

## Article 4. General Development Standards

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### Sec. 21-4.10 General development regulations—Purpose and intent.

- (a) It is the purpose of this article to establish reasonable standards relating to land development which are generally applicable to any use or site, irrespective of the zoning district in which it is located.
- (b) It is the intent that where these regulations conflict with Article 8, “Optional development regulations,” or Article 9, “Special district regulations,” the optional development or special district regulations shall take precedence.

(Added by Ord. 99-12)

### Sec. 21-4.20 Flag lots.

- (a) Flag lots are permitted when a parcel lacks sufficient street frontage for more than one lot or parcel. This parcel may be subdivided to create a flag lot, provided that the access drive for the flag lot shall be the sole access for only one lot and shall have a minimum width of 12 feet. The director may allow dual access of an access drive after consultation with the director of transportation services (see Figure 21-4.1).

(Added by Ord. 03-37)

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- (b) The lot area excluding the access drive used for ingress and egress shall be not less than 80 percent of the minimum lot area required for the zoning district. The total lot area shall meet the minimum lot area standard for the zoning district.

(c) The lot width and lot depth of the flag lot shall be not less than the required minimum lot width and depth of the underlying zoning district, with the lesser dimension qualifying as lot width. Dimensions shall be measured as average horizontal distances between property lines, with the lot width being measured at right angles to lot depth.

(d) The location of the access drive shall be subject to the approval of the director.

(e) The finish grade of any portion of the access drive shall not exceed 19 percent, with provisions for horizontal and vertical curves for adequate vehicular access. The director may allow a steeper grade when necessary because of topography, subdivision lot arrangement and design. In granting a steeper grade, the director shall consult with the fire department for their consideration and recommendation, and the director may impose conditions including but not limited to installation of fencing, walls and safety barriers.

Whenever the finish grade exceeds 12 percent, a reinforced concrete pavement shall be installed. An alternative roadway pavement may be installed on approval of the director.

(f) The minimum yards for a flag lot shall be the minimum side yard required of a zoning lot in the applicable zoning district.

(Added by Ord. 99-12)

#### Sec. 21-4.30 Yards and street setbacks.

(a) No business, merchandising displays, uses, structures or umbrellas, shall be located or carried on within any required yard or street setback except for the following:

(1) Public utility poles.

(2) Customary yard accessories, such as clotheslines and their supports; unroofed trash enclosures not to exceed six feet in height; and bollards.

(3) Structures for newspaper sales and distribution.

(4) Fences and retaining walls as provided in subsection (c) and Section 21-4.40.

(5) Hawaiian Electric transformers, backflow preventers, and other similar public utility equipment.

(6) Signs, other than ground signs, or as restricted by special district provisions.

(7) Bicycle parking, including a fixed bicycle rack for parking and locking bicycles.

(8) The following equipment, not to exceed four feet in height, may extend a maximum of 30 inches into the side or rear yard setbacks only:

(A) Freestanding air conditioning equipment meeting the following standards:

(i) The unit shall not exceed allowable decibel levels established pursuant to law.

(ii) The minimum Seasonal Energy Efficiency Ratio (SEER) shall be:

(aa) 12 for units of three tons or less; and

(bb) 16 for units exceeding three tons and not exceeding five tons.

(B) Other minor mechanical and electrical apparatus.

(9) Other structures not more than 30 inches in height.

(b) Roof overhangs, eaves, sunshades, sills, frames, beam ends, projecting courses, planters and other architectural embellishments or appendages, and minor mechanical and electrical apparatus with no more than a 30-inch vertical thickness may project into required yards and height setbacks as follows:

Required Yard	Projection
Less than or equal to 10 feet	30 inches
Greater than 10 but less than or equal to 20 feet	36 inches
Greater than 20 feet	42 inches

Exterior balconies, chimneys, lanais, porte cocheres, arcades, pergolas or covered passageways are not permitted within required yards.

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(c) Other than retaining walls, walls and fences up to a height of six feet may project into or enclose any part of a required yard, except that:

(1) They shall be prohibited in front yards in business, business mixed use, industrial, and industrial-commercial mixed use districts.

(2) Walls and fences constructed by public utilities may be up to eight feet in height, and may be topped with security wire to a total height of nine feet.

(3) Special district regulations under Article 9 may provide for other restrictions.

