduced.

~~[(C)]~~(D)Precinct transitional height setbacks shall be as set forth in Table 21-9.6(B), but these standards may be modified.

~~[(D)]~~(E)Minimum yards shall be 15 feet, but this standard may be modified.

~~[(E)]~~(F)Minimum open space shall be at least 50 percent of the zoning lot area, but this standard may be modified when beneficial public open spaces and related amenities are provided.



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[(F)](G) Landscaping requirements shall be as set forth in subsection (f), but these standards may be modified.

[(G)](H) Except as otherwise provided in this subdivision, all development and design standards applicable to the precinct in which the project is located shall apply.

(4) Approval of PD-R or PD-A Projects.

- (A) Application Requirements. An application for approval of a PD-R or PD-A project shall contain:
- (i) A project name;
 - (ii) A location map showing the project in relation to the surrounding area;
 - (iii) A site plan showing the locations of buildings and other major structures, proposed open space and landscaping system, and other major activities. It shall also note property lines, the shoreline, shoreline setback lines, beach access and other public and private access, when applicable;
 - (iv) A narrative description of the overall development and design concept; the general mix of uses; the basic form and number of structures; the estimated number of proposed hotel and other dwelling or lodging units; general building height and density; how the project achieves and positively contributes to a Hawaiian sense of place; proposed public amenities, development of open space and landscaping; how the project achieves a pedestrian orientation; and potential impacts on, but not necessarily limited to, traffic circulation, parking and loading, security, sewers, potable water, and public utilities;
 - (v) An open space plan and integrated pedestrian circulation system;
 - (vi) A narrative explanation of the project's architectural design relating the various design elements to a Hawaiian sense of



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place and the requirements of the Waikiki special district;
and

- (vii) A parking and loading management plan.
- (B) Procedures. Applications for approval of PD-R or PD-A projects shall be processed in accordance with Section 21-2.110-2.
- (C) No project shall be eligible for PD-R or PD-A status unless the council has first approved a conceptual plan for the project.
- (D) Guidelines for Review and Approval of the Conceptual Plan for a Project. Prior to its approval of a conceptual plan for a PD-R or PD-A project, the council shall find that the project concept, as a unified plan, is in the general interest of the public, and that:
 - (i) Requested project boundaries and design flexibility with respect to standards relating to density (floor area), height, precinct transitional height setbacks, yards, open space and landscaping are consistent with the Waikiki special district objectives and the provisions of this subsection (d);
 - (ii) Requested flexibility with respect to standards relating to density (floor area), height, precinct transitional height setbacks, yards, open space, and landscaping is commensurate with the public amenities proposed; and
 - (iii) When applicable, there is no conflict with any visitor unit limits for Waikiki as set forth under Chapter 24.
- (E) Deadline for Obtaining Building Permit for Project.
 - (i) A council resolution of approval for a conceptual plan for a PD-R or PD-A project shall establish a deadline within which the building permit for the project shall be obtained. For multiphase projects, deadlines shall be established for obtaining building permits for each phase of the project. The resolution shall provide that the failure to obtain any building permit within the prescribed period shall render null and void the council's approval of the conceptual plan and all approvals issued thereunder; provided that in multiphase projects, any prior phase that has complied with the



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deadline applicable to that phase shall not be affected. A revocation of a building permit pursuant to Section 18-5.4 after the deadline shall be deemed a failure to comply with the deadline.

- (ii) The resolution shall further provide that a deadline may be extended as follows: The director may extend the deadline if the applicant demonstrates good cause, but the deadline shall not be extended beyond one year from the initial deadline without the approval of the council, which may grant or deny the approval in its complete discretion. If the applicant requests an extension beyond one year from the initial deadline and the director finds that the applicant has demonstrated good cause for the extension, the director shall prepare and submit to the council a report on the proposed extension, which report shall include the director's findings and recommendations thereon and a proposed resolution approving the extension. The council may approve the proposed extension or an extension for a shorter or longer period, or deny the proposed extension, by resolution. If the council fails to take final action on the proposed extension within the first to occur of (aa) 60 days after the receipt of the director's report or (bb) the applicant's then-existing deadline for obtaining a building permit, the extension shall be deemed to be denied. The director shall notify the council in writing of any extensions granted by the director that do not require council approval.
- (F) Approval by Director. Upon council approval of the conceptual plan for the PD-R or PD-A project, the application for the project, as approved in concept by the council, shall continue to be processed by the director as provided under Section 21-2.110-2. Additional documentation may be required by the director as necessary. The following criteria shall be used by the director to review applications:
- (i) The project shall conform to the approved conceptual plan and any conditions established by the council in its resolution of approval;



