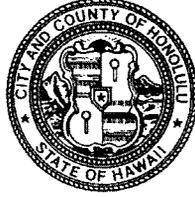


DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

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MUFI HANNEMANN
MAYOR



DAVID K. TANOUE
DIRECTOR

ROBERT M. SUMITOMO
DEPUTY DIRECTOR

March 23, 2010

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The Honorable Todd K. Apo, Chair
and Members
Honolulu City Council
530 South King Street, Room 202
Honolulu, Hawaii 96813

Dear Chair Apo and Councilmembers:

Subject: A Bill to Amend Chapter 21, Revised Ordinances of Honolulu 1990,
As Amended, ("The Land Use Ordinance") Relating to Miscellaneous
"Housekeeping" Measures

The Planning Commission held a public hearing on March 10, 2010 on the above subject matter. Four people testified in support of the bill. There were six written testimonies received in support of the proposal. The public hearing was closed on March 10, 2010.

The Planning Commission voted on March 10, 2010, to approve the proposed Bill with the recommendation that City Council further considers whether to permit two farm dwellings at a maximum of 1,500 square feet each on agriculturally-zoned lots that are at least twice the minimum lot size for the zoning district.

Attached is the report from the Director of the Department of Planning and Permitting and the original copy of the draft Bill. The minutes will be forwarded under separate cover.

Sincerely,

Jeane Sumida
for Rodney Kim, Chair
Planning Commission

APPROVED:

Handwritten signature of Kirk W. Caldwell.

Kirk W. Caldwell
Managing Director

APPROVED:

Handwritten signature of David K. Tanoue.

David K. Tanoue, Director
Department of Planning and Permitting

APPROVED:

Handwritten signature of Mufi Hannemann.

Mufi Hannemann
Mayor

RK:js
Attachments

DEPT. COM. 198

Authorization David Tanoue
Advertisement Feb. 26, 2010
Public Hearing March 10, 2010

DEPARTMENT OF PLANNING AND PERMITTING

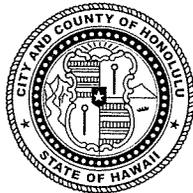
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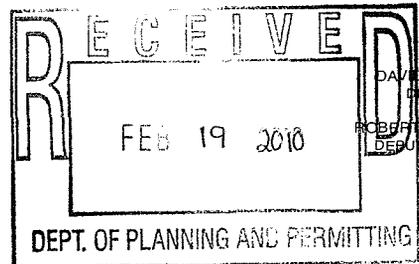
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MUFI HANNEMANN
MAYOR



February 19, 2010



DAVID K. TANOUE
DIRECTOR
ROBERT M. SUMITOMO
DEPUTY DIRECTOR
(JP/LK)

MEMORANDUM

TO: RODNEY KIM, CHAIR
AND MEMBERS OF THE PLANNING COMMISSION

FROM: DAVID K. TANOUE, DIRECTOR 
DEPARTMENT OF PLANNING AND PERMITTING

SUBJECT: A BILL TO AMEND CHAPTER 21, REVISED ORDINANCES OF HONOLULU
1990, AS AMENDED ("THE LAND USE ORDINANCE") RELATING TO
MISCELLANEOUS "HOUSEKEEPING" MEASURES

Attached for your consideration and appropriate action is a draft bill to amend the Land Use Ordinance (LUO), relating to an assortment of miscellaneous "housekeeping" measures. These LUO amendments are initiated by the Department of Planning and Permitting, and are recommended for approval.

In addition to the draft bill, we have included our report, in table format, which provides explanations and our justifications for the various amendments.

We will be happy to answer any question you may have concerning this matter at the public hearing scheduled for March 10, 2010.

DKT:cs
Attachments

cc: City Council

LUO SECTION	AMENDMENT	JUSTIFICATION
Section 21-2.20(k), “Administrative Procedures”	<u>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. Major alterations, additions, or modifications shall be processed under the provisions for the applicable permit.</u>	Establishes a new subsection (k) in the Administrative Procedures section of the LUO to provide clear and explicit authority for the administrative granting of “minor modifications” to approved LUO permits. At present, minor modifications are typically authorized by a condition of approval attached to an LUO permit when it is granted. Otherwise, minor modifications are only currently recognized within the City’s fee ordinance (ROH Section 6-41.1). The proposed subsection (k) provides the specific standards (criteria) which are necessary and appropriate to the granting of a minor modification: Reasonableness of the request, consistency with the approved permit, no significant increase in intensity or scope of the approved use and/or development, and no adverse impact on the surrounding neighborhood.
Section 21-2.60(a), “Rules Governing Director’s Failure to Act Within Specified Time Period”	<p>Subject to subsections (b) and (c), the director may, in accordance with HRS Chapter 91, adopt rules having the force and effect of law which provide that if the director fails to act on applications for (i) a minor permit, (ii) a major permit requiring only the director’s approval, or (iii) those portions of a one-stop permit application package (OSP) which require only the director’s approval, within the time periods specified in Sections 21-2.40-1(c), 21-2.40-2(c)(6) and -(d), and 21-2.50(d), respectively, the applicable permit requiring only the director’s approval shall be deemed approved <u>to the extent that the proposal complies with all applicable laws, regulations, and rules, subject to the following conditions:</u></p> <p>(1) <u>The use and/or development authorized by the permit shall be in general conformance with the project, as shown on plans and/or drawings on file with the Department of Planning and Permitting, which shall be deemed the approved plans for the project. Any modification to the project and/or plans shall be subject to the prior review of and approval by the Director of Planning and Permitting. Major modifications shall require a new permit; and</u></p> <p>(2) <u>Approval of the permit does not constitute compliance with any other Land Use Ordinance or other governmental requirements, including, but not necessarily limited to, building permit approval,</u></p>	<p>Pursuant to LUO Section 21-60(a), certain actions relating to LUO permits are deemed approved if not acted on within a specified time. Currently, this automatic approval occurs <u>without conditions</u>; leaving the City with no clear authority to modify or enforce the permit approval. This amendment provides standard conditions for those circumstances where there is an automatic approval of an LUO permit. These standard conditions, which have been reviewed at the request of the DPP and approved by the Department of the Corporation Counsel, are currently applied to virtually every LUO permit granted by the Director of DPP; so, it follows that they should similarly apply to those permits automatically approved pursuant to this section. The standard conditions are summarized as follows:</p> <p>(1) Development will follow the plans which were submitted to the DPP; and, major or minor modifications to the approved plans shall be subject to separate approval, pursuant to established procedures.</p> <p>(2) The applicant is still required to meet other governmental and developmental requirements, i.e., an automatic approval of the LUO permit does not supersede other regulatory requirements.</p>

LUO SECTION	AMENDMENT	JUSTIFICATION
	<p><u>which are subject to separate review and approval. The applicant shall be responsible for insuring that the plans for the project deemed approved under the permit comply with all applicable Land Use Ordinance and other governmental provisions and requirements; and</u></p> <p>(3) <u>The director may impose additional conditions, modify existing conditions, and/or delete conditions deemed satisfied, upon a finding that circumstances related to the approved project have significantly changed so as to warrant a modification to the conditions of the approval; and</u></p> <p>(4) <u>In the event of the noncompliance with any of the conditions of approval, the director may terminate any uses and/or development authorized by the permit, or halt their operation until all conditions are met, or declare the permit null and void, or seek civil enforcement.</u></p>	<p>(3) If circumstances surrounding the project significantly change, the Director of DPP can impose modifications to the permit.</p> <p>(4) If the applicant does not comply with these standard conditions of approval, then the Director of DPP may institute enforcement action, revoke the permit, or stop operations until all conditions are met, as may be appropriate.</p>
Section 21-2.90-1(a), "Application Requirements"	A developer, owner, or lessee [(holding a lease for the property, the unexpired term of which is more than five years from the date of filing of the application)] may file an application for a conditional use permit with the director, provided that the conditional use sought is permitted in the particular district.	The five-year minimum term was intended to ensure that an application for a Conditional Use Permits (CUP) was approved by the landowner and represented serious, long-term plans. This practice has become unnecessary because landowners often co-sign applications, and many applicants will not or cannot feasibly commit to a lease until they are guaranteed the entitlement associated with the permit request. Furthermore, the DPP does not currently turn away applicants if they do not have adequate lease terms at the time of application. Rather, the applicant is required to provide a copy of an executed minimum 5-year lease as a condition of permit approval. Therefore, the existing provision (i.e., 5-year lease requirement) is neither practical nor necessary.
21-2.100(b)(2), "Existing Uses"	Existing uses and structures shall meet the applicable zoning requirements at the time the uses and structures were approved. They need not meet the current underlying district regulations, nor the minimum development standards of this chapter; however, existing uses that involve dwelling units, <u>other than those associated with a plantation community subdivision</u> , must conform to the requirements relating to minimum land area and maximum number of units specified in Section 21-8.50-2 for cluster housing, in Section 21-3.60-2 for country clusters, and in Section 21-3.50-2 for agricultural clusters, whichever is applicable.	Revises paragraph (2) under the LUO provisions for Existing Use (EU) permits to implement a State mandate imposed by HRS Section 46.4, which is intended to preserve established plantation communities (e.g., Poamoho, Kunia Camp). Currently, the only recourse to implement the mandate is the granting of a zoning variance. An EU permit is a more appropriate means of achieving consistency, because these situations involve existing housing similar to a nonconforming Agricultural Cluster project, which is eligible for an EU permit, provided the number of dwellings complies with current LUO standards. The proposed revisions

LUO SECTION	AMENDMENT	JUSTIFICATION
	<p><u>For purposes of this subsection, a plantation community subdivision may include housing, and community and/or agricultural support buildings, as provided under HRS Section 205-4.5(a)(12).</u></p>	<p>will provide an exemption only to the numerical dwelling unit standard for eligible plantation community subdivisions in order to achieve consistency with State law.</p>
<p>Section 21-2-140-1(c)(2), “Zoning Adjustments-- Specific Circumstances-- Flag Lots”</p>	<p>No more than 3 flag stems or access drives are located adjacent to one another, the access drive(s) do not serve more than 5 dwelling units, and the combined access drive <u>pavement</u> width does not exceed 32 feet; and</p>	<p>Amends paragraph (2) for the flag lot zoning adjustment to clarify that the reference to flag stem (driveway) width is for the <u>paved</u> surface of the access drive.</p>
<p>Table 21-3, “Master Use Table”</p>	<p><u>Biofuel processing facilities</u> added as a CUP (Major) in P-2, AG-1, and AG-2 Districts, and as a CUP (Minor) in I-2 and I-3 Districts</p>	<p>Revises the LUO Master Use Table by adding “biofuel processing facilities” as a conditional use. This revision achieves consistency with recent State law [HRS Section 205-4.5(a)(15)] establishing biofuel processing facilities as a permitted use in State Land Use Agricultural Districts. The proposed LUO revisions will treat these types of facilities under the same established procedures and requirements as those applied to “waste disposal and processing” uses, which are similar in nature, except that biofuel processing facilities will now be allowed in the AG-1 District to achieve consistency with State law. (See corresponding revisions to LUO Articles 5 and 10.)</p>
	<p>“Repair establishments, major” added as a “Permitted Use subject to standards in Article 5” in the I-1 District</p>	<p>Adds “major repair establishments” as a permitted use in the I-1 Limited Industrial District, subject to use requirements enumerated in LUO Article 5. Major repair establishments commonly include auto body and certain other types of automobile repair shops providing customer service to the general public. Currently, these establishments are limited to the I-2 Intensive Industrial and I-3 Waterfront Industrial Districts. This used to be acceptable, since the I-2 Districts were relatively widely distributed throughout the island. (For practical purposes, the I-3 District contains only those uses associated with harbor operations, rather than customer uses for the general public.) However, the distribution of I-2 Districts is becoming more selective over time (due to zone changes, etc.), for appropriate reasons; and, the establishment of I-1 Districts becoming more common, e.g., Kunia, Pearl City. The potential land use impacts associated with these types of uses are similar to those of general manufacturing, processing and packaging establishments, which are already permitted in the I-1 District, subject to appropriate use requirements enumerated in LUO Article 5. Therefore, it is appropriate to also allow major repair establishments in the I-1 District, subject to the</p>

LUO SECTION	AMENDMENT	JUSTIFICATION
Section 21-3.50-2(a), "Agricultural Clusters-- Site Standards"	The minimum land area required for an AG-1 district agricultural cluster shall be [15] <u>10</u> contiguous acres. The minimum land area required for an AG-2 district agricultural cluster shall be [six] <u>four</u> contiguous acres.	same use requirements. (See corresponding revisions to LUO Article 5.) Decreases the minimum lot size for agricultural cluster projects consistent with concurrent proposals to limit the number of farm dwellings allowed "by right" on agricultural zoning lots, and to eliminate the site development plan option. (See corresponding amendments to LUO Sections 21-5.250 and 21-8.30.) Since only one farm dwelling is proposed to be permitted, by right, on agricultural zoning lots, two or more farm dwellings on a single agricultural zoning lot will require the approval of an agricultural cluster permit. The existing standard is based on a cluster involving 3 or more farm dwellings on 15 acres in the AG-1, or 6 acres in the AG-2 District. Therefore, the standard must be lowered accordingly, to 2 farm dwellings on 10 contiguous acres in the AG-1 and 4 in the AG-2 District. The existing standard is derived from the minimum lot size for a farm dwelling in the underlying zoning district (five acres in the AG-1 and two acres in the AG-2 District), multiplied by three dwellings; so, the revised standard should be the minimum lot size for a farm dwelling for the underlying zoning district times two dwellings.
Section 21-3.60-2(a), "Country Clusters—Site Standards"	The minimum land area required for a country cluster shall be [three] <u>nine</u> contiguous acres.	Increases the minimum lot size for country cluster projects, consistent with concurrent proposals to eliminate the site development plan option. (See corresponding amendments to LUO Section 21-8.30.) The existing minimum land area requirement is based on a country cluster involving three or more dwellings, since two dwellings are currently allowed "by right" on country lots with a lot area of at least two acres. There is a concurrent proposal to allow up to eight dwellings on a country zoning lot of at least eight acres, so the minimum land area requirement for a country cluster needs to be increased to nine acres for nine dwellings.
Section 21-4.30(d), "Yards and Street Setbacks"	Parking and loading shall not be allowed in any required yard, except parking <u>and loading</u> in front and side yards in agricultural, country and residential districts; and as provided under Section 21-6.70, which allows parking spaces to overlap required front and side yards by three feet if wheel stops are installed, and Section 21-6.130(f) which allows loading if replacement open space is provided.	Allows loading spaces to be located in front and side yards in agricultural, country, and residential districts to be consistent with LUO Section 21-6.130(f).
Section 21- 4.110(b)(1)(A), "Nonconformities—"	Notwithstanding the foregoing provision, a nonconforming structure devoted to a conforming use which contains multifamily dwelling units owned by owners under the authority of HRS Chapter 514A, <u>514B</u> or	Adds condominium property regimes approved under the authority of HRS Chapter 514B to the existing provision in order to be consistent with current HRS references. HRS Chapter 514B superseded HRS