(4) Fences located on land dedicated for agricultural use pursuant to Section 8-7.3 may be up to ten feet in height.

(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.

(Added by Ord. 99-12; Am. Ord. 03-37, 10-19, 10-24)

#### Sec. 21-4.40 Retaining walls.

(a) Retaining walls containing a fill within required yards shall not exceed a height of six feet, measured from existing or finish grade, whichever is lower, to the top of the wall along the exposed face of the wall. Heights of terraced walls or combinations of retaining walls shall be measured combining all walls located in the required yard (see Figures 21-4.2(A) and (B)).

(b) A retaining wall that protects a cut below the existing grade may be constructed within a required yard, up to the height of the cut. There shall be no height limit for retaining walls which protect a cut, except that a retaining wall which protects a cut and contains fill shall not exceed a total of six feet in height measured from the intersection of the wall and the existing or finish grade, whichever is lower, to the top of the wall along the exposed face of the wall.

(c) A safety railing may be erected on top of any retaining wall within a required yard. If the safety railing is generally constructed of a different material than the retaining wall, and is open at intervals so as not to be capable of retaining earth, it shall not exceed a height of six feet above the retaining wall.

(d) Safety railing or fences constructed of the same materials as the retaining wall shall not exceed a total combined height of six feet measured from the finish grade along the exposed face of the wall. Additional fence height of different material not capable of retaining material may be erected, not to exceed a height of six feet measured from the finish grade of the retained material (see Figure 21-4.2(B)).

(Added by Ord. 99-12)



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

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

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

A = FAR for total parcel in most intense district.  
 B = FAR for total parcel in least intense district.  
 C = Area of parcel in most intense district.

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

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

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

$$A' \times (\text{Lot area of zoning lot A}) + B' \times (\text{Lot area of zoning lot B})$$

(Added by Ord. 99-12; Am. Ord. 17-40)

**Sec. 21-4.60 Heights.**

- (a) All structures shall fall within a building height envelope at a height specified by this chapter or as specified on the zoning maps. Exceptions are specified under subsection (c), and others may be specified under special districts.
- (b) The building height envelope shall run parallel to existing or finish grade, whichever is lower (see Figure 21-4.3), except where finish grade is higher than existing grade in order to meet city construction standards for driveways, roadways, drainage, sewerage and other infrastructure requirements, or to meet conditions of permits approved under the provisions of this chapter. In these cases, height shall be measured from finish grade.
- (c) The following structures and associated screening shall be exempt from zoning district height limits under the specified restrictions:
  - (1) Vent pipes, fans, roof access stairwells, and structures housing rooftop machinery, such as elevators and air conditioning, not to exceed 18 feet above the governing height limit, except that structures housing rooftop machinery on detached dwellings and duplex units shall not be exempt from zoning district height limits.
  - (2) Chimneys, which may also project into required height setbacks.
  - (3) Safety railings not to exceed 42 inches above the governing height limit.
  - (4) Utility Poles and Antennas. The council finds and declares that there is a significant public interest served in protecting and preserving the aesthetic beauty of the city. Further, the council finds that the indiscriminate and uncontrolled erection, location, and height of antennas can be and are detrimental to the city's appearance and, therefore, image; that this can cause significant damage to the community's sense of well-being, particularly in residential areas, and can further harm the economy of the city with its tourist trade which relies heavily on the city's physical appearance. However, the council also finds that there is a need for additional height for certain types of utility poles and antennas and that there is a clear public interest served by ensuring that those transmissions and receptions providing the public with power and telecommunications services are unobstructed. Therefore, in accord

with the health, safety and aesthetic objectives contained in Section 21-1.20, and in view of the particular public interest needs associated with certain types of telecommunications services:

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(Honolulu Supp. No. 30, 9-2017)