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- (ii) The project also shall implement the objectives, guidelines, and standards of the Waikiki special district and this subsection (d);
- (iii) The project shall exhibit a Hawaiian sense of place. The document "Restoring Hawaiianness to Waikiki" (July 1994) and the supplemental design guidebook to be prepared by the director should be consulted by applicants as a guide for the types of features which may fulfill this requirement;
- (iv) The project shall demonstrate a high level of compliance with the design guidelines of this special district and this subsection (d);
- (v) The project shall contribute significantly to the overall desired urban design of Waikiki;
- (vi) The project shall reflect appropriate "contextual architecture";
- (vii) The project shall demonstrate a pedestrian system, open spaces, landscaping and water features (such as water gardens and ponds) which are integrated and prominently conspicuous throughout the project site at ground level;
- (viii) The open space plan shall provide useable open spaces, green spaces, water features, public places and other related amenities that reflect a strong appreciation for the tropical environmental setting reflective of Hawaii;
- (ix) The system of proposed pedestrian elements shall contribute to a strong pedestrian orientation which shall be integrated into the overall design of the project, and shall enhance the pedestrian experience between the project and surrounding Waikiki areas; and
- (x) The parking management plan shall minimize impacts upon public streets where possible, shall enhance local traffic circulation patterns, and shall make appropriate accommodations for all anticipated parking and loading demands. The approved parking management plan shall



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constitute the off-street parking and loading requirements for the project."

SECTION 28. Section 21-9.100-5 Revised Ordinances of Honolulu 1990, ("Interim planned development – transit (IPD-T) projects"), as amended, is amended by amending subsection (d) to read as follows:

"(d) Site Development and Design Standards. The standards set forth by this subsection are general requirements for IPD-T projects. When, in the paragraphs below, the standards are stated to be subject to modification or reduction, such modification or reduction shall be for the purpose of accomplishing a project design consistent with the goals and objectives of Section 21-9.100-4 and this subsection. Also, pursuant to Section 21-9.100-5(b), the modification or reduction in the following standard shall be commensurate with the contributions provided in the project plan, and the project shall be generally consistent with the draft or approved neighborhood TOD plan for the area.

(1) Density.

- (A) The maximum floor area ratio (FAR) may be up to twice that allowed by the underlying zoning district or 7.5, whichever is lower; and
- (B) For lots in the B-2, BMX-3, BMX-4, and IMX-1 districts, the maximum increase shall apply in addition to any eligible density bonuses for the underlying zoning district; that is, the increase shall apply to the zoning lot plus any applicable floor area bonuses.

(2) Height.

- (A) For project sites where there is no draft neighborhood TOD plan, the maximum building height may be up to twice that allowed by the underlying zoning district, or 450 feet, whichever is lower; and
- (B) Where there is a draft or approved neighborhood TOD plan, the maximum height shall not exceed the maximum height specified in the plan, provided that where existing height limits exceed those in the plans, the existing height limit shall prevail.



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- (3) Transitional height and/or street setbacks may be modified where adjacent uses and street character will not be adversely affected.
- (4) Buildable Area. Yards and the maximum building area shall be as specified by the approved conceptual project plan, provided that building placement will not cause adverse noise, sunlight blockage, privacy and/or wind effects to adjacent uses, and street character will not be adversely affected.
- (5) Open Space.
 - (A) Project open space shall be as specified in the approved conceptual project plan, with a preference for publicly accessible highly usable parks and gathering spaces rather than buffering or unusable landscaped areas.
 - (B) Where appropriate, usable open space may be:
 - (i) Transferred to another accessible site within the vicinity of the project that shall be utilized as public park, plaza or gathering place for the affected community; or
 - (ii) Provided in the form of connection or improvements, or both, to nearby open spaces, pedestrian ways or trails, such as, but not necessarily limited to streetscape and intersection improvements, pedestrian walkways or bridges, arcades, or promenades;or both.
- (6) Landscaping and screening standards shall be as specified in the approved conceptual project plan and project landscaping shall include adjacent rights-of-way. Streetscape landscaping, including street trees or planting strips, or both, should be provided near the edge of the street, rather than adjacent to the building, unless infeasible.
- (7) Parking and loading standards shall be as follows:
 - (A) The number of parking and loading spaces provided shall be as specified in the approved conceptual project plan;