LUO SECTION	AMENDMENT	JUSTIFICATION
Nonconforming Structures”	421H, or units owned by a "cooperative housing corporation" as defined in HRS Section 421I-1, whether or not the structure is located in a special district, and which is destroyed by accidental means, including destruction by fire, hurricane, other calamity, or act of God, may be restored to its former condition, provided that such restoration is permitted by the building code and flood hazard regulations and is started within two years.	Chapter 514A on July 1, 2006.
Section 21-4.110(c)(3) and (4), “Nonconformities— Nonconforming Uses”	<p>(3) Work may be done on any structure devoted in whole or in part to any nonconforming use, provided that work on the nonconforming use portion shall be limited to ordinary repairs. For purposes of this subsection, ordinary repairs shall only be construed to include the following:</p> <p>(A) The repair or replacement of existing walls, <u>floors</u>, roofs, fixtures, wiring or plumbing; or</p> <p>(B) May include work required to comply with <u>city, state or</u> federal mandates such as, but not limited to, the Americans with Disabilities Act (ADA) or the National Environmental Protection Act (NEPA); or</p> <p>(C) May include interior and exterior alterations, provided that there is no physical expansion of the nonconforming use or intensification of the use.</p> <p style="padding-left: 40px;">Further, ordinary repairs shall not exceed 10 percent of the current replacement cost of the structure within a 12-month period, and the floor area of the structure, as it existed on October 22, 1986, or on the date of any subsequent amendment to this chapter pursuant to which a lawful use became nonconforming, shall not be increased.</p> <p>(4) Any nonconforming use may be changed to another nonconforming use of the same nature and general impact, or to a more restricted use, provided that [the] :</p> <p>(A) <u>The</u> change to a more restricted use may be made only if the relation of the use to the surrounding property is such that adverse effects on occupants and neighboring properties will not be greater than if the original nonconforming use continued; <u>and</u></p>	<p>Clarifies in paragraph (3) that “ordinary repairs” include repairs to and replacement of floors, in addition to roofs, fixtures, wiring, and plumbing. Also, “ordinary repairs” may include necessary upgrades required under city and state, as well as federal mandates.</p> <p>Paragraph (4) explicitly provides the Director with the authority to impose, in writing, certain “elements of a use” (e.g., hours of operation, off-street parking or loading requirements, size and/or frequency of customer or client visits, etc.) that may be necessary and appropriate to minimize impact and/or prevent adverse effects before allowing a change in nonconforming use. Essentially, this revision underlines the Director’s existing authority to determine when a proposed change in nonconforming use is allowable by explicitly providing the Director with</p>

LUO SECTION	AMENDMENT	JUSTIFICATION
	<p>(B) <u>The director may impose conditions on the change in nonconforming use necessary or appropriate to minimize impact and/or prevent greater adverse effects related to a proposed change in use.</u> Other than as provided as "ordinary repairs" under subdivision (3), improvements intended to accommodate a change in nonconforming use or tenant shall not be permitted.</p>	<p>the authority to review a specific proposal and impose conditions that may be appropriate to insure compatibility with surrounding permitted uses. This has been longstanding practice; however, explicit authority in the provision will help avoid confusion and/or future challenge.</p>
<p>Article 5, "Specific Use Development Standards"</p>	<p>Sec. 21-5._____ Biofuel processing facilities. <u>No biofuel processing facility shall be located within 1,500 feet of any zoning lot in a country, residential, apartment, apartment mixed use or resort district. When it can be determined that potential impacts will be adequately mitigated due to prevailing winds, terrain, technology or similar considerations, this distance may be reduced, provided that at no time shall the distance be less than 500 feet.</u></p> <p>Sec. 21-5._____ Repair establishments, major. <u>In the I-1 zoning district, the following standards shall apply:</u> (a) <u>No major repair establishment shall be located within 100 feet of any zoning lot in a residential, apartment, or apartment mixed use district.</u> (b) <u>If a major repair establishment is within 300 feet of any zoning lot in a residential, apartment, or apartment mixed use district, there shall be no major repair work performed or external activities of any kind conducted between the hours of 10 p.m. and 7 a.m.</u></p>	<p>Establishes a new section in LUO Article 5 (to be numbered by the revisor of ordinances) to specify the minimum use requirements for "biofuel processing facilities." (See corresponding amendments to LUO Table 21-3 and Article 10.) The proposed requirements are the same as existing provisions for other potentially noxious conditional uses (e.g., waste disposal and processing facilities; salvage, scrap and junk storage and processing).</p> <p>Establishes a new section in LUO Article 5 (to be numbered by the revisor of ordinances) to specify the minimum use requirements for "major repair establishments" located in the I-1 Limited Industrial District. (See corresponding amendments to LUO Table 21-3.) The proposed requirements are the same as existing provisions for general manufacturing, processing and packaging establishments located in the I-1 Limited Industrial District, and should be similarly adequate to insure compatibility with other permitted uses and structures, therein.</p>
<p>Section 21-5.250, "Farm Dwellings"</p>	<p>Sec. 21-5.250 Farm dwellings. (a) [In the AG-1 district, the number of farm dwellings shall not exceed one for each five acres of lot area. In the AG-2 district, the number of farm dwellings shall not exceed one for each two acres of lot area.] <u>Only one farm dwelling shall be permitted on the zoning lot, except as may otherwise be permitted under established procedures for ohana dwelling units.</u> (b) <u>Each farm dwelling and any accessory uses, including an ohana dwelling unit permitted under established procedures, shall be contained within [an] a single, contiguous perimeter of regular geometric form with an area not to exceed 5,000 square feet of the lot area.</u></p>	<p>Amends the specific use requirements for "farm dwellings" to address related Council-initiated amendments via Resolution No. 09-90, CD1; primarily, to limit the number and size of farm dwellings on agricultural zoning lots. However, unlike the Council-initiated proposal, the DPP alternative would not require that farm dwellings obtain an approved conditional use permit (CUP), since that would establish unnecessary regulation. Further, this alternative addresses internal consistency with other relevant, existing LUO provisions relating to ohana dwellings and agricultural clusters, which are not addressed by the proposal initiated under Resolution No. 09-90, CD1. These revisions will, like the proposal initiated under Resolution No. 09-90, CD1, only permit one (principal) farm dwelling per agricultural zoning lot, with a maximum size of 1,500</p>

LUO SECTION	AMENDMENT	JUSTIFICATION
	(c) <u>The floor area of a farm dwelling shall not exceed 1,500 square feet.</u>	square feet. They also recognize that an ohana farm dwelling may be permitted, as allowed under established procedures. And, further establishes within the LUO the longstanding administrative interpretation regarding the shape of the allowable building area, by making it explicit that the maximum permitted 5,000-square-foot building area must be contained within a simple geometric shape.
Section 21-5.350, "Home Occupations"	<p>Sec. 21-5.350 Home occupations. Home occupations as an accessory use to dwelling units are permitted under the following restrictions and standards:</p> <p>(a) Home occupations shall be incidental and subordinate to the principal use of the site as a residence and shall not change the character [and] <u>or the external appearance of either the dwelling or the surrounding neighborhood.</u></p> <p>(b) Only household members shall be employed under the home occupation. Notwithstanding the foregoing, when the home occupation is home-based child care, one caregiver, not a member of the household, may be employed as a substitute for the principal caregiver if an emergency renders the principal caregiver unavailable, provided that in no event shall such substitute employment exceed five days per calendar month. As used in this subsection, "emergency" includes but is not limited to illness of the principal caregiver or an immediate relative of the principal caregiver.</p> <p>(c) There shall be no exterior sign that shows the building is used for anything but residential use. There shall be no exterior displays or advertisements.</p> <p>(d) There shall be no outdoor storage of materials or supplies.</p> <p>(e) <u>[Indoor] No more than 250 square feet of floor area or 20 percent of the total floor area of the dwelling, whichever is less, shall be used for the home occupation; and, the storage of materials and supplies shall be fully enclosed and shall not exceed 250 cubic feet or 20 percent of the total floor area, whichever is less.</u></p> <p>(f) Articles sold on the premises shall be limited to those produced by the home occupation and to instructional materials pertinent to the home occupation.</p>	<p>Includes various amendments to home occupation standards to clarify and standardize enforcement of the ordinance based on current practice. Paragraph (a) explicitly states that the home occupation cannot impact the appearance or character of the surrounding neighborhood, not just the appearance of the dwelling in which the occupation takes place. This reflects current interpretation and the intent of the law, and is appropriate to the regulation of home occupations.</p> <p>Paragraph (e) establishes easily identifiable thresholds to determine the incidental nature of the home occupation. Specifically, it gives a maximum square-footage (250 square feet) or percentage (20 percent) of a house that can be dedicated to the home occupation. Also, it specifies that materials used for the occupation must be completely enclosed. This is consistent with the requirement that the occupation may not change the external appearance of the dwelling or neighborhood. This measure eliminates ambiguity and enables the</p>

LUO SECTION	AMENDMENT	JUSTIFICATION
	<p>(g) Home occupations which depend on client visits, including group instruction, shall provide one <u>off-street</u> parking space per five clients on the premises at [one] <u>any given</u> time. This shall be in addition to, <u>and shall not obstruct the</u> parking required for the dwelling use. Residents of multifamily buildings may fulfill the requirement by the use of guest parking with the approval of the building owner (management) or condominium association.</p> <p>(h) For those activities which may have potential negative noise impacts on adjoining residences, the director may require that such activities be conducted in fully enclosed, noise-attenuated structures. <u>For the purposes of this subsection, "noise-attenuated" shall mean that sounds directly associated with the home occupation shall not be noticeably audible from the exterior of the dwelling.</u></p> <p>(i) The following activities are not permitted as home occupations:</p> <ol style="list-style-type: none"> (1) Automobile repair and painting. However, any repair and painting of vehicles owned by household members shall be permitted, provided that the number of vehicles repaired or painted shall not exceed five per year per dwelling unit. A household member providing any legal document showing ownership of an affected vehicle shall be deemed to satisfy this requirement. (2) Contractor's storage yards. (3) Care, treatment or boarding of animals in exchange for money, goods or services. The occasional boarding and the occasional grooming of animals not exceeding five animals per day shall be permitted as home occupations. (4) Those on-premises activities and uses which are only permitted in the industrial districts. (5) Use of dwellings or lots as a headquarters for the assembly of employees for instructions or other purposes, or to be dispatched for work to other locations. 	<p>threshold between an accessory and principle use to be more accurately and consistently determined.</p> <p>Paragraph (g) specifies that the parking provided for clients must be accommodated on the site and may not block or obstruct the parking required for the dwelling. This is consistent with current practice.</p> <p>Amends paragraph (h) by providing a clear performance standard for "noise-attenuated" consistent with and appropriate to the purposes of regulating home occupations. The amendment specifies that a home occupation may not change even the audible character of the dwelling or surrounding neighborhood, consistent with subsection (a) of this section.</p>

LUO SECTION	AMENDMENT	JUSTIFICATION
	<p>(6) Sale of guns and ammunition.</p> <p>(7) <u>Mail and package handling and delivery businesses.</u></p> <p>(i) <u>There shall be no parking on the street of commercial vehicles associated with the home occupation, other than the occasional, infrequent, and momentary parking of a vehicle for pick-ups and/or deliveries as a service to the home occupation.</u></p>	<p>Home occupations involving mail and package handling and delivery become problematic for neighborhoods because of the traffic, movement, and noise generated by the use. This use corresponds closely with “centralized mail and package handling” uses, which are also permitted uses in the IMX-1 Industrial-commercial Mixed Use District. Therefore, it can currently be allowed as a home occupation. However, the use inherently generates potential impacts that are not appropriate in residential neighborhoods, and so should be explicitly prohibited as a home occupation.</p> <p>The proposed limitation placed on street parking for commercial vehicles follows from the requirement that a home occupation may not change the external appearance of the surrounding neighborhood, consistent with subsection (a) of this section.</p>
Section 21-5.380, “Joint Development”	<p>Sec. 21-5.380 Joint development of two or more adjacent [zoning] <u>subdivision</u> lots.</p> <p>(a) Whenever two or more [zoning] <u>subdivision</u> lots are developed in accordance with the provisions of this section, they shall be considered and treated as one zoning lot.</p>	<p>Amends the title of the section and subsection (a) to be consistent LUO Article 10, wherein “joint development” is defined as “the development of two or more adjacent <u>subdivision</u> lots under a single or unified project concept.” [Emphasis added.] The joint development of two or more subdivision lots with the same zoning creates a single zoning lot for LUO purposes.</p>
Section 21-5.450(a), “Meeting Facilities”	<p>In the AG-2, country, residential, apartment and apartment mixed use districts, the following standards shall apply:</p> <p>(1) Accessory eating and drinking establishments shall not be permitted, except in the apartment mixed use district.</p> <p>(2) The director may require that certain structures be sound-proofed and may establish hours of operation for amplification equipment.</p> <p>(3) [The minimum lot size shall be 20,000 square feet.</p> <p>(4) The minimum street frontage shall be 75 feet.</p> <p>(5)] All meeting facilities shall be located with access to a street or right-of-way of minimum access width <u>and sufficient street frontage</u> as determined by the appropriate agencies.</p>	<p>Deletes the minimum lot size and street frontage requirements for meeting facilities in AG-2, country, residential, apartment, and AMX districts. These specific use requirements may actually make the City vulnerable to legal challenge under federal law. The Religious Land Use and Institutionalized Persons Act (RLUIPA), Chapter 21C, United States Code, mandates that no government shall impose or implement a land use regulation in a manner that imposes a substantial burden on religious exercise. In view of this federal mandate, it may be difficult for the City to defend itself against complaints that the minimum lot size and street frontage standards are substantial burdens to the exercise of certain religious institutions, most notably those of a relatively small size. That is, if a small church, for example, can otherwise demonstrate that it can operate on a site without adverse effect on a lot with an area of less than 20,000 square feet and/or with less than 75 feet of street frontage,</p>