- (A) Utility poles and broadcasting antennas shall not exceed 500 feet from existing grade.
  - (B) Antennas associated with utility installations shall not exceed 10 feet above the governing height limit, but in residential districts where utility lines are predominantly located underground the governing height limit shall apply.
  - (C) Receive-only antennas shall not exceed the governing height limit, except as provided under Section 21-2.140-1.
  - (5) Spires, flagpoles and smokestacks, not to exceed 350 feet from existing grade.
  - (6) One antenna for an amateur radio station operation per zoning lot, not to exceed 90 feet above existing grade.
  - (7) Wind machines, where permitted, provided that each machine shall be set back from all property lines one foot for each foot of height, measured from the highest vertical extension of the system.
  - (8) Any energy-savings device, including heat pumps and solar collectors, not to exceed five feet above the governing height limit.
  - (9) Construction and improvements in certain flood hazard districts, as specified in Sections 21-9.10-6 and 21-9.10-7.
  - (10) Farm structures in agricultural districts, as specified in Article 3.
  - (d) The following structures and associated screening may be placed on top of an existing building which is nonconforming with respect to height, under the specified restrictions:
    - (1) Any energy-savings device, including heat pumps and solar collectors, not to exceed 12 feet above the height of the building.
    - (2) Safety railings not to exceed 42 inches above the height of the building.
- (Added by Ord. 99-12; Am. Ord. 03-37)





Sec. 21-4.70 Landscaping and screening.

Parking lots, automobile service stations, service and loading spaces, trash enclosures, utility substations and rooftop machinery shall be landscaped or screened in all zoning districts as follows:

(a) Parking lots of five or more spaces and automobile service stations shall provide a minimum five-foot landscape strip adjacent to any adjoining street right-of-way. This five-foot strip shall contain a continuous screening hedge not less than 36 inches in height with plantings no more than 18 inches on center. If the landscape strip is wider than five feet, the hedge may be placed elsewhere in the strip. A minimum 36-inch-high wall or fence may be placed behind the setback line in lieu of a hedge. If a wall or solid fence is erected, either a vine or shrub shall be planted at the base of the wall or solid fence on the side fronting the property line. One canopy form tree a minimum of two-inch caliper shall be planted in the landscape strip for each 50 feet or major fraction of adjacent lineal street frontage.

(b) To provide shade in open parking lots and minimize visibility of paved surfaces, parking lots with more than 10 parking stalls shall provide one canopy form tree a minimum of two-inch caliper for every six parking stalls or major fraction thereof, or one canopy form tree of six-inch caliper or more for every 12 parking stalls or major fraction thereof. Each tree shall be located in a planting area and/or tree well no less than nine square feet in area. If wheel stops are provided, continuous planting areas with low ground cover, and tree wells with trees centered at the corner of parking stalls may be located within the three-foot overhang space of parking stalls. Hedges and other landscape elements, including planter boxes over six inches in height, are not permitted within the overhang space of the parking stalls. Trees shall be sited so as to evenly distribute shade throughout the parking lot (see Figure 21-4.4).

(c) Parking structures with open or partially open perimeter walls which are adjacent to zoning lots with side or rear yard requirements shall meet the following requirements:

(1) An 18-inch landscaping strip along the abutting property line shall be provided. This strip shall consist of landscaping a minimum of 42 inches in height. A solid wall 42 inches in height may be substituted for this requirement.

(2) A minimum two-inch caliper tree shall be planted for every 50 linear feet of building length, abutting a required yard.

(3) Each parking deck along the abutting property line shall have a perimeter wall at least two feet in height to screen vehicular lights otherwise cast onto adjacent property.

(d) All outdoor trash storage areas, except those for one-family or two-family dwelling use, shall be screened on a minimum of three sides by a wall or hedge at least six feet in height. The wall shall be painted, surfaced or otherwise treated to blend with the development it serves.

(e) All service areas and loading spaces shall be screened from adjoining lots in country, residential, apartment and apartment mixed use districts by a wall six feet in height.

(f) Within country, residential, apartment, apartment mixed use and resort districts, utility substations, other than individual transformers, shall be enclosed by a solid wall or a fence with a screening hedge a minimum of five feet in height, except for necessary openings for access. Transformer vaults for underground utilities and similar uses shall be enclosed by a landscape hedge, except for access openings.

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(g) All plant material and landscaping shall be provided with a permanent irrigation system.

(h) All rooftop machinery and equipment, except for solar panels, antennas, plumbing vent pipes, ventilators and guardrails, shall be screened from view from all directions, including from above, provided that screening from above shall not be required for any machinery or equipment whose function would be impaired by such screening. Rooftop machinery and equipment in the strictly industrial districts and on structures or portions of structures less than 150 feet in height shall be exempt from this subsection.