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- (B) Service areas and loading spaces shall be located at the side or rear of the site, unless the size and configuration of the lot renders this infeasible;
 - (C) Vehicular access shall be provided from a secondary street whenever possible and placed in the location least likely to impede pedestrian circulation; and
 - (D) The provision of car-sharing programs and vehicle charging stations is encouraged.
- (8) Bicycle parking shall be accommodated on the project site, subject to the following:
- (A) The number of bicycle parking spaces provided shall be as specified in the approved conceptual project plan;
 - (B) Long-term bicycle parking shall be provided for residents of on-site dwelling units in the form of enclosed bicycle lockers or easily accessible, secure and covered bicycled storage;
 - (C) Bicycle parking within enclosed parking structures shall be located as close as is feasible to an entrance of the facility so that it is visible from the street or sidewalk. The provision of the fenced and gated area for secure bicycle parking within the structure is encouraged;
 - (D) Each bicycle parking space shall be a minimum of 15 inches in width and six feet in length, with at least five feet of clearance between bicycle and vehicle parking spaces. Each bicycle must be easily reached and movable without moving another bicycle; and
 - (E) The provision of space for bicycle-sharing stations is encouraged either on the exterior of the building or within a parking structure, provided the area is visible and accessible from the street.
- (9) Signs.
- (A) Sign standards and requirements shall be as specified in the approved conceptual project plan. The sign standards and requirements may deviate from the strict sign regulations of this



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chapter, provided the flexibility is used to achieve good design, compatibility, creativity, consistency, and continuity in the utilization of signs on a pedestrian scale;

- (B) All projects shall include appropriate measures to accommodate TOD-related way-finding signage, which shall be considered “public signs” for purposes of Article 7; and
- (C) Where signage is not otherwise specified by the approved conceptual plan for the project, the project signage shall comply with the underlying sign regulation of this chapter.”

SECTION 29. Section 21-10.1, Revised Ordinances of Honolulu 1990 (“Definitions”), as amended, is amended by amending the definitions of “corporate retreat,” “family,” and “transient vacation unit” to read as follows:

- a. “Corporate retreat” means a transient vacation unit which is provided [with or without compensation] by [a] any business, including but not limited to a sole proprietorship, general partnership, limited partnership, limited liability partnership, limited liability limited partnership, corporation, non-profit corporation, or limited liability company [or corporation, including a nonprofit corporation,] or any other legal entity under any other structural organization, to transient occupants, including but not limited to employees, directors, executives or shareholders of the business[, company or corporation] and/or their families, friends or acquaintances.”
- b. “Family” means one of more persons, all related by blood, adoption or marriage, occupying a dwelling unit or lodging unit. A family may also be defined as no more than five unrelated persons.

In addition, eight or fewer persons who reside in an adult residential care home, a special treatment facility or other similar facility monitored, registered, certified and/or licensed by the State of Hawaii shall be considered a family. Resident managers or supervisors shall not be included in this resident count.”

- c. “Transient vacation unit” means a dwelling unit or lodging unit which is provided to transient occupants, other than the owner and/or the owner’s immediate family, for less than 30 days, other than a bed and breakfast home. For purposes of this definition, a corporate retreat is always a transient vacation unit [compensation includes, but is not limited to monetary payment, services or labor of employees].”



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ORDINANCE _____
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SECTION 30. Ordinance material to be repealed is bracketed. New 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 bracketed material, or the underscoring.



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SECTION 31. This ordinance shall take effect upon its approval.

INTRODUCED BY:

[Handwritten signature]

(br)

DATE OF INTRODUCTION:

NOV 17 2015

Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Deputy Corporation Counsel

APPROVED this _____ day of _____, 20 _____.

KIRK CALDWELL, Mayor
City and County of Honolulu