LUO SECTION	AMENDMENT	JUSTIFICATION
		<p>then it would likely prevail in federal court by challenging the current LUO minimum requirements. The existing minimum lot size and street frontage standards are not based on any established direct nexus, where studies have found a correlation between the inherent nature of meeting facility uses, regardless of size, and any particular adverse effects. Rather, these standards were merely established as a specified parameter for further consideration through the CUP process. Meeting facility uses, in these zoning districts, already require the approval of a CUP; and, this land use permit already provides the process by which individual meeting facility proposals can be adequately reviewed for site suitability. As part of the CUP process, lot size and street frontage are and will continue to be reviewed for each individual proposal to determine whether the specific meeting facility will be a suitable use on the site where it is proposed. Therefore, as prescriptive parameters for further consideration the existing standards are fundamentally unnecessary; and, in view of RLUIPA, inappropriate.</p>
Section 21-5.700, "Wind Machines"	<p>(b)(9)The system shall be restricted to a rated capacity of no more than [one kilowatt] <u>15 kilowatts</u>.</p> <p>(d) In the business zoning districts, wind machines shall have a rated capacity of no more than [10] <u>15 kilowatts</u>.</p>	<p>Updates the maximum power rating for wind machines to reflect modern technology. According to the American Wind Energy Association (AWEA), a wind turbine for a home should be rated in the range of 5 to 15 kilowatts to make a significant contribution to the home's energy usage. Most manufacturers do not make wind machines with only a one kilowatt power rating anymore.</p>
Table 21-6.1, "Off-street Parking Requirements"	<p>Recreation facilities, outdoor and indoor, involving swimming pools and sports played on courts -- 1 per 200 square feet of <u>seating area</u>, plus 3 per court, e.g., racquetball, tennis or similar <u>court</u>, and 12 per outdoor play <u>field</u></p> <p>Auditoriums, funeral homes/mortuaries, meeting facilities, <u>gymnasiums</u>, sports arenas, and theaters -- 1 per 75 square feet of assembly area or 1 per 5 fixed seats, whichever is greater</p> <p>Day-care facilities -- 1 [for each 10 care recipients of design capacity] <u>per 350 square feet of classroom area, meeting area, and/or gathering space</u>, plus 1 per 400 square feet of office floor space</p>	<p>Updates the LUO to reflect current practice for parking calculations for recreation facilities. Specifically, this reflects that parking is calculated based on seating area plus the field or court requirement. Parking calculations based on the square-footage of the entire facility would overestimate the use of the site. This amendment reflects current interpretation and practice.</p> <p>Clarifies that, for the purposes of calculating off-street parking requirements, gymnasiums should be similarly treated like sports arenas, rather than more the generic "recreation facilities." This amendment reflects current interpretation and practice.</p> <p>Updates parking calculations for day-care facilities to be consistent with the new building code methodology, i.e., based on floor area rather than design capacity. This is also a more straightforward method for</p>

LUO SECTION	AMENDMENT	JUSTIFICATION
	<p>Schools: elementary and intermediate -- 1 [for each 20 students of design capacity] <u>per 400 square feet of classroom area</u>, plus 1 per 400 square feet of office floor space</p> <p>Schools: high, language, vocational, business, technical, and trade; business colleges -- 1 [for each 10 students of design capacity] <u>per 200 square feet of high school, language school, business school, or business college classroom area; 1 per 500 square feet of vocational, technical, or trade school classroom area; [,] plus 1 per 400 square feet of office floor space</u></p>	<p>checking off-street parking requirements during plan review processes.</p> <p>Updates parking calculations for schools to be consistent with the new building code methodology, i.e., based on floor area rather than design capacity. This is also a more straightforward method for checking off-street parking requirements during plan review processes.</p> <p>Updates parking calculations for schools to be consistent with the new building code methodology, i.e., based on floor area rather than design capacity. This is also a more straightforward method for checking off-street parking requirements during plan review processes.</p>
<p>Section 21-7.20, "Definitions and General Sign Standards"</p>	<p><u>"Flashing sign" means a sign designed to attract attention by the inclusion of a flashing, changing, revolving or flickering light source or a change of light intensity; and, also includes any sign involving electronically generated or controlled images, such as an electronic programmable message sign, digital sign, or plasma or LED sign, or video or holographic display."</u></p>	<p>Updates the definition for "flashing signs" to include electronic programmable message signs, and signs involving electronic and/or digital forms of illumination. Flashing signs are already appropriately prohibited pursuant to LUO Section 21-7.30(e). The DPP by longstanding administrative interpretation prohibits these kinds of signs as "flashing signs," due to their inherent impacts, e.g., contributes to sign clutter, heightened light intensity, and distraction to vehicular traffic. The amendment explicitly establishes this current interpretation and practice within the text of the exiting regulatory prohibition.</p>
	<p><u>"Projecting signs" means [identification] signs with the face(s) generally perpendicular to, and which are affixed or attached to, and supported solely by, an exterior building wall and which extend beyond the building wall more than 15 inches but not greater than five feet.</u></p> <p>Standard: Not to exceed six feet in height above the roof level of a one-story building or four feet in height above the roof level of the second story of a building over one story in height."</p>	<p>Clarifies the difference in classification between a "wall sign" and "projecting sign" by explicitly stating that the sign face of a projecting sign is oriented perpendicular to a building wall, whereas the face of a wall sign is essentially parallel to a building wall. Also, modifies the definition to allow projecting signs to be used as general business signs, rather than being limited to mere identification (i.e., name and/or address, only) purposes.</p>
	<p><u>"Wall signs" means signs with a face generally parallel with, and affixed to an exterior wall of any building.</u></p> <p>Standard: Not to project more than 15 inches from the building wall, not to extend above the exterior wall of the building and not to exceed a height of 20 feet or the third floor level of buildings over two stories in height, whichever is the higher height; or, <u>the roof level of the second floor for second floor establishments in buildings of only two stories in height.</u></p>	<p>Clarifies the difference in classification between a "wall sign" and "projecting sign" by explicitly stating that the sign face of a wall sign is oriented parallel to a building wall.</p> <p>Addresses an oversight related to a recent, preceding amendment (Ordinance No. 09-5, CD1) involving the maximum sign height for wall signs associated with second-floor establishments. That preceding</p>

LUO SECTION	AMENDMENT	JUSTIFICATION
	<p>For the purpose of this definition, an exterior wall shall include a parapet wall above the exterior wall and roof facade with face slope 60 percent or greater with the horizontal plane; provided that where a wall sign is to be located on a parapet wall or facade, the parapet wall or facade shall extend entirely across the side of the building, and provided further that no portion of a wall sign shall exceed six feet above the roof level. Exterior wall and parapet wall shall be as defined in Chapter 16 (Building Code), as amended.”</p>	<p>amendment provided a more appropriate method for determining the maximum permitted wall sign height for second-floor establishments in buildings involving more than two floors, but inadvertently failed to similarly address second-floor establishments in buildings with only two floors. The proposed amendment corrects that oversight. [Note: Second-floor establishments are only permitted to have one, maximum 6-square-foot <u>wall</u> identification sign.]</p>
<p>Section 21-8.30, “Housing--Site development plan”</p>	<p>Sec. 21-8.30 Housing—[Site development plan] <u>Multiple dwelling units on a single zoning lot.</u></p> <p>[Three to six] <u>A maximum of eight</u> dwelling units may be placed on a single zoning lot in [an agricultural,] <u>a</u> country or residential district, provided [a site development plan for the lot is approved by the director.];</p> <p>(a) [Any] <u>The zoning lot [which has at least twice] shall have a lot area equal to or greater than</u> the required minimum lot size for the underlying [agricultural,] country or residential district [may have two detached dwellings] <u>multiplied by the number of dwelling units on or to be placed on the lot.</u></p> <p>(b) If the applicant wishes to erect additional dwelling units under the provisions of Section 21-8.20, ohana dwellings, the zoning lot shall be subdivided.</p> <p>[(b) The site development plan shall be in accordance with the requirements of the preliminary subdivision map as stated in the subdivision rules and regulations.]</p> <p>(c) [Prior to granting approval, the director shall determine that:</p> <p>(1) The site development plan would qualify for approval under the subdivision rules and regulations if submitted in a subdivision application and roadways, utilities and other improvements comply with the subdivision rules and regulations and subdivision standards, unless modified by the director under applicable provisions specified in the subdivision rules and regulations.</p> <p>(2)] The number of dwelling units contained in each structure [is] <u>shall not be greater than permitted in the applicable</u></p>	<p>Eliminates the site development plan permit and replaces it with provisions permitting up to 8 dwelling units by-right on a single residential or Country zoning lot of sufficient size. The site development plan option has rarely been used; and, in the few instances where it has been used, has essentially functioned as a means to achieve a small subdivision without providing full City-standard infrastructure improvements. Therefore, from a regulatory perspective it has been of little benefit to either developers or the City as a relevant type of regulatory option for housing development.</p> <p>Under existing provisions, up to two single-family dwellings on permitted on a zoning lot of sufficient size (i.e., at least twice the minimum lot size). And, the site development plan option is available for the development of three to six dwellings on a single zoning lot. As a streamlining measure, the proposed revisions will allow up to eight dwellings by-right on zoning lots of sufficient size; i.e., the zoning lot must be at least equal to or greater than the required minimum lot size for the underlying zoning district multiplied by the number of dwellings to be developed on the lot. This will also eliminate the unnecessary regulatory requirement for associated existing use and cluster housing approvals for relatively small multiple housing developments. And, this will eliminate many, if not most nonconforming dwelling unit situations.</p> <p>Furthermore, the current provisions of LUO Section 21-8.30 authorize the development of up to two dwellings “by right” on residential, country, and agricultural zoning lots with at least twice the minimum lot area for</p>

LUO SECTION	AMENDMENT	JUSTIFICATION																					
	<p>zoning district.</p> <p>[(3) Except where otherwise provided in this article, each existing and future dwelling unit is located as if the lot were subdivided in accordance with the site development plan, applicable provisions of this article and the subdivision rules and regulations.]</p> <p>(d) This section [does] <u>shall</u> not apply to [applications for] more than [six] <u>eight</u> dwelling units on a <u>single</u> zoning lot, which must be processed under the established procedures for cluster housing, planned development housing or subdivision.</p> <p>(e) <u>The zoning lot shall be located with access to a street or right-of-way of minimum access width as determined by the appropriate agencies.</u></p> <p>(f) <u>There shall be no more than one farm dwelling on an agricultural zoning lot, except as may otherwise be permitted under established procedures for ohana dwelling units, cluster housing, or planned development.</u></p>	<p>the underlying zoning district. For agricultural zoning lots, the existing provision conflicts with the City Council’s recent proposal to limit the number of permitted by-right farm dwellings to only one, initiated under Resolution No. 09-90, CD1. The Council proposal inadvertently overlooked making corresponding, but necessary amendments to this related LUO provision. The proposed revisions will also clearly permit the accommodation of ohana farm dwellings, where already allowed under established procedures. The City Council did not specify that it ever intended to change longstanding City policy relating to ohana dwellings, and did not propose to prohibit ohana farm dwellings in agricultural districts, when it adopted its proposal in Resolution No. 09-90, CD1. The DPP is not proposing any change to ohana dwelling policies or practices. Therefore, these related amendments are necessary and appropriate as part of the overall LUO revisions re: farm dwelling standards and requirements.</p>																					
<p>Section 21-8.50-2(a), “Cluster Site Design Standards”</p>	<p>Within residential and apartment districts, the minimum land area and maximum number of dwelling units for a cluster housing project shall be as follows:</p> <table border="1" data-bbox="658 922 1438 1161"> <thead> <tr> <th>District</th> <th>Minimum Land Area</th> <th>Maximum No. of Units</th> </tr> </thead> <tbody> <tr> <td>R-20</td> <td>[60,000] <u>180,000</u> sq. ft.</td> <td>Total project area/20,000</td> </tr> <tr> <td>R-10</td> <td>[30,000] <u>90,000</u> sq. ft.</td> <td>Total project area/10,000</td> </tr> <tr> <td>R-7.5</td> <td>[22,500] <u>67,500</u> sq. ft.</td> <td>Total project area/7,000</td> </tr> <tr> <td>R-5</td> <td>[15,000] <u>45,000</u> sq. ft.</td> <td>Total project area/3,750</td> </tr> <tr> <td>R-3.5</td> <td>[10,500] <u>31,500</u> sq. ft.</td> <td>Total project area/3,500</td> </tr> <tr> <td>A-1 - A-3</td> <td>[10,500] <u>31,500</u> sq. ft.</td> <td>Total project area/3,500</td> </tr> </tbody> </table>	District	Minimum Land Area	Maximum No. of Units	R-20	[60,000] <u>180,000</u> sq. ft.	Total project area/20,000	R-10	[30,000] <u>90,000</u> sq. ft.	Total project area/10,000	R-7.5	[22,500] <u>67,500</u> sq. ft.	Total project area/7,000	R-5	[15,000] <u>45,000</u> sq. ft.	Total project area/3,750	R-3.5	[10,500] <u>31,500</u> sq. ft.	Total project area/3,500	A-1 - A-3	[10,500] <u>31,500</u> sq. ft.	Total project area/3,500	<p>Amends the minimum land area requirements for cluster housing projects, consistent with concurrent amendments to the number of dwellings to be allowed by-right on residential zoning lots. (See corresponding amendments to LUO Section 21-8.30.) Since cluster housing projects will be for nine or more dwellings on a single residential zoning lot of sufficient size, the minimum land area requirements are appropriately revised, i.e., increased from three to nine times the minimum size per dwelling unit.</p>
District	Minimum Land Area	Maximum No. of Units																					
R-20	[60,000] <u>180,000</u> sq. ft.	Total project area/20,000																					
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<p>Section 21-9.60, “Chinatown Special District—Exhibit 21-9.10-A, Historic and Architecturally Significant Structures”</p>	<p>2-1-02: 24,<u>57</u> 842 Bethel St. Old Honolulu Police Station (<u>Walter Murray Gibson Building</u>)</p> <p>2-1-02: [36] <u>37</u> 923 Nuuanu Ave. Wing Wo Tai</p>	<p>Corrects references to the tax map key, address, and/or building name for certain historic buildings identified as architecturally significant in the Chinatown Special District</p>																					
<p>Section 21-9.80-4(a)(9),</p>	<p><u>Interactive informational displays, provided:</u></p>	<p>Adds a new paragraph (9) to allow interactive informational displays</p>																					