(Added by Ord. 99-12)

**Sec. 21-4.70-1 Screening wall or buffering.**

(a) Any use located in the I-1, I-2 or I-3 district shall be screened from any adjacent zoning lot in a residential, apartment, apartment mixed use, or resort district, by a solid wall six feet in height erected and maintained along side and rear property lines. Such walls shall not project beyond the rear line of an adjacent front yard in the residential, apartment, apartment mixed use, or resort district. In addition, a five-foot-wide landscaping strip shall be provided along the outside of the solid wall.

(b) Any use located in the IMX-1 district shall be screened from any adjacent zoning lot in a residential, apartment, apartment mixed use, or resort district, by a landscaped area not less than five feet in width along side and rear property lines. Such landscaped area shall contain a screening hedge not less than 42 inches in height. The requirements of this subsection (b) shall not apply to necessary drives and walkways, nor to any meeting facility, day care facility, group living facility, or other use governed by subsection (d).

(c) Any use located in the B-1, B-2 or BMX-4 district, and any use located in the BMX-3 district except detached dwellings and multifamily dwellings, shall be screened from any adjacent zoning lot in a residential, apartment, or apartment mixed use district, by a landscaped area not less than five feet in width along side and rear property lines. Such landscaped area shall contain a screening hedge not less than 42 inches in height. The requirements of this subsection (c) shall not apply to necessary drives and walkways, nor to any meeting facility, day care facility, group living facility, or other use governed by subsection (d).

(d) Any meeting facility, day care facility, group living facility, parking facility, commercial, industrial, or similar use, located in any district other than those already addressed under subsections (a), (b) and (c), shall be screened from any adjacent zoning lot in a country, residential, apartment, apartment mixed use, or resort district by:

(1) A solid wall or fence, excepting chain link, six feet in height; or

(2) An equivalent landscape buffer such as a six-foot-high screening hedge.

Such solid wall or fence, or equivalent landscape buffer, shall be erected and maintained along the common property line. The director may modify the requirements of this subsection (d) if warranted by topography.

(e) This section shall not preclude a public utility from constructing a wall or fence exceeding six feet in height pursuant to Section 21-4.30(c)(2).

(Added by Ord. 99-12; Am. Ord. 03-37)

**Sec. 21-4.80 Noise regulations.**

For any commercial or industrial development, no public address system or other devices for reproduction or amplifying voices or music, except as described for drive-thru facilities in Section 21-5.190 shall be mounted outside any structure on any lot which is adjacent to any lot in a country, residential, apartment, apartment mixed use, or resort zoning district.

(Added by Ord. 99-12)

**Sec. 21-4.90 Sunlight reflection regulations.**

No building wall shall contain a reflective surface for more than 30 percent of that wall's surface area. (Added by Ord. 99-12)

**Sec. 21-4.100 Outdoor lighting.**

For any commercial, industrial, or outdoor recreational development, lighting shall be shielded with full cut-off fixtures to eliminate direct illumination to any adjacent country, residential, apartment, apartment mixed use, or resort zoning district. (Added by Ord. 99-12)

**Sec. 21-4.110 Nonconformities.**

Constraints are placed on nonconformities to facilitate eventual conformity with the provisions of this chapter. In other than criminal proceedings, the owner, occupant or user shall bear the burden to prove that a lot, a structure,



a use, a dwelling unit, or parking or loading was legally established as it now exists. Nonconforming lots, structures, uses, dwelling units, commercial use density, and parking and loading may be continued, subject to the following provisions:

- (a) Nonconforming Lots.
  - (1) A nonconforming lot shall not be reduced in area, width or depth, except by government action to further the public health, safety or welfare.
  - (2) Any conforming structure or use may be constructed, enlarged, extended or moved on a nonconforming lot as long as all other requirements of this chapter are met.
- (b) Nonconforming Structures.
  - (1) If that portion of a structure that is nonconforming is destroyed by any means to an extent of more than 90 percent of its replacement cost at the time of destruction, it may not be reconstructed except in conformity with the provisions of this chapter. All reconstruction and restoration work must comply with building code and flood hazard regulations, and commence within two years of the date of destruction.
    - (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, 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 any means, may be fully reconstructed and restored to its former permitted condition, provided that such restoration is permitted by the current building code and flood hazard regulations and is started within two years from the date of destruction.
    - (B) No nonconforming structure that is required by law to be razed by the owner thereof may thereafter be reconstructed and restored except in full conformity with the provisions of this chapter.
  - (2) If a nonconforming structure is moved, it must conform to the provisions of this chapter.
  - (3) Any nonconforming structure may be repaired, expanded or altered in any manner that does not increase its nonconformity.
  - (4) Improvements on private property, which become nonconforming through the exercise of the 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 will be regulated under the provisions of this subsection. For purposes of this section, “nonconforming commercial use density” means a structure that 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.
- (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 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 subject to the prior approval of the director, provided that:

(A) The change in use may be made only if any adverse effects on neighboring occupants and 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.