LUO SECTION	AMENDMENT	JUSTIFICATION
<p>“Waikiki Special District, General Requirements and Design Controls-- Uses and Structures Allowed in Required Yards and Setbacks”</p>	<p>(A) <u>Only one interactive informational display per common entryway to a project site shall be permitted, which shall not encroach into or otherwise obstruct any public sidewalk or pedestrian easement. For purposes of this subdivision, a “common entryway” shall mean an opening providing public pedestrian access to two or more business establishments from any public sidewalk, pedestrian easement, or right-of-way.</u></p> <p>(B) <u>The interactive informational display shall consist of a freestanding structure, not exceeding 48 inches in height.</u></p> <p>(C) <u>The display area shall not exceed 8 square feet, and shall be essentially horizontal in its orientation so as not to be functionally viewable from adjoining streets or sidewalks.</u></p> <p>(D) <u>No signs regulated under Article 7 of this chapter shall be attached to the interactive informational display structure, nor shall there be any speaker boxes, public address systems, or other devices for reproducing or amplifying voices or sound attached to or associated with the structure.</u></p>	<p>within required yards in the Waikiki Special Districts (WSD), pursuant to appropriate design standards. Interactive informational displays are electronic displays which provide information about establishments, goods, and services provided on the premises. Given the strong pedestrian orientation of Waikiki, the application of such devices is seen as an appropriate accommodation of modern technology, with design standards to insure their contextual integration within the WSD. And, there has been strong support for the establishment of these kinds of informational devices by the Waikiki area business community, particularly as a means to provide information at the ground level regarding business establishments on the lot which otherwise lack building frontage; and, therefore, as an acceptable alternative to the proliferation of otherwise illegal signage (e.g., portable signs, banners, etc.)</p>
<p>Section 21-9.80-4(c)(4), “Waikiki Special District, General Requirements and Design Controls— Design Guidelines – Utility Installations”</p>	<p>(4) Utility Installations. [Utility] <u>Except for antennas, utility installations shall be designed and installed in an aesthetic manner so as to hide or screen wires and equipment completely from view, including views from above [(except for antennas)]; provided that any antenna located at a height of 40 feet or less from existing grade should take full advantage of stealth technologies in order to be adequately screened from view at ground level without adversely affecting operational capabilities.</u></p>	<p>Reflects new antenna technology that allows full function even when screened. The amendment will allow the City to ensure that antennas which can be seen from the street level will not detract from the architectural features applied to buildings in the Waikiki Special District.</p>
<p>Section 21-10.1, “Definitions”</p>	<p>“Automobile service station” means a retail establishment which primarily provides gasoline, oil, grease, batteries, tires or automobile accessories and where, in addition, the following routine and accessory services may be rendered and sales made, but no other:</p> <ol style="list-style-type: none"> (1) Servicing of spark plugs, batteries, tires; (2) Radiator cleaning and flushing; (3) Washing and polishing, including automated, mechanical facilities; (4) Greasing and lubrication; (5) Repair and servicing of fuel pumps, oil pumps and lines, carburetors, brakes and emergency wiring; 	<p>Provides consistency with the definition of repair establishments by allowing automobile service stations to perform their activities outside when located in an industrial district. Also, it provides clarification for the storage of vehicles, because the temporary parking of vehicles is common, but long-term storage cannot be accommodated at service stations. The update also clarifies the difference between a service station and a storage yard use.</p>

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	<p>(6) Motor adjustments not involving repair of head or crankcase;</p> <p>(7) Provision of cold drinks, packaged foods, tobacco and similar convenience goods for gasoline supply station customers, but only as accessory and incidental to the principal operation, and not to exceed 400 square feet of floor area;</p> <p>(8) Provision of road maps and other information material to customers;</p> <p>(9) Provision of rest room facilities;</p> <p>(10) Parking as an accessory use;</p> <p>(11) Towing service.</p> <p>The following are not permitted: tire recapping or regrooving, body work, straightening of frames or body parts, steam cleaning, painting, welding, or <u>non-transient storage of automobiles not in operating condition, or permitted repair activities not conducted within an enclosed structure in any zoning district other than the industrial districts.</u></p>	
	<p>"Crop production" means agricultural and horticultural uses, including production of grains, field <u>crops, and indoor and outdoor nursery</u> crops, vegetables, fruits, tree nuts, flower fields and seed production, ornamental crops, tree and sod farms, associated crop preparation services and harvesting activities.</p>	<p>Updates the definition of "crop production" in LUO Article 10 to specify that it explicitly includes nursery-grown crops. This is necessary due to recent LUO revisions related to the regulatory definition and related use standards for "plant nurseries," adopted under Ordinance No. 09-26; but, which failed to address nursery crops grown in Country Districts. The LUO amendments adopted for plant nurseries under Ordinance No. 09-26 relate specifically to permitted accessory retail sales; whereas, the proposed amendment to the definition for crop production will merely insure that nursery-grown crops continue to be appropriately included under this land use classification.</p>
	<p>"Hotel" means a building or group of buildings containing lodging and/or dwelling units [in which 50 percent or more of the units are lodging units] <u>offering transient accommodations, and[. A hotel includes] a lobby, clerk's desk or counter with 24-hour clerk service, and facilities for registration and keeping of records relating to hotel guests. A hotel may also include accessory uses and services intended primarily for the convenience and benefit of the hotel's guests, such as restaurants, shops, meeting rooms, and/or recreational and entertainment facilities.</u></p>	<p>Provides an updated, contemporary, and more appropriate regulatory definition for hotels. Hotel units today typically include a small refrigerator, coffee maker and/or microwave oven as a convenience. Along with a bathroom sink, the presence of such courtesies are technical determinates that the unit is a dwelling; and, this can affect the regulatory classification of a building as a transient vacation unit rather than a hotel due to the resulting number of "kitchens" in the building. The key land use characteristic for a hotel use, however, is the length of occupancy of the living unit, not whether there are kitchenettes present. In fact, the presence of kitchenettes in modern hotel units has become</p>

LUO SECTION	AMENDMENT	JUSTIFICATION
	<p>"Repair establishments, minor and major" means establishments which primarily provide restoration, reconstruction and general mending and repair services. "Minor repair establishment" uses include those repair activities which have little or no impact on surrounding land uses and can be compatibly located with other businesses. "Major repair establishment" uses include those repair activities which are likely to have some impact on the environment and adjacent land uses by virtue of their appearance, noise, size, traffic generation or operational characteristics.</p> <p>(1) Minor.</p> <p>(A) Automobile (including pickup trucks), motorcycle, moped, motorized bicycle, boat engine, motorized household appliance (e.g., refrigerator, washing machine, dryer) and small equipment (e.g., lawn mower) repairing, including painting, provided all repair work is performed within an enclosed structure <u>in other than the industrial districts</u>, and does not include repair of body and fender, and straightening of frame and body parts.</p> <p>(B) Production and repair of eyeglasses, hearing aids and prosthetic devices.</p> <p>(C) Garment repair.</p> <p>(D) General fixit shop.</p> <p>(E) Nonmotorized bicycle repair.</p> <p>(F) Radio, television and other electrical household appliance repair.</p> <p>(G) Shoe repair.</p> <p>(H) Watch, clock, jewelry repair.</p> <p>(2) Major.</p> <p>(A) Blacksmiths.</p> <p>(B) Ship engine cleaning and repair.</p> <p>(C) Airplane motor repair and rebuilding.</p>	<p>ubiquitous. The proposed revisions to the regulatory definition of a hotel are intended to address this reality, and are consistent with the modern design, operation, and marketing of hotel units. The proposed revisions also clarify normal types of accessory hotel uses, and help more clearly differentiate hotels from buildings devoted to transient vacation units.</p> <p>Eliminates an existing inconsistency by allowing what is otherwise considered minor repairs in industrial districts to occur outdoors. Without this clarification, minor repairs performed outdoors would be treated as major repairs in industrial districts, where these are appropriate activities. The distinction for indoor and outdoor activity is appropriate only for commercial districts, where minor repair establishments are permitted, while major repairs are not.</p>

LUO SECTION	AMENDMENT	JUSTIFICATION
	(D) Furniture repair. (E) Industrial machinery and heavy equipment repair. (F) Bus and truck repair. (G) Repair of vehicle (all types) body and fender, and straightening of frame and body parts.	
	<p>"Retail establishments" means the sale of commodities or goods to the consumer and may include display rooms and incidental manufacturing of goods for retail sale on premises only. Typical retail establishments include grocery and specialty food stores, general department stores, drug and pharmaceutical stores, hardware stores, pet shops, appliance and apparel stores, <u>motorized scooter and bicycle sales and rentals</u>, and other similar retail activities. This term also includes establishments where food or drink is sold on the premises for immediate consumption, but which lack appropriate accommodations for on-premise eating and drinking. The term does not include open storage yards for new or used building materials, yards for scrap, salvage operations for storage or display of automobile parts, service stations, repair garages or veterinary clinics and hospitals.</p>	<p>Clarifies that establishments selling or renting motor scooters and/or bicycles are retail establishments, as opposed to automobile sales and rentals. This is consistent with current practice.</p>
	<p>"Time sharing" means the ownership and/or occupancy of a dwelling or lodging unit regulated under the provisions of HRS Chapter 514E, as amended, relating to time share plan and time share unit hereinafter defined:</p> <p>(1) "Time share plan" means any plan or program in which the use, occupancy or possession of one or more time share units circulates among various persons for less than a 60-day period in any year for any occupant. The term "time share plan" shall include both time share ownership plans and time share use plans, as follows:</p> <p>(A) "Time share ownership plan" means any arrangement whether by tenancy in common, sale, deed or by other means, whereby the purchaser received an ownership interest and the right to use the property for a specific or discernible period by temporal division.</p> <p>(B) "Time share use plan" means any arrangement, excluding normal hotel operations, whether by membership</p>	<p>Amends the definition of "time sharing" to clarify that this term applies to ownership, rather than use. For purposes of the LUO, all time share units are concurrently considered hotel, transient vacation, or dwelling units. The existing regulatory term, "time sharing," already defines an ownership scheme, rather than a distinct type of land use. The proposed revisions clarify this meaning and eliminate some of the confusion which might otherwise unnecessarily persist.</p>

LUO SECTION	AMENDMENT	JUSTIFICATION
	<p>agreement, lease, rental agreement, license, use agreement, security or other means, whereby the purchaser receives a right to use accommodations or facilities, or both, in a time share unit for a specific or discernible period by temporal division, but does not receive an ownership interest.</p> <p>(2) "Time share unit" means the actual and promised accommodations and related facilities, which are the subject of a time share plan; and, may be either a hotel, transient vacation, or multi-family dwelling unit.</p> <p><u>"Biofuel processing facility" means a biofuel processing facility as defined under HRS Section 205-4.5(a)(15).</u></p> <p><u>"Plantation community subdivision" means a plantation community subdivision as defined under HRS Section 205-4.5(a)(12).</u></p>	<p></p> <p>Adds a new definition for "biofuel processing facility" to be consistent with the State mandate under HRS Section 205-4.5. It is appropriate to define this type of facility by referencing the applicable statute, rather than using language directly from the chapter, because the LUO definition will remain consistent even if the HRS definition is amended.</p> <p>Adds a new definition for "plantation community subdivision" that is consistent with the state mandate under HRS Sections 46-4 and 205-4.5. It is appropriate to define this type of subdivision by referencing the applicable statute, rather than use language directly from the chapter, because it will remain consistent even if the HRS definition is amended.</p>

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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 21-2.20, Revised Ordinances of Honolulu 1990, as amended ("Administrative procedures"), is amended by adding a new subsection (k) to read as follows:

"(k) 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. Major alterations, additions, or modifications shall be processed under the provisions for the applicable permit."

SECTION 3. Section 21-2.60, Revised Ordinances of Honolulu 1990, as amended ("Rules governing director's failure to act within specified time period"), is amended by amending subsection (a) to read as follows:

"(a) Subject to subsections (b) and (c), the director may, in accordance with HRS Chapter 91, adopt rules having the force and effect of law which provide that if the director fails to act on applications for (i) a minor permit, (ii) a major permit requiring only the director's approval, or (iii) those portions of a one-stop permit application package (OSP) which require only the director's approval, within the time periods specified in Sections 21-2.40-1(c), 21-2.40-2(c)(6) and -(d), and 21-2.50(d), respectively, the applicable permit requiring only the director's approval shall be deemed approved to the extent that the proposal complies with all applicable laws, regulations, and rules, subject to the following conditions:

(1) The use and/or development authorized by the permit shall be in general conformance with the project, as shown on plans and/or drawings on file with the Department of Planning and Permitting, which shall be deemed the approved plans for the project. Any modification to the project and/or plans shall be subject to the prior review of and approval by the Director of



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Planning and Permitting. Major modifications shall require a new permit; and

- (2) Approval of the permit does not constitute compliance with any other Land Use Ordinance or other governmental requirements, including, but not necessarily limited to, building permit approval, which are subject to separate review and approval. The applicant shall be responsible for insuring that the plans for the project deemed approved under the permit comply with all applicable Land Use Ordinance and other governmental provisions and requirements; and
- (3) The director may impose additional conditions, modify existing conditions, and/or delete conditions deemed satisfied, upon a finding that circumstances related to the approved project have significantly changed so as to warrant a modification to the conditions of the approval; and
- (4) In the event of the noncompliance with any of the conditions of approval, the director may terminate any uses and/or development authorized by the permit, or halt their operation until all conditions are met, or declare the permit null and void, or seek civil enforcement."

SECTION 4. Section 21-2.90-1, Revised Ordinances of Honolulu 1990, as amended ("Application requirements"), is amended by amending subsection (a) to read as follows:

- "(a) A developer, owner, or lessee [(holding a lease for the property, the unexpired term of which is more than five years from the date of filing of the application)] may file an application for a conditional use permit with the director, provided that the conditional use sought is permitted in the particular district."

SECTION 5. Section 21-2.100, Revised Ordinances of Honolulu 1990, as amended ("Existing uses"), is amended by amending subsection (b) to read as follows:

- "(b) Existing use approval is subject to the following:
 - (1) The existing uses and associated structures do not substantially limit, impair or preclude the use of surrounding properties for the principal uses permitted in the underlying district. This assessment may include impacts on traffic flow and control, off-street parking and loading, sewerage, drainage and flooding, refuse and service areas, utilities, screening and



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buffering, signs, yards and other open spaces, lot dimensions, height, bulk and location of structures, hours and manner of operation, noise, lights, dust, odor and fumes.

- (2) Existing uses and structures shall meet the applicable zoning requirements at the time the uses and structures were approved. They need not meet the current underlying district regulations, nor the minimum development standards of this chapter; however, existing uses that involve dwelling units, other than those associated with a plantation community subdivision, must conform to the requirements relating to minimum land area and maximum number of units specified in Section 21-8.50-2 for cluster housing, in Section 21-3.60-2 for country clusters, and in Section 21-3.50-2 for agricultural clusters, whichever is applicable. For purposes of this subsection, a plantation community subdivision may include housing, and community and/or agricultural support buildings, as provided under HRS Section 205-4.5(a)(12).
- (3) When granting existing use approval, the director may impose conditions consistent with the purposes of this section and the permit which would otherwise be required.
- (4) Developments existing on the site shall be considered as an approved plan after review by the director.
- (5) Minor alterations, additions or modifications may be approved by the director, provided the proposal is consistent with the intent of the respective permit otherwise required by this chapter, and does not create adverse land use impacts upon the surrounding neighborhood. Major alterations, additions or modifications shall be processed under the applicable permit.
- (6) Any previous variance, conditional use permit or similar actions granted for the particular use shall continue in effect until superseded.
- (7) An existing use application shall be processed in accordance with Section 21-2.40-1."

SECTION 6. Section 21-2-140-1, Revised Ordinances of Honolulu 1990, as amended ("Zoning adjustments -- Specific circumstances"), is amended by amending subsection (c) to read as follows:

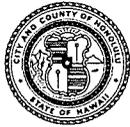


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“(c) Flag Lot Access Width. Where unusual terrain or existing development does not allow the required access drive, the director may (i) adjust the minimum access width to no less than 10 feet, and (ii) allow more than dual access to an access drive, provided that the following criteria are met:

- (1) The appropriate government agencies do not object to the proposal;
- (2) No more than 3 flag stems or access drives are located adjacent to one another, the access drive(s) do not serve more than 5 dwelling units, and the combined access drive pavement width does not exceed 32 feet; and
- (3) When more than dual access to a flag stem(s) or access drive(s) is proposed, the design results in one common driveway and one curb cut to serve all lots adjoining the flag stem(s).”

SECTION 7. Table 21-3, Revised Ordinances of Honolulu 1990, as amended (“Master Use Table”), is amended by amending Industrial uses to read as follows:



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TABLE 21-3

MASTER USE TABLE

In the event of any conflict between the text of this Chapter and the following table, the text of the Chapter shall control. The following table is not intended to cover the Waikiki Special District; please refer to Table 21-9.6(A).

- KEY:** Ac = Special accessory use subject to standards in Article 5
 Cm = Conditional Use Permit-minor subject to standards in Article 5; no public hearing required (see Article 2 for exceptions)
 C = Conditional Use Permit-major subject to standards in Article 5; public hearing required
 P = Permitted use
 P/c = Permitted use subject to standards in Article 5
 PRU = Plan Review Use

ZONING DISTRICTS																						
USES (Note: Certain uses are defined in Article 10.)	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	
INDUSTRIAL																						
Base yards																			P/c	P/c	P/c	P/c
Biofuel processing facilities	C	C	C																	Cm	Cm	
Building or similar contracting and home improvement and furnishing services, and materials and equipment sales or distribution; provided incidental storage of materials or equipment is within fully enclosed buildings																			P	P		P
Centralized mail and package handling facilities																			P/c	P	P	P/c
Explosive and toxic chemical manufacturing, storage and distribution																				C		
Food manufacturing and processing															P/c	P/c	P/c		P	P	P	P



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ORDINANCE _____

BILL (2010)

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Freight movers																			P/c	P							
Heavy equipment sales and rentals																				P/c	P						
Linen suppliers																				P	P						
Manufacturing, processing and packaging, light																				P	P	P	P				
Manufacturing, processing and packaging, general																											
																				P/c	P	P					
Maritime-related vocational training, sales, construction, maintenance and repairing																					P	P					
Motion picture and television production studios													P/c	P/c						P	P		P				
Petroleum processing																					C	Cm					
Port facilities																						P					
Publishing plants for newspapers, books and magazines													P		P					P	P		P				
Repair establishments, major																				P/c	P	P					
Repair establishments, minor												P	P	P	P					P	P	P	P				
Resource extraction	C	C	C																		P						
Salvage, scrap and junk storage and processing																						Cm	Cm				
Storage yards																					P/c	P/c	P/c				
Warehousing																					P	P	P	P			
Waste disposal and processing	C		C																			Cm	Cm				
Wholesale and retail establishments dealing primarily in bulk materials delivered by or to ship, or by ship and truck in combination																							P				
Wholesaling and distribution																					P/c	P/c	P	P	P		P



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SECTION 8. Section 21-3.50-2, Revised Ordinances of Honolulu 1990, as amended (“Agricultural cluster--Site standards”), is amended by amending subsection (a) to read as follows:

“(a) The minimum land area required for an AG-1 district agricultural cluster shall be [15] 10 contiguous acres. The minimum land area required for an AG-2 district agricultural cluster shall be [six] four contiguous acres.”

SECTION 9. Section 21-3.60-2, Revised Ordinances of Honolulu 1990, as amended (“Country cluster--Site standards”), is amended by amending subsection (a) to read as follows:

“(a) The minimum land area required for a country cluster shall be [three] nine contiguous acres.”

SECTION 10. Section 21-4.30, Revised Ordinances of Honolulu 1990, as amended (“Yards and street setbacks”), is amended by amending subsection (d) to read as follows:

“(d) Parking and loading shall not be allowed in any required yard, except parking and loading in front and side yards in agricultural, country and residential districts; and as provided under Section 21-6.70, which allows parking spaces to overlap required front and side yards by three feet if wheel stops are installed, and Section 21-6.130(f) which allows loading if replacement open space is provided.”

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

“(b) Nonconforming Structures.

(1) If that portion of a structure which is nonconforming 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 except in conformity with the provisions of this chapter.

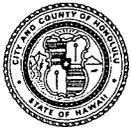
(A) Notwithstanding the foregoing provision, a nonconforming structure devoted to a conforming use which contains multifamily dwelling units owned by owners under the authority of HRS Chapter 514A,



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514B or 421H, or units owned by a "cooperative housing corporation" as defined in HRS Section 421I-1, whether or not the structure is located in a special district, and which is destroyed by accidental means, including destruction by fire, hurricane, other calamity, or act of God, may be restored to its former condition, provided that such restoration is permitted by the building code and flood hazard regulations and is started within two years.

- (B) The burden of proof to establish that the destruction of a structure was due to accidental means as described above and that the structure was legally nonconforming shall be on the owner.
 - (C) Except as otherwise provided in this section, no nonconforming structure that is voluntarily razed or required by law to be razed by the owner thereof may thereafter be restored except in full conformity with the provisions of this chapter.
- (2) If a nonconforming structure is moved, it shall conform to the provisions of this chapter.
 - (3) Any nonconforming structure may be repaired, expanded or altered in any manner which does not increase its nonconformity.
 - (4) Improvements on private property, which become nonconforming through the exercise of government's power of eminent domain, may obtain waivers from the provisions of this subsection, as provided by Section 21-2.130.
 - (5) Nonconforming commercial use density shall be regulated under the provisions of this subsection. For purposes of this section, "nonconforming commercial use density" means a structure which is nonconforming by virtue of the previously lawful mixture of commercial uses on a zoning lot affected by commercial use density requirements in excess of:
 - (A) The maximum FAR permitted for commercial uses; or
 - (B) The maximum percentage of total floor area permitted for commercial uses."



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SECTION 12. Section 21-4.110, Revised Ordinances of Honolulu 1990, as amended ("Nonconformities"), is amended by amending subsection (c) to read as follows:

"(c) Nonconforming Uses.

Strict limits are placed on nonconforming uses to discourage the perpetuation of these uses, and thus facilitate the timely conversion to conforming uses.

- (1) A nonconforming use shall not extend to any part of the structure or lot which was not arranged or designed for such use at the time of adoption of the provisions of this chapter or subsequent amendment; nor shall the nonconforming use be expanded in any manner, or the hours of operation increased. Notwithstanding the foregoing, a recreational use that is accessory to the nonconforming use may be expanded or extended if the following conditions are met:
 - (A) The recreational accessory use will be expanded or extended to a structure in which a permitted use also is being conducted, whether that structure is on the same lot or an adjacent lot; and
 - (B) The recreational accessory use is accessory to both the permitted use and the nonconforming use.
- (2) Any nonconforming use that is discontinued for any reason for 12 consecutive months, or for 18 months during any three-year period, shall not be resumed; however, a temporary cessation of the nonconforming use for purposes of ordinary repairs for a period not exceeding 120 days during any 12-month period shall not be considered a discontinuation.
- (3) Work may be done on any structure devoted in whole or in part to any nonconforming use, provided that work on the nonconforming use portion shall be limited to ordinary repairs. For purposes of this subsection, ordinary repairs shall only be construed to include the following:
 - (A) The repair or replacement of existing walls, floors, roofs, fixtures, wiring or plumbing; or
 - (B) May include work required to comply with city, state, or federal mandates such as, but not limited to, the Americans with



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Disabilities Act (ADA) or the National Environmental Protection Act (NEPA); or

- (C) May include interior and exterior alterations, provided that there is no physical expansion of the nonconforming use or intensification of the use.

Further, ordinary repairs shall not exceed 10 percent of the current replacement cost of the structure within a 12-month period, and the floor area of the structure, as it existed on October 22, 1986, or on the date of any subsequent amendment to this chapter pursuant to which a lawful use became nonconforming, shall not be increased.

- (4) Any nonconforming use may be changed to another nonconforming use of the same nature and general impact, or to a more restricted use, provided that [the] :

(A) The change to a more restricted use may be made only if the relation of the use to the surrounding property is such that adverse effects on occupants and neighboring properties will not be greater than if the original nonconforming use continued; and

(B) The director may impose conditions on the change in nonconforming use necessary or appropriate to minimize impact and/or prevent greater adverse effects related to a proposed change in use.

Other than as provided as "ordinary repairs" under subdivision (3), improvements intended to accommodate a change in nonconforming use or tenant shall not be permitted.

- (5) Any action taken by an owner, lessee, or authorized operator which reduces the negative effects associated with the operation of a nonconforming use -- such as, but not limited to, reducing hours of operation or exterior lighting intensity -- shall not be reversed."

SECTION 13. Article 5, Revised Ordinances of Honolulu 1990, as amended ("Specific Use Development Standards"), is amended by adding a new section for "Biofuel processing facilities," to be appropriately numbered by the revisor of ordinances and to read as follows:



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“Sec. 21-5._____ Biofuel processing facilities.

No biofuel processing facility shall be located within 1,500 feet of any zoning lot in a country, residential, apartment, apartment mixed use or resort district. When it can be determined that potential impacts will be adequately mitigated due to prevailing winds, terrain, technology or similar considerations, this distance may be reduced, provided that at no time shall the distance be less than 500 feet.”

SECTION 14. Article 5, Revised Ordinances of Honolulu 1990, as amended (“Specific Use Development Standards”), is amended by adding a new section for “Repair establishments, major,” to be appropriately numbered by the revisor of ordinances and to read as follows:

“Sec. 21-5._____ Repair establishments, major.

In the I-1 zoning district, the following standards shall apply:

- (a) No major repair establishment shall be located within 100 feet of any zoning lot in a residential, apartment, or apartment mixed use district.
- (b) If a major repair establishment is within 300 feet of any zoning lot in a residential, apartment, or apartment mixed use district, there shall be no major repair work performed or external activities of any kind conducted between the hours of 10 p.m. and 7 a.m.”

SECTION 15. Section 21-5.250, Revised Ordinances of Honolulu 1990, as amended (“Farm dwellings”), is amended to read as follows:

“Sec. 21-5.250 Farm dwellings.

- (a) [In the AG-1 district, the number of farm dwellings shall not exceed one for each five acres of lot area. In the AG-2 district, the number of farm dwellings shall not exceed one for each two acres of lot area.] Only one farm dwelling shall be permitted on the zoning lot, except as may otherwise be permitted under established procedures for ohana dwelling units.
- (b) Each farm dwelling and any accessory uses, including an ohana dwelling unit permitted under established procedures, shall be contained within [an] a single, contiguous perimeter of regular geometric form with an area not to exceed 5,000 square feet of the lot area.
- (c) The floor area of a farm dwelling shall not exceed 1,500 square feet.”



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SECTION 16. Section 21-5.350, Revised Ordinances of Honolulu 1990, as amended ("Home occupations"), is amended to read as follows:

"Sec. 21-5.350 Home occupations.

Home occupations as an accessory use to dwelling units are permitted under the following restrictions and standards:

- (a) Home occupations shall be incidental and subordinate to the principal use of the site as a residence and shall not change the character [and] or the external appearance of either the dwelling or the surrounding neighborhood.
- (b) Only household members shall be employed under the home occupation. Notwithstanding the foregoing, when the home occupation is home-based child care, one caregiver, not a member of the household, may be employed as a substitute for the principal caregiver if an emergency renders the principal caregiver unavailable, provided that in no event shall such substitute employment exceed five days per calendar month. As used in this subsection, "emergency" includes but is not limited to illness of the principal caregiver or an immediate relative of the principal caregiver.
- (c) There shall be no exterior sign that shows the building is used for anything but residential use. There shall be no exterior displays or advertisements.
- (d) There shall be no outdoor storage of materials or supplies.
- (e) [Indoor] No more than 250 square feet of floor area or 20 percent of the total floor area of the dwelling, whichever is less, shall be used for the home occupation; and, the storage of materials and supplies shall be fully enclosed and shall not exceed 250 cubic feet or 20 percent of the total floor area, whichever is less.
- (f) Articles sold on the premises shall be limited to those produced by the home occupation and to instructional materials pertinent to the home occupation.
- (g) Home occupations which depend on client visits, including group instruction, shall provide one off-street parking space per five clients on the premises at [one] any given time. This shall be in addition to, and shall not obstruct the parking required for the dwelling use. Residents of multifamily buildings may fulfill the requirement by the use of guest parking with the approval of the building owner (management) or condominium association.