(d) Nonconforming Dwelling Units. With the exception of ohana dwelling units, which are subject to the provisions of Section 21-2.140-1(i), nonconforming dwelling units are subject to the following provisions:

(1) A nonconforming dwelling unit may be altered, enlarged, repaired, extended or moved, provided that all other provisions of this chapter are met.

(2) If a nonconforming dwelling unit is destroyed by any means to an extent of more than 50 percent of its replacement cost at the time of destruction, it cannot be reconstructed.

(3) When detached dwellings constructed on a zoning lot prior to January 1, 1950 exceed the maximum number of dwelling units currently permitted, they will be deemed nonconforming dwelling units.

(e) Nonconforming Parking and Loading. Nonconforming parking and loading may be continued, subject to the following provisions:

(1) If there is a change in use to a use with a higher parking or loading standard, the new use shall meet the off-street parking and loading requirements established in Article 6.

(2) Any use that adds floor area shall provide off-street parking and loading for the addition as required by Article 6. Expansion of an individual dwelling unit that results in a total floor area of no more than 2,500 square feet shall be exempt from this requirement.

(3) (A) When nonconforming parking or loading is reconfigured, the reconfiguration shall meet current requirements for arrangement of parking spaces, dimensions, aisles, and, if applicable, ratio of compact to standard stalls, except as provided in paragraph (B). If, as a result of the reconfiguration, the number of spaces is increased by five or more, landscaping shall be provided as required in Section 21-4.70 based on the number of added stalls, not on the entire parking area.

(B) Parking lots and other uses and structures with an approved parking plan on file with the department prior to the effective date of this ordinance, and which include compact parking spaces as approved in the plan, may retain up to the existing number of compact spaces when parking is reconfigured.

(Added by Ord. 99-12; Am. Ord. 03-37, 06-15, 10-19, 17-40, 17-59)

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

(a) The purpose of this section is to permit certain transient vacation units that have been in operation since prior to October 22, 1986, to continue to operate as nonconforming uses subject to obtaining a nonconforming use certificate as provided by this section. This section applies to any owner, operator, or

proprietor of a transient vacation unit who holds a valid nonconforming use certificate issued pursuant to this section on August 1, 2019\*.

**\*Editor's Note:** "August 1, 2019" is substituted for "the effective date of this ordinance".



(b) The owner, operator, or proprietor of any transient vacation unit who has obtained a nonconforming use certificate under this section shall apply to renew the nonconforming use certificate in accordance with the following schedule:

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

Each application to renew shall include proof that (i) there were in effect a State of Hawaii general excise tax license and transient accommodations tax license for the nonconforming use during each calendar year covered by the nonconforming use certificate being renewed and that there were transient occupancies (occupancies of less than 30 days apiece) for a total of at least 35 days during each such year and that (ii) there has been no period of 12 consecutive months during the period covered by the nonconforming use certificate being renewed without a transient occupancy. Failure to meet these conditions will result in the denial of the application for renewal of the nonconforming use certificate. The requirement for the 35 days of transient occupancies shall be effective on January 1, 1995 and shall apply to renewal applications submitted on or after January 1, 1996.

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

(d) The provisions of Section 21-5.730(c) shall apply to advertisements for transient vacation units operating under a nonconforming use certificate pursuant to this section.