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- (h) For those activities which may have potential negative noise impacts on adjoining residences, the director may require that such activities be conducted in fully enclosed, noise-attenuated structures. For the purposes of this subsection, "noise-attenuated" shall mean that sounds directly associated with the home occupation shall not be noticeably audible from the exterior of the dwelling.
- (i) The following activities are not permitted as home occupations:
- (1) Automobile repair and painting. However, any repair and painting of vehicles owned by household members shall be permitted, provided that the number of vehicles repaired or painted shall not exceed five per year per dwelling unit. A household member providing any legal document showing ownership of an affected vehicle shall be deemed to satisfy this requirement.
 - (2) Contractor's storage yards.
 - (3) Care, treatment or boarding of animals in exchange for money, goods or services. The occasional boarding and the occasional grooming of animals not exceeding five animals per day shall be permitted as home occupations.
 - (4) Those on-premises activities and uses which are only permitted in the industrial districts.
 - (5) Use of dwellings or lots as a headquarters for the assembly of employees for instructions or other purposes, or to be dispatched for work to other locations.
 - (6) Sale of guns and ammunition.
 - (7) Mail and package handling and delivery businesses.
- (j) There shall be no parking on the street of commercial vehicles associated with the home occupation, other than the occasional, infrequent, and momentary parking of a vehicle for pick-ups and/or deliveries as a service to the home occupation."



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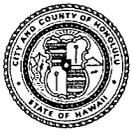
SECTION 17. Section 21-5.380, Revised Ordinances of Honolulu 1990, as amended (“Joint development of two or more adjacent zoning lots”), is amended to read as follows:

“Sec. 21-5.380 Joint development of two or more adjacent [zoning] subdivision lots.”

- (a) Whenever two or more [zoning] subdivision lots are developed in accordance with the provisions of this section, they shall be considered and treated as one zoning lot.
- (b) An owner, owners, duly authorized agents of the owners or duly authorized lessees holding leases with a minimum of 30 years remaining in their terms of adjacent lots who believe that joint development of their property would result in a more efficient use of land shall apply for a conditional use permit (minor) to undertake such development.
- (c) When applying for a conditional use permit, the applicants shall submit an agreement which binds themselves and their successors in title or lease, individually and collectively, to maintain the pattern of development proposed in such a way that there will be conformity with applicable zoning regulations. The right to enforce the agreement shall also be granted to the city. The agreement shall be 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, the director shall issue the conditional use permit. Upon issuance of the permit, the agreement, which shall be part of the conditions of the permit, shall 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 shall be filed with the director prior to the issuance of the building permit.”

SECTION 18. Section 21-5.450, Revised Ordinances of Honolulu 1990, as amended (“Meeting facilities”), is amended by amending subsection (a) to read as follows:

- “(a) In the AG-2, country, residential, apartment and apartment mixed use districts, the following standards shall apply:



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- (1) Accessory eating and drinking establishments shall not be permitted, except in the apartment mixed use district.
- (2) The director may require that certain structures be sound-proofed and may establish hours of operation for amplification equipment.
- (3) [The minimum lot size shall be 20,000 square feet.
- (4) The minimum street frontage shall be 75 feet.
- (5)] All meeting facilities shall be located with access to a street or right-of-way of minimum access width and sufficient street frontage as determined by the appropriate agencies.”

SECTION 19. Section 21-5.700, Revised Ordinances of Honolulu 1990, as amended (“Wind machines”), is amended to read as follows:

“Sec. 21-5.700 Wind machines.

- (a) All wind machines 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 and the farthest vertical extension of the wind machine.
- (b) In residential zoning districts, in addition to the above, the following shall be applicable:
 - (1) 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 not be within seven feet of any roof or structure unless the blades are completely enclosed by a protective screen or fence.
 - (2) A public safety sign shall be posted at the base of the tower warning of high voltage and dangerous moving blades.
 - (3) The system base and rotor blade shall be a minimum of 15 feet from any overhead electrical transmission or distribution lines.
 - (4) Anchor points for guy wires for the 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



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a safe manner, prevent them from being climbed and shall be securely fastened.

- (5) The applicant shall provide manufacturer's specifications which certify the safety of the machine; provided, that the appropriate tower was 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.
 - (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 [one kilowatt] 15 kilowatts.
- (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).
- (d) In the business zoning districts, wind machines shall have a rated capacity of no more than [10] 15 kilowatts."

SECTION 20. Table 21-6.1, Revised Ordinances of Honolulu 1990, as amended ("Off-street Parking Requirements"), is amended to read as follows:

Table 21-6.1 Off-street Parking Requirements	
Use¹	Requirement²
AGRICULTURE	



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Table 21-6.1 Off-street Parking Requirements	
Use¹	Requirement²
Agricultural products processing (major or minor); animal products processing; centralized bulk collection, storage and distribution of agricultural products to wholesale and retail markets; sale and service of machinery used in agricultural production; sawmills; and storage and sale of seed, feed, fertilizer and other products essential to agricultural production.	1 per 1,500 square feet
ANIMALS	
Kennels, commercial	1 per 400 square feet, but no less than 4
COMMERCE AND BUSINESS	
Automotive and boat parts and services, but not storage and repair; automobile and boat sales and rentals; catering establishments; dance or music schools; financial institutions; home improvement centers; laboratories (medical or research); medical clinics; offices, other than herein specified; personal services; photographic processing; photography studios; plant nurseries; retail establishments other than herein specified; and veterinary establishments	1 per 400 square feet
Bowling alleys	3 per alley
Business services	1 per 500 square feet
Convenience stores; and sales: food and grocery stores (including neighborhood grocery stores)	1 per 300 square feet
Data processing facilities	1 per 800 square feet
Drive-thru facilities (window or machine)	5 stacking spaces



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Table 21-6.1 Off-street Parking Requirements		
Use¹	Requirement²	
Eating and drinking establishments (including bars, nightclubs, taverns, cabarets, and dance halls)	1 per 300 square feet, provided the total floor area of all eating and drinking establishments comprises 50 percent or more of the floor area developed on the zoning lot. Otherwise, 1 per 400 square feet, including outdoor dining areas.	
Laundromats, cleaners: coin operated	1 per 2 washing machines	
Sales: appliance, household and office furniture; machinery; and plumbing and heating supply	1 per 900 square feet	
Self-storage facilities	1 per 2,000 square feet	
Shopping centers ³	1 per 300 square feet	
Skating rinks	1 for each 4 skaters of the rink's maximum capacity or 1 per 1,500 square feet of skating surface, whichever is greater.	
DWELLINGS AND LODGINGS		
Boarding facilities	2 plus 0.75 per unit	
Consulates	1 per dwelling or lodging unit, plus 1 per 400 square feet of office floor area, but not less than 5	
Dwellings, detached, duplex and farm	2 per unit plus 1 per 1,000 square feet over 2,500 square feet (excluding carport or garage)	
Dwellings, multifamily	Floor Area of Dwelling or Lodging Units	Required Parking per Unit
	600 sq. ft. or less	1
	More than 600 but less than 800 sq. ft.	1.5
	800 sq. ft. and over	2



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Table 21-6.1 Off-street Parking Requirements	
Use¹	Requirement²
	Plus 1 guest parking stall per 10 units for all projects
Hotels: dwelling units	1 per unit
Hotels: lodging units; and lodging units	0.75 per unit
INDUSTRIAL	
Food manufacturing and processing; freight movers; heavy equipment sales and rentals; linen suppliers; manufacturing, processing and packaging (light or general); maritime-related sales, construction, maintenance and repairing; motion picture and television studios; petroleum processing; port facilities; publishing plants for newspapers, books and magazines; salvage, scrap and junk storage and processing; storage yards; warehousing; waste disposal and processing; and wholesale and retail establishments dealing primarily in bulk materials delivered by or to ship, or by ship and truck in combination	1 per 1,500 square feet
Repair establishments, major	1 per 300 square feet
Repair establishments, minor	1 per 500 square feet
Wholesaling and distribution	1 per 1,000 square feet
OUTDOOR RECREATION	
Boat launching ramps	10 per launching ramp
Golf driving ranges	2 per tee stall
Marinas	1 per 2 moorage stalls
Recreation facilities, outdoor and indoor, involving swimming pools and sports played on courts	1 per 200 square feet of seating area, plus 3 per court, e.g., racquetball, tennis or similar court, and 12 per outdoor play field
SOCIAL AND CIVIC SERVICE	



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Table 21-6.1 Off-street Parking Requirements	
Use¹	Requirement²
Art galleries, museums and libraries	1 per 400 square feet
Auditoriums, funeral homes/mortuaries, meeting facilities, <u>gymnasiums</u> , sports arenas, and theaters	1 per 75 square feet of assembly area or 1 per 5 fixed seats, whichever is greater
Day-care facilities	1 [for each 10 care recipients of design capacity] <u>per 350 square feet of classroom area, meeting area, and/or gathering space,</u> plus 1 per 400 square feet of office floor space
Schools: elementary and intermediate	1 [for each 20 students of design capacity] <u>per 400 square feet of classroom area,</u> plus 1 per 400 square feet of office floor space
Schools: high, language, vocational, business, technical, and trade; business colleges	1 [for each 10 students of design capacity] <u>per 200 square feet of high school, language school, business school, or business college classroom area;</u> 1 per 500 square feet of <u>vocational, technical, or trade school classroom area;</u> [,] plus 1 per 400 square feet of office floor space
TRANSPORTATION AND PARKING	
Automobile service stations	3 per repair stall
Car washing, mechanized	10 standing spaces for waiting vehicles for each car wash rack
UTILITIES AND COMMUNICATIONS	
Broadcasting stations	1 per 400 square feet



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Table 21-6.1 Off-street Parking Requirements	
Use¹	Requirement²
<p>PARKING TO BE DETERMINED BY THE DIRECTOR</p> <p>Agriculture - aquaculture; composting (major or minor); crop production; forestry; and roadside stands.</p> <p>Animals - game preserves; livestock grazing; livestock production (major or minor); livestock veterinary services; and zoos.</p> <p>Commerce and business - amusement and recreation facilities, indoor and outdoor; home occupations; plant nurseries; and trade or convention centers.</p> <p>Dwellings and lodgings - group living facilities.</p> <p>Industrial - base yards; explosive and toxic chemical manufacturing, storage and distribution; and resource extraction.</p> <p>Outdoor recreation - amusement facilities, outdoor (motorized and not motorized); botanical gardens; golf courses; recreation facilities, outdoor and indoor, other than as herein specified; and marina facilities.</p> <p>Social and civic service - cemeteries and columbaria; hospitals; prisons; public uses and structures; universities and colleges.</p> <p>Transportation and parking - airports; heliports; helistops; and truck terminals.</p> <p>Utilities and communications - broadcasting antennas; receive-only antennas; utility installations (Type A or B); and wind machines.</p> <p>Miscellaneous - All other uses not herein specified</p>	<p>As determined by the director</p>



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SECTION 21. Section 21-7.20, Revised Ordinances of Honolulu 1990, as amended (“Definitions and general sign standards”), is amended by amending the definitions for “Flashing sign,” “Projecting signs,” and “Wall signs” to read as follows:

a. ““Flashing sign” means a sign designed to attract attention by the inclusion of a flashing, changing, revolving or flickering light source or a change of light intensity; and, also includes any sign involving electronically generated or controlled images, such as an electronic programmable message sign, digital sign, or plasma or LED sign, or video or holographic display.”

b. ““Projecting signs” means [identification] signs with the face(s) generally perpendicular to, and which are affixed or attached to, and supported solely by, an exterior building wall and which extend beyond the building wall more than 15 inches but not greater than five feet.

Standard: Not to exceed six feet in height above the roof level of a one-story building or four feet in height above the roof level of the second story of a building over one story in height.”

c. ““Wall signs” means signs with a face generally parallel with, and affixed to an exterior wall of any building.

Standard: Not to project more than 15 inches from the building wall, not to extend above the exterior wall of the building and not to exceed a height of 20 feet or the third floor level of buildings over two stories in height, whichever is the higher height; or, the roof level of the second floor for second floor establishments in buildings of only two stories in height.

For the purpose of this definition, an exterior wall shall include a parapet wall above the exterior wall and roof facade with face slope 60 percent or greater with the horizontal plane; provided that where a wall sign is to be located on a parapet wall or facade, the parapet wall or facade shall extend entirely across the side of the building, and provided further that no portion of a wall sign shall exceed six feet above the roof level. Exterior wall and parapet wall shall be as defined in Chapter 16 (Building Code), as amended.”

SECTION 22. Section 21-8.30, Revised Ordinances of Honolulu 1990, as amended (“Housing--Site development plan”), is amended to read as follows:

“Sec. 21-8.30 **Housing—[Site development plan] Multiple dwelling units on a single zoning lot.**



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[Three to six] A maximum of eight dwelling units may be placed on a single zoning lot in [an agricultural,] a country or residential district, provided [a site development plan for the lot is approved by the director.]:

- (a) [Any] The zoning lot [which has at least twice] shall have a lot area equal to or greater than the required minimum lot size for the underlying [agricultural,] country or residential district [may have two detached dwellings] multiplied by the number of dwelling units on or to be placed on the lot.
- (b) If the applicant wishes to erect additional dwelling units under the provisions of Section 21-8.20, ohana dwellings, the zoning lot shall be subdivided.
- [(b) The site development plan shall be in accordance with the requirements of the preliminary subdivision map as stated in the subdivision rules and regulations.]
- (c) [Prior to granting approval, the director shall determine that:
 - (1) The site development plan would qualify for approval under the subdivision rules and regulations if submitted in a subdivision application and roadways, utilities and other improvements comply with the subdivision rules and regulations and subdivision standards, unless modified by the director under applicable provisions specified in the subdivision rules and regulations.
 - (2)] The number of dwelling units (2) contained in each structure [is] shall not be greater than permitted in the applicable zoning district.
 - [(3) Except where otherwise provided in this article, each existing and future dwelling unit is located as if the lot were subdivided in accordance with the site development plan, applicable provisions of this article and the subdivision rules and regulations.]
- (d) This section [does] shall not apply to [applications for] more than [six] eight dwelling units on a single zoning lot, which must be processed under the established procedures for cluster housing, planned development housing or subdivision.
- (e) The zoning lot shall be located with access to a street or right-of-way of minimum access width as determined by the appropriate agencies.



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(f) There shall be no more than one farm dwelling on an agricultural zoning lot, except as may otherwise be permitted under established procedures for ohana dwelling units, cluster housing, or planned development.

SECTION 23. Section 21-8.50-2, Revised Ordinances of Honolulu 1990, as amended (“Cluster site design standards”), is amended by amending subsection (a) to read as follows:

“(a) Within residential and apartment districts, the minimum land area and maximum number of dwelling units for a cluster housing project shall be as follows:

District	Minimum Land Area	Maximum No. of Units
R-20	[60,000] <u>180,000</u> sq. ft.	Total project area/20,000
R-10	[30,000] <u>90,000</u> sq. ft.	Total project area/10,000
R-7.5	[22,500] <u>67,500</u> sq. ft.	Total project area/7,000
R-5	[15,000] <u>45,000</u> sq. ft.	Total project area/3,750
R-3.5	[10,500] <u>31,500</u> sq. ft.	Total project area/3,500
A-1 - A-3	[10,500] <u>31,500</u> sq. ft.	Total project area/3,500”

SECTION 24. Section 21-9.60, Revised Ordinances of Honolulu 1990, as amended (“Chinatown Special District”), is amended by amending its Exhibit 21-9.10-A to read as follows:

“EXHIBIT 21-9.10-A

CHINATOWN SPECIAL DISTRICT HISTORIC AND ARCHITECTURALLY SIGNIFICANT STRUCTURES

Tax Map Key	Address ¹	Building Name
1-7-01: 2	55 N. Nimitz Hwy.	Pier 13 & 14
1-7-02: 2	800 Nuuanu Ave.	Fisher Hawaii Building
1-7-02: 4		State of Hawaii (shops)
1-7-02: 4	925 Maunakea St.	Fireboat Fire Station
1-7-02: 8	83 N. King St.	Goodwill Industries
1-7-02: 9,45	75 N. King St.	D. Dam/N. Tam
1-7-02: 11	900 Maunakea St.	M. Kawahara & T. Sato
1-7-02: 13	128 N. Nimitz Hwy.	C. Q. Yee Hop (stone)



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Tax Map Key	Address¹	Building Name
1-7-02: 16	905 Kekaulike St.	Nimitz & Kekaulike
1-7-02: 17,18	915 Kekaulike St., 937 Kekaulike St.	King & Kekaulike
1-7-02: 19,21	943 Kekaulike St., 125 N. King St.	Fish Market
1-7-02: 23	101 N. King St.	Bank of Hawaii
1-7-02: 24	950 Maunakea St.	Dentist
1-7-02: 25	922 Maunakea St.	J. H. Schnack
1-7-02: 26	902 Kekaulike St.	Holau Market
1-7-02: 28	175 N. King St.	McCandless
1-7-02: 29	165 N. King St.	Musashiya
1-7-02: 34	145 N. King St.	Oahu Market
1-7-02: 35	2 Marin St.	T. R. Foster/Spaghetti-2 Bldg.
1-7-02: 39	1 N. King St.	One North King
1-7-02: 40	928 Nuuanu Ave.	Nippu Jiji
1-7-02: 45	69 N. King St.	Oka
1-7-03: 1	2 N. King St.	Hocking Hotel
1-7-03: 2	36 N. King St.	United Chinese Society
1-7-03: 4,97	39 N. Hotel St.	Swing Club
1-7-03: 5	29 N. Hotel St.	29-31 Hotel Street
1-7-03: 6	15 N. Hotel St.	Nuuanu Shops
1-7-03: 7	1 N. Hotel St.	Gallery
1-7-03: 8	1044 Nuuanu Ave.	McCandless Property
1-7-03: 9	1038 Nuuanu Ave.	Kim Chow
1-7-03: 10	72 N. King St.	Hawaii National Bank
1-7-03: 11	80 N. King St.	Lum Yip Kee
1-7-03: 12	90 N. King St.	Lee & Young
1-7-03: 15	61 N. Hotel St.	Bath Palace
1-7-03: 15	61 N. Hotel St.	Mendonca (makai)
1-7-03: 16	51 N. Hotel St.	Mendonca (small, corner)
1-7-03: 18,90 92	116 N. King St.	D & B's Lunch
1-7-03: 19	124 N. King St.	Uptown Jewelers
1-7-03: 25	119 N. Hotel St.	Lum Yip Kee 1936
1-7-03: 26	111 N. Hotel St.	Wo Fat



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Tax Map Key	Address¹	Building Name
1-7-03: 28	1020 Kekaulike St.	Arita Store
1-7-03: 28	1020 Kekaulike St.	Kekaulike Building
1-7-03: 29,66	170 N. King St.	Lee Building
1-7-03: 30,31 72-74	178 N. King St., 182 N. King St.	N. King & River Streets
1-7-03: 32	165 N. Hotel St.	Wong Building
1-7-03: 33	159 N. Hotel St.	LDCST BenevSoc
1-7-03: 37	102 N. Hotel St.	Siu Building
1-7-03: 42	158 N. Hotel St.	Wong
1-7-03: 45	175 N. Pauahi St.	Komeya Apartments
1-7-03: 48	1138 Maunakea St.	Sumida Building 1926
1-7-03: 49	1130 Maunakea St.	Lum Yip Kee 1920
1-7-03: 50	1110 Maunakea St.	Lee Building
1-7-03: 51	54 N. Hotel St.	Mendonca
1-7-03: 52	1125 Maunakea St.	Ket On Society
1-7-03: 55	65 N. Pauahi St.	Barbershop
1-7-03: 56	2 N. Hotel St.	Encore Saloon Building
1-7-03: 57	24 N. Hotel St.	24 Hotel Street (Mel's)
1-7-03: 58	30 N. Hotel St.	Risque
1-7-03: 59	42 N. Hotel St.	Kuo Min Tang
1-7-03: 59	42 N. Hotel St.	Young Market
1-7-03: 59	50 N. Hotel St.	Mini Garden
1-7-03: 62	1126 Nuuanu Ave.	Love's Bakery
1-7-03: 63	1136 Nuuanu Ave.	McCandless Block
1-7-03: 64	1118 Nuuanu Ave.	Lai Fong
1-7-03: 66,29	158 N. King St.	United Press, Ltd.
1-7-03: 75	136 N. King St.	L. Ah Leong
1-7-03: 76	1034 Maunakea St.	Cindy's Leis
1-7-03: 81	1021 Smith St.	
1-7-03: 83	21 N. Hotel St.	Club Hubba Hubba
1-7-03: 84-89	1023 Maunakea St.	Chung Chong Yuen
1-7-03: 96	1120 Maunakea St.	Colusa Building (part of Maunakea Marketplace)
1-7-03: 98	1128 Smith St.	1128 Smith Street
1-7-04: 1	1150 Nuuanu Ave.	Four Seas Chop Suey



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Tax Map Key	Address¹	Building Name
1-7-04: 8	1162 Nuuanu Ave.	Bo San Ton
1-7-04: 9	1158 Nuuanu Ave.	Oweco World Travel
1-7-04: 11	1149 Maunakea St.	Yanin Ltd. Building
1-7-04: 13	1159 Maunakea St.	Tsung Tsin Association
1-7-04: 16	1165 Maunakea St.	Old Jailhouse (stone building)
1-7-04: 18	83 N. Beretania St.	Hai On Tong
1-7-04: 19	73 N. Beretania St.	79 N. Beretania Street
1-7-04: 21,22	53 N. Beretania St.	OK Restaurant (2 sections)
1-7-04: 25	1146 Smith St.	Golden Harvest
1-7-04: 28	1152 Maunakea St.	Minatoya Sukiyaki
1-7-04: 36	171 N. Beretania St.	Fong Building
2-1-02: 12	901 Bethel St.	Kamehameha V Building
2-1-02: 19	63 Merchant St.	Bishop Bank Building
2-1-02: 20	51 Merchant St.	Melcher Building
2-1-02: 24,57	842 Bethel St.	Old Honolulu Police Station (<u>Walter Murray Gibson Building</u>)
2-1-02: 32	924 Bethel St.	The Friend
2-1-02: 33	908 Bethel St.	Honolulu Publishing Co.
2-1-02: 34	16 Merchant St.	
2-1-02: 35	2 Merchant St.	Royal Saloon
2-1-02: [36] 37	<u>923 Nuuanu Ave.</u>	Wing Wo Tai
2-1-03: 16	1121 Nuuanu Ave.	McLean Block
2-1-03: 17	2 S. Hotel St.	Perry Block 1888
2-1-03: 18	1129 Nuuanu Ave.	Pantheon Bar

¹In the event the listed addresses are not consistent with the tax map keys or building names, the tax map keys and building names shall prevail.”

SECTION 25. Section 21-9.80-4, Revised Ordinances of Honolulu 1990, as amended (“Waikiki Special District, General requirements and design controls”), is amended by amending subsection (a) to read as follows:

“(a) Uses and Structures Allowed in Required Yards and Setbacks. The provisions of Section 21-4.30 shall apply except as provided by this subsection. No business activity of any kind, including advertising, promotion, solicitation, merchandising



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or distribution of commercial handbills, or structures or any other use or activity, except as provided by this subsection, shall be located or carried out within any required yard, street or building setback area, except those areas occupied by enclosed nonconforming buildings. The following may be allowed in required yards and setbacks, and when used as provided by this subsection shall not be considered to change a yard's status as open space:

- (1) Newspaper sales and distribution.
- (2) Garden signs.
- (3) Porte cocheres no less than five feet back from the property line or road widening setback.
- (4) Roof eaves, awnings (including retractable awnings) and other sunshade devices not more than 42 inches vertically or horizontally beyond the building face, except as otherwise provided by this subsection. On buildings over 60 feet in height, roof eaves may extend more than 42 inches into a required yard, street setback or height setback area if the resulting roof form is integral to a cohesive, coherent design character for the structure. In no case, however, shall such extension exceed one-half the width of the required yard or height setback.
- (5) Outdoor dining areas accessory to permitted eating establishments in required front yards, subject to the following:
 - (A) A planter or hedge of not more than 30 inches in height may be provided to define the perimeter of the outdoor dining area.
 - (B) An outdoor dining area shall be no less than five feet from any property line.
 - (C) Outdoor dining facilities shall be limited to portable chairs, tables, serving devices and umbrellas. When umbrellas are used, they shall not be counted against open space calculations.
 - (D) No more than 40 percent of the front yard may be used as an accessory outdoor dining area, subject to an acceptable design. The remainder of the front yard shall be landscaped except for



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necessary access drives and walkways, and where lei stands are used as permitted under subdivision (6).

- (E) Retractable awnings directly associated with an outdoor dining area may extend from the building face into the front yard by no more than 50 percent of the depth of the front yard.
 - (F) Sidewalk improvements such as, but not limited to, street trees, paving and landscaping, may be required.
 - (G) Outdoor dining areas shall not be used after 11 p.m. and before 7 a.m.
 - (H) No dancing, entertainment, or live or recorded music shall be permitted in outdoor dining areas, provided that strolling musicians using nonamplified acoustic stringed instruments or traditional Hawaiian wind instruments shall be permitted to perform no later than 10 p.m. when the dining areas are in use.
 - (I) The requirements under paragraphs (A) through (F) may be modified, subject to a major or minor special district permit, as required by Table 21-9.6(C), to a reasonable extent as may be necessary and appropriate to adequately accommodate outdoor dining areas associated with structures that are nonconforming due to required yards, landscaping and/or open spaces.
- (6) Lei making and selling in required front yards on zoning lots where retail establishments are a permitted principal use, provided the following standards are met:
- (A) The activity shall be no less than five feet from any property line.
 - (B) No more than 10 percent of the front yard may be used for lei stands. The remainder of the front yard shall be landscaped except for necessary access drives or walkways, and where outdoor dining is used as permitted under subdivision (5).
 - (C) Signs. Refer to Article 7 for permitted signs.



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- (D) The operator of a lei stand shall provide for the concealed disposal of trash associated with the use.

- (7) Vending carts in required front yards on zoning lots where retail establishments are a permitted principal use, provided the following standards are met:
 - (A) The front yard shall conform to the applicable front yard standard set forth in Table 21-9.6(B).
 - (B) Only food, nonalcoholic drinks and fresh cut or picked flowers may be sold. Food consistent with a Hawaiian sense of place shall be encouraged.
 - (C) The cart shall be no less than five feet from any property line.
 - (D) Only one cart per front yard per zoning lot shall be permitted.
 - (E) Permitted signs shall be in accordance with Article 7.
 - (F) The cart operator shall provide for the concealed disposal of trash associated with the use.

- (8) Walls and fences for dwelling uses, other than nonconforming hotels and/or transient vacation units, in the apartment precinct, up to a maximum height of six feet, provided the wall or fence shall be set back not less than 24 inches from the front property line and shall be acceptably screened with planting material from the street side. The wall or fence shall consist of an open material, preferably wrought iron or lattice work, but not chain link. Solid walls are discouraged, but may be permitted when constructed of an acceptable material, such as wood, moss rock or stucco-finished masonry, set back at least five feet from the front property line and acceptably screened with planting material from the street side.

- (9) Interactive informational displays, provided:
 - (A) Only one interactive informational display per common entryway to a project site shall be permitted, which shall not encroach into or otherwise obstruct any public sidewalk or pedestrian easement. For purposes of this subdivision, a "common entryway" shall mean



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an opening providing public pedestrian access to two or more business establishments from any public sidewalk, pedestrian easement, or right-of-way.

- (B) The interactive informational display shall consist of a freestanding structure, not exceeding 48 inches in height.
- (C) The display area shall not exceed 8 square feet, and shall be essentially horizontal in its orientation so as not to be functionally viewable from adjoining streets or sidewalks.
- (D) No signs regulated under Article 7 of this chapter shall be attached to the interactive informational display structure, nor shall there be any speaker boxes, public address systems, or other devices for reproducing or amplifying voices or sound attached to or associated with the structure."