(Added by Ord. 99-12; Am. Ord. 19-18)

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

(a) The purpose of this section is to permit certain bed and breakfast homes that have been in operation since prior to December 28, 1989, to continue to operate as nonconforming uses subject to obtaining a nonconforming use certificate as provided by this section. This section applies to any owner, operator, or proprietor of a bed and breakfast home who holds a valid nonconforming use certificate issued pursuant to this section on August 1, 2019.\*

(b) The owner, operator, or proprietor of any bed and breakfast home who has obtained a nonconforming use certificate under this section shall apply to renew the nonconforming use certificate in accordance with the following schedule:

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

Each application to renew shall include proof that (i) there were in effect a State of Hawaii general excise tax license and transient accommodations tax license for the nonconforming use for each calendar year covered by the nonconforming use certificate being renewed and that there were bed and breakfast occupancies (occupancies of less than 30 days apiece) for a total of at least 28 days during each such year and that (ii) there has been no period of 12 consecutive months during the period covered by the nonconforming use certificate being renewed without a bed and breakfast occupancy. Failure to meet these conditions will result in the denial of the application for renewal of the nonconforming use certificate. The requirement for the 28 days of bed and breakfast occupancies shall be effective on January 1, 1995 and shall apply to renewal applications submitted on or after January 1, 1996.

(c) Section 21-5.350 relating to home occupations shall not apply to bed and breakfast homes.

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

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

**\*Editor's Note:** "August 1, 2019" is substituted for "the effective date of this ordinance".



- (4) One off-street parking space shall be provided for each guest room, in addition to the required spaces for the dwelling unit.
  - (5) The provisions of Section 21-5.730(c) shall apply to advertisements for the bed and breakfast home.
  - (e) The owner, operator, or proprietor of any bed and breakfast home who has obtained a nonconforming use certificate under this section shall display the certificate issued for the current year in a conspicuous place on the premises.
- (Added by Ord. 99-12; Am. Ord. 19-18)

### **Article 5. Specific Use Development Standards**

#### **Sections:**

- 21-5.10 Purpose and intent.**
- 21-5.10A Agribusiness activities.**
- 21-5.20 Agricultural products processing, major and minor.**
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LAND USE ORDINANCE

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<b>21-5.660</b>	<b>Vacation cabins.</b>
<b>21-5.670</b>	<b>Veterinary establishments.</b>
<b>21-5.680</b>	<b>Waste disposal and processing.</b>
<b>21-5.690</b>	<b>Wholesaling and distribution outlets.</b>
<b>21-5.700</b>	<b>Wind machines.</b>
<b>21-5.710</b>	<b>Zoos.</b>
<b>21-5.720</b>	<b>Accessory dwelling units.</b>
<b>21-5.730</b>	<b>Bed and breakfast homes and transient vacation units.</b>

**Sec. 21-5.10 Purpose and intent.**

- (a) The purpose of this article is to set forth all development and design standards for particular uses within this chapter. Refer to Table 21-3 to determine whether a use is allowed as a permitted principal use in a particular zoning district or requires permit approval.
- (b) For the purposes of this article, except as may otherwise be specified herein, any minimum distance requirement from or between uses, facilities and/or zoning districts herein prescribed shall be measured as the shortest straight line distance between zoning lot lines.

(Added by Ord. 99-12; Am. Ord. 03-37)

**Sec. 21-5.10A Agribusiness activities.**

- (a) Except as otherwise specified under principal uses, retail activities in an enclosed structure may be allowed, but are limited to not more than 500 square feet of floor area, and all products for sale therein must be predominantly agricultural products grown or produced on the site, in the city or elsewhere in the State of Hawaii, and finished foods, drinks or other goods substantially made from those products. Non-food items may be sold, provided that these items are made primarily from agricultural products grown or produced on the site, in the city or elsewhere in the State of Hawaii. An incidental amount of general merchandise that features the brand, name or logo of the agribusiness operator may also be sold, provided that the items occupy no more than five percent of the floor area permitted for and devoted to retail sales, as provided in this section. The limitations enumerated above notwithstanding, an agribusiness activity may also include facilities for the preparation, sale, and consumption of food and drink on the site, which must feature agricultural products grown or produced on the site, in the city or elsewhere in the State of Hawaii.
- (b) A non-motorized, or motorized transportation system such as, but not limited to, tramways, trains, and other forms of connected, motorized vehicles used for guided or self-guided tours may be permitted only in conjunction with and incidental to the existing agricultural operation on the same site.
- (c) No more than one farmer's market for the growers and producers of agricultural products to display and sell agricultural products grown in the city or elsewhere in the State of Hawaii may be permitted on a zoning lot. Finished products produced primarily from these agricultural products also may be included for display and sale.
- (1) Markets may be operated only during daylight hours and cannot be operated on parcels of less than five (5) acres; and
- (2) Structures in the farmer's market may have a wall area, but any wall must be at least 50 percent open and all structures must have a rural or rustic appearance.
- (d) Agribusiness activities must always be accessory and incidental to the primary agricultural use of the lot. Permitted agribusiness activities, individually and collectively, must be on a scale appropriate to the size of the lot and the surrounding area; and adequate parking and vehicular access for agribusiness activities, as determined by the director, must be provided.
- (e) As a condition of approval, dedication of 50 percent or more of the project site, as the director determines is necessary to preserve the purpose and intent of the agricultural districts, for a minimum of 10 years to active agricultural use will be required by way of an agricultural easement or comparable mechanism acceptable to the director.