SECTION 26. Section 21-9.80-4, Revised Ordinances of Honolulu 1990, as amended ("Waikiki Special District, 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 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 requirements 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 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.



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- (B) The station 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.
- (4) Utility Installations. [Utility] Except for antennas, utility installations shall be designed and installed in an aesthetic manner so as to hide or screen wires and equipment completely from view, including views from above [(except for antennas)]; provided that any antenna located at a height of 40 feet or less from existing grade should take full advantage of stealth technologies in order to be adequately screened from view at ground level without adversely affecting operational capabilities.
- (5) Building Materials. Selection and use of building materials should contribute to a Hawaiian sense of place through the use of subdued and natural materials, such as plaster finishes, textured concrete, stone, wood and limited use of color-coated metal. Freestanding walls and fences should be composed of moss rock, stucco-finished masonry or architectural concrete whenever possible. Colors and finishes shall be characterized as being absorptive rather than reflective. The use of shiny metal or reflective surfaces, including paints and smooth or plastic-like surfaces should be avoided.
- (6) Building Scale, Features and Articulation. Project designs should provide a human scale at ground level. Buildings composed of stepped forms are preferred. Articulated facades are encouraged to break up building bulk. Use of the following building features is encouraged: sunshades; canopies; eaves; lanais; hip-form roofs for low-rise, freestanding buildings; recessed windows; projecting eyebrows; and architectural elements that promote a Hawaiian sense of place.
- (7) Exterior Building Colors. Project colors should contribute to a tropical resort destination. They should complement or blend with surrounding colors, rather than call attention to the structure. Principal colors, particularly for high-rise towers, should be of neutral tones with more vibrant colors relegated to accent work. Highly reflective colors shall not be permitted.
- (8) Ground Level Features.
- (A) Within a development, attention should be given to pedestrian-oriented ground level features. A close indoor-outdoor relationship should be



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- promoted. Design priority should include the visual links through a development connecting the sidewalk and other public areas with on-site open spaces, mountains and the ocean.
- (B) Building facades at the ground level along open spaces and major streets (including Kalakaua Avenue, Kuhio Avenue, Kapahulu Avenue, Ala Wai Boulevard and Ala Moana Boulevard) shall be devoted to open lobbies, arcade entrances, and display windows, and to outdoor dining where it is permitted.
 - (C) Where commercial uses are located at ground level, other than as required by paragraph (B), at least one-half of the total length of the building facade along streets shall be devoted to open lobbies, arcade entrances, display windows and outdoor dining where permitted.
 - (D) The street facades of ground level hotel lobbies should include wide, open entryways. Ventilation in these lobbies should primarily depend on natural air circulation.
 - (E) Where buildings are situated between a street and the shoreline or between a street and open spaces, ground level lobbies, arcades and pedestrian ways should be provided to create visual links between the street and the shoreline or open space.
 - (F) Where blank walls must front a street or open space, they shall be screened with heavy landscaping or appropriately articulated exterior surfaces.
 - (G) Ground level parking facilities should not be located along any street, park, beachfront, public sidewalk or pedestrian way. Where the site plan precludes any other location, the garage may front these areas provided landscaping is provided for screening. Principal landscaping shall include trees, and secondary landscape elements may include tall hedges and earth berms.
 - (H) For purposes of the Waikiki special district, an "open lobby" shall mean a ground-floor lobby which shall not be enclosed along the entire length of at least two of its sides or 50 percent of its perimeter, whichever is greater, and which shall provide adequate breezeways and views to interior and/or prominent open spaces, intersecting streets, gateways or significant pedestrian ways.
- (9) Outdoor Lighting. Outdoor lighting shall be subdued or shielded so as to prevent glare and light spillage onto surrounding properties and public rights-of-way. It



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shall not be used to attract attention to structures, uses or activities; provided, however, that indirect illumination which shall be integrated with the architectural design of a building may be allowed when it is utilized to highlight and accentuate exterior building facades, and architectural and/or ground level features. Rotating, revolving, moving, flashing and flickering lights shall not be visible to the public, except lighting installed by a public agency for traffic safety purposes or temporary lighting related to holiday displays.”

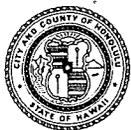
SECTION 27. Section 21-9.80-4, Revised Ordinances of Honolulu 1990, as amended (“Waikiki Special District, General requirements and design controls”), is amended by amending subsection (e) to read as follows:

“(e) Nonconformity. The provisions of Section 21-4.110, et seq., shall apply, except as provided in this subsection.

(1) A nonconforming use and/or structure may be replaced by a new structure with up to the maximum permitted floor area of the precinct for similar uses or existing floor area, whichever is greater, provided all other special district standards are met. To achieve this, the following special district standards may be modified, subject to a major special district permit approval:

(A) Open Space. Minimum required open space may be adjusted, as follows:

- (i) For each square foot of public open space provided on the lot, the open space may be reduced by one square foot. If provided, front yards may be included as public open space; and
- (ii) For every two square feet of arcade space provided on the lot, the open space may be reduced by one square foot; and
- (iii) For every four square feet of open lobby space on the lot, the open space may be reduced by one square foot.
- (iv) In the event that the cumulative area of the required yards exceeds the minimum open space requirement for the lot, the resultant cumulative yards may be considered the minimum open space requirement for the lot. In no event



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shall the total open space be less than (aa) 25 percent of the lot area or (bb) the cumulative area of the required yards, whichever is greater. In addition, the open space arrangement shall not obstruct or diminish any significant views which are to be preserved, protected or enhanced; shall not obstruct, prevent or interfere with any identified gateways and/or pedestrian ways; and shall be consistent with the intent and objectives of the Waikiki special district.

- (B) Off-street Parking. Parking and loading requirements may be adjusted, subject to the submission of a parking management plan that shall be reviewed and approved by the director.
 - (C) Height. If the height of an existing structure exceeds the maximum height for the lot, then the height of the existing structure may be retained, provided the new structure or structures:
 - (i) Do not obstruct or diminish any significant views which are to be preserved, protected and enhanced; and/or
 - (ii) Do not obstruct, prevent or interfere with an identified gateway and/or pedestrian way; and
 - (iii) Are consistent with the intent and objectives of the Waikiki special district.
- (2) In case of the accidental destruction of a nonconforming structure devoted to a conforming use which contains multifamily dwelling units, it may be restored to its original condition in accordance with Section 21-4.110.
 - (3) Nonconforming uses shall not be limited to "ordinary repairs" or subject to value limits on repairs or renovation work performed. Exterior repairs and renovations which will not modify the arrangement of buildings on a zoning lot may be permitted, provided all special district standards are met.
 - (4) Elements of nonconforming structures, including but not limited to, signs, menu displays, awnings and building facades may be renovated, reconfigured, or replaced, provided the work:
 - (A) Results in a reduction of the nonconformity;



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- (B) Is an improvement over the existing condition of the structure;
 - (C) Implements the design intents and requirements of the special district; and
 - (D) Does not increase floor area.
- (5) The floor area of a structure which already meets or exceeds maximum permitted density may be increased to replace or retrofit electrical or mechanical equipment, utilitarian spaces, or improvements specifically required to comply with federal mandates such as the Americans with Disabilities Act (ADA) or National Environmental Policy Act (NEPA), provided:
- (A) The increase in floor area is relatively insignificant in relation to the existing structure;
 - (B) Adequate screening of building equipment or machinery is provided when necessary to protect the design intents of the special district;
 - (C) The increase does not result in a net loss in required open space, arcades, or landscaping; and
 - (D) Other than for dwelling units, existing on-site parking spaces may be removed, provided:
 - (i) There are no feasible alternatives to the location of the equipment or utility room; and
 - (ii) The number of off-street parking spaces removed is less than (aa) five percent of the total number of existing spaces, if the total number of existing spaces is 100 or less; or (bb) three percent of the total number of existing spaces, if the total number of existing spaces is more than 100.
- (6) Notwithstanding any ordinance to the contrary, nonconforming hotel units may be time sharing units, subject to applicable state law.



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(7) Unless voluntarily abandoned, nonconforming uses which have been temporarily discontinued for purposes of redevelopment and/or renovation, as permitted by this subsection, shall not otherwise be subject to the discontinuation of use provisions enumerated in Section 21-4.110(c)(2).”

SECTION 28. Section 21-10.1, Revised Ordinances of Honolulu 1990, as amended (“Definitions”), is amended by amending the definition for “Automobile service station”; “Crop production”; “Hotel”; “Repair establishments, minor and major”; “Retail establishments”; and “Time sharing” to read as follows:

- a. ““Automobile service station” means a retail establishment which primarily provides gasoline, oil, grease, batteries, tires or automobile accessories and where, in addition, the following routine and accessory services may be rendered and sales made, but no other:
- (1) Servicing of spark plugs, batteries, tires;
 - (2) Radiator cleaning and flushing;
 - (3) Washing and polishing, including automated, mechanical facilities;
 - (4) Greasing and lubrication;
 - (5) Repair and servicing of fuel pumps, oil pumps and lines, carburetors, brakes and emergency wiring;
 - (6) Motor adjustments not involving repair of head or crankcase;
 - (7) Provision of cold drinks, packaged foods, tobacco and similar convenience goods for gasoline supply station customers, but only as accessory and incidental to the principal operation, and not to exceed 400 square feet of floor area;
 - (8) Provision of road maps and other information material to customers;
 - (9) Provision of rest room facilities;
 - (10) Parking as an accessory use;
 - (11) Towing service.

The following are not permitted: tire recapping or regrooving, body work, straightening of frames or body parts, steam cleaning, painting, welding, or non-transient storage of automobiles not in operating condition, or permitted repair activities not conducted within an enclosed structure in any zoning district other than the industrial districts.”

- b. ““Crop production” means agricultural and horticultural uses, including production of grains, field crops, and indoor and outdoor nursery crops, vegetables, fruits, tree nuts, flower fields and seed production, ornamental crops,



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tree and sod farms, associated crop preparation services and harvesting activities.”

c. ““Hotel” means a building or group of buildings containing lodging and/or dwelling units [in which 50 percent or more of the units are lodging units] offering transient accommodations, and[. A hotel includes] a lobby, clerk's desk or counter with 24-hour clerk service, and facilities for registration and keeping of records relating to hotel guests. A hotel may also include accessory uses and services intended primarily for the convenience and benefit of the hotel's guests, such as restaurants, shops, meeting rooms, and/or recreational and entertainment facilities.”

d. ““Repair establishments, minor and major” means establishments which primarily provide restoration, reconstruction and general mending and repair services. “Minor repair establishment” uses include those repair activities which have little or no impact on surrounding land uses and can be compatibly located with other businesses. “Major repair establishment” uses include those repair activities which are likely to have some impact on the environment and adjacent land uses by virtue of their appearance, noise, size, traffic generation or operational characteristics.

(1) Minor.

(A) Automobile (including pickup trucks), motorcycle, moped, motorized bicycle, boat engine, motorized household appliance (e.g., refrigerator, washing machine, dryer) and small equipment (e.g., lawn mower) repairing, including painting, provided all repair work is performed within an enclosed structure in other than the industrial districts, and does not include repair of body and fender, and straightening of frame and body parts.

(B) Production and repair of eyeglasses, hearing aids and prosthetic devices.

(C) Garment repair.

(D) General fixit shop.

(E) Nonmotorized bicycle repair.

(F) Radio, television and other electrical household appliance repair.

(G) Shoe repair.

(H) Watch, clock, jewelry repair.

(2) Major.

(A) Blacksmiths.

(B) Ship engine cleaning and repair.

(C) Airplane motor repair and rebuilding.



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- (D) Furniture repair.
- (E) Industrial machinery and heavy equipment repair.
- (F) Bus and truck repair.
- (G) Repair of vehicle (all types) body and fender, and straightening of frame and body parts."

e. "Retail establishments" means the sale of commodities or goods to the consumer and may include display rooms and incidental manufacturing of goods for retail sale on premises only. Typical retail establishments include grocery and specialty food stores, general department stores, drug and pharmaceutical stores, hardware stores, pet shops, appliance and apparel stores, motorized scooter and bicycle sales and rentals, and other similar retail activities. This term also includes establishments where food or drink is sold on the premises for immediate consumption, but which lack appropriate accommodations for on-premise eating and drinking. The term does not include open storage yards for new or used building materials, yards for scrap, salvage operations for storage or display of automobile parts, service stations, repair garages or veterinary clinics and hospitals."

f. "Time sharing" means the ownership and/or occupancy of a dwelling or lodging unit regulated under the provisions of HRS Chapter 514E, as amended, relating to time share plan and time share unit hereinafter defined:

- (1) "Time share plan" means any plan or program in which the use, occupancy or possession of one or more time share units circulates among various persons for less than a 60-day period in any year for any occupant. The term "time share plan" shall include both time share ownership plans and time share use plans, as follows:
 - (A) "Time share ownership plan" means any arrangement whether by tenancy in common, sale, deed or by other means, whereby the purchaser received an ownership interest and the right to use the property for a specific or discernible period by temporal division.
 - (B) "Time share use plan" means any arrangement, excluding normal hotel operations, whether by membership agreement, lease, rental agreement, license, use agreement, security or other means, whereby the purchaser receives a right to use accommodations or facilities, or both, in a time share unit for a specific or discernible period by temporal division, but does not receive an ownership interest.



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- (2) "Time share unit" means the actual and promised accommodations and related facilities, which are the subject of a time share plan; and, may be either a hotel, transient vacation, or multi-family dwelling unit."

SECTION 29. Section 21-10.1, Revised Ordinances of Honolulu 1990, as amended ("Definitions"), is amended by adding new definitions for "Biofuel processing facility" and "Plantation community subdivision" to be inserted in the proper alphabetical order by the revisor of ordinances and to read as follows:

- a. "Biofuel processing facility" means a biofuel processing facility as defined under HRS Section 205-4.5(a)(15)."
- b. "Plantation community subdivision" means a plantation community subdivision as defined under HRS Section 205-4.5(a)(12)."

SECTION 30. Ordinance material to be repealed is bracketed and 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:

DATE OF INTRODUCTION:

Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Deputy Corporation Counsel

APPROVED this _____ day of _____, 20 _____.

MUFU HANNEMANN, Mayor
City and County of Honolulu

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