(Added by Ord. 02-63; Am. Ord. 17-40)



## LAND USE ORDINANCE

### Sec. 21-5.20 Agricultural products processing, major and minor.

(a) Major. No major agricultural products processing use 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.

(b) Minor. No minor agricultural products processing use shall be located within 50 feet of any zoning lot in a country, residential, apartment, apartment mixed use or resort district.

(Added by Ord. 99-12)

### Sec. 21-5.30 Amusement and recreation facilities—Indoor.

In the P-2 zoning district, the following standards shall apply:

(a) The use shall be permitted only if in conjunction with and incidental to golf courses and outdoor recreation facilities; and

(b) The total floor area devoted to the use on the golf course or outdoor recreation facility shall not exceed 1,500 square feet.

(Added by Ord. 99-12)

### Sec. 21-5.40 Amusement facilities—Outdoor.

(a) Traffic lanes shall be provided for adequate ingress and egress to and from the project in accordance with the specifications and approvals of the state department of transportation.

(b) Off-street parking or storage lanes for waiting patrons of a drive-in theater shall be available to accommodate not less than 30 percent of the vehicular capacity of the theater. However, if at least six entrance lanes are provided, each with a ticket dispenser, then the amount may be reduced to 10 percent of the vehicular capacity.

(c) All structures and major activity areas shall be set back a minimum of 25 feet from adjoining lots in country, residential, apartment or apartment mixed use districts. This requirement may be waived by the director if topography makes such a buffer unnecessary. Additional protection may be required along property lines through the use of landscaping, berms and/or solid walls.

(d) For motorized outdoor amusement facilities, additional noise mitigation measures may be required.

(Added by Ord. 99-12)

### Sec. 21-5.50 Antennas.

(a) Broadcasting.

(1) Once a new tower or tower site is approved, additional antennas and accessory uses shall be processed under the minor permit procedures.

(2) All new towers shall be designed to structurally accommodate the maximum number of additional users technically practicable, but in no case less than the following:

(A) For TV antenna towers, at least three high-power television antennas and one microwave facility or one low-power television antenna, or two FM antennas and at least one two-way radio antenna for every 10 feet of the tower over 200 feet.

(B) For any other towers, at least one two-way radio antenna for every 10 feet of the tower, or at least one two-way radio antenna for every 20 feet of the tower and at least one microwave facility or low-power TV antenna.

(C) These requirements may be reduced if the Federal Communications Commission provides a written statement that no more licenses for those broadcast frequencies that could use the tower will be available in the foreseeable future. These requirements may also be reduced if the size of the tower required significantly exceeds the size of existing towers in the area and would therefore create an unusually onerous visual impact that would dominate and alter the visual character of the area when compared to the impact of other existing towers.

(3) Freestanding antennas and towers shall be set back from every property line a minimum of one foot for every five feet of antenna or tower height.

(4) Antennas and towers supported by guy wires shall be set back from every property line a minimum of one foot for every one foot of antenna or tower height.

(5) AM broadcast antennas shall be set back a minimum of 500 feet from any country, residential, apartment or apartment mixed use district.

(6) FM and TV antennas shall be set back a minimum of 2,500 feet from any country, residential, apartment or apartment mixed use district.

(7) If it is determined that an antenna is harmful in any way to the health of the surrounding population or if it causes prolonged interference with the public's radio and television reception, the applicant shall be required to correct the situation or discontinue the use and remove the structures at the applicant's expense.

(8) The following shall be submitted as part of any application for a broadcasting antenna:

(A) Where a new tower is being requested, a quantitative description of the additional tower capacity anticipated shall be submitted, including the approximate number and types of antennas. The applicant shall also describe any limitations on the ability of the tower to accommodate other uses, e.g., radio frequency interference, mass, height or other characteristics.

(B) Evidence of a lack of space on all existing towers which meet the setback requirements in this section, to locate the proposed antenna and the lack of space on existing tower sites which meet the setback requirements in this section, to construct a tower for the proposed antenna.

(b) Accessory Receive Only. Accessory receive-only antennas when mounted on the ground shall be screened by walls, earth berms or landscaping a minimum of four feet in height.

(Added by Ord. 99-12)

Sec. 21-5.60 Automobile service stations.

Within the B-1 district only, when a pump island is less than 75 feet from a zoning lot in a country, residential, apartment or apartment mixed use district, hours of operation shall be limited to 6 a.m. to midnight. Automobile service stations not meeting this standard and intended to operate beyond these hours may be permitted under a conditional use permit (minor). (Added by Ord. 99-12)

Sec. 21-5.70 Bars, nightclubs, taverns and cabarets.

(a) In the B-2, BMX-4, I-1 and IMX-1 zoning districts, no public address system or other devices for reproducing or amplifying voices or music shall be mounted outside any structure on the premises, nor shall any amplified sound be audible beyond any property line affecting a residential, apartment or apartment mixed use zoning district.

(b) This use is not permitted on any lot which adjoins a parcel in a residential, apartment or apartment mixed use zoning district.

(Added by Ord. 99-12)

Sec. 21-5.80 Base yards.

All repair work shall be performed within an enclosed structure, and the facility shall be subject to the same minimum development standards for a storage yard provided in this article. (Added by Ord. 99-12)

Sec. 21-5.80A 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. (Added by Ord. 10-19)

Sec. 21-5.90 Car washing establishments.

The following standards shall apply to mechanized car washing establishments as principal or accessory uses:

(a) There shall be no water runoff onto adjacent properties or public rights-of-way;

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(b) The use shall be in a sound-attenuated structure or sound attenuation walls shall be erected and maintained at the property line; and

(c) The lot shall not adjoin a zoning lot in a residential or apartment district.

(Added by Ord. 99-12; Am. Ord. 03-37)

Sec. 21-5.100 Cemeteries and columbaria.

In the AG-2 zoning district the following standards shall apply:

- (a) A certificate of approval must be submitted from the board of water supply, prior to final approval of an application, indicating that there is no danger of contamination of the water supply.
- (b) If a cemetery or columbarium adjoins lots in country, residential, apartment or apartment mixed use districts, there shall be a minimum 50-foot landscaped buffer.

(Added by Ord. 99-12)

Sec. 21-5.110 Centralized bulk collection, storage and distribution of agricultural products to wholesale and retail markets.

In the agricultural and I-1 zoning districts, the following standards shall apply:

- (a) No facility or structure which handles the centralized bulk collection, storage and distribution of agricultural products to wholesale and retail markets shall be located within 100 feet of any residential, apartment or apartment mixed use zoning district.
- (b) If the facility is within 300 feet of a parcel in a residential, apartment, or apartment mixed use zoning district, there shall be no pickup or drop-off of equipment between the hours of 10 p.m. and 7 a.m.

(Added by Ord. 99-12)

Sec. 21-5.120 Centralized mail and package handling facilities.

- (a) A centralized mail and package handling facility shall not be located within 100 feet of any residential, apartment or apartment mixed use district.
- (b) If the facility is located within 300 feet of any zoning lot in a residential, apartment or apartment mixed use district, there shall be no pickup or drop-off between the hours of 10 p.m. and 7 a.m.
- (c) If the facility adjoins any zoning lot located in a residential, apartment, apartment mixed use or resort district, a six-foot-high solid wall shall be constructed along the common property line; provided that if the facility is located in the industrial-commercial mixed use district, an equivalent landscape buffer may be used in lieu of the wall.

(Added by Ord. 99-12)



**Sec. 21-5.130 Commercial parking lots and garages.**

In the apartment mixed use zoning district, commercial parking lots and garages shall be set back a minimum of 20 feet from all side and rear property lines which adjoin lots in country, residential, apartment or apartment mixed use zoning districts. (Added by Ord. 99-12)

**Sec. 21-5.140 Composting, major and minor.**

- (a) Outgoing and incoming materials shall be received or delivered only between the hours of 7 a.m. and 5 p.m.
  - (b) All incoming and outgoing loads shall be covered or otherwise managed to prevent material from falling onto the ground while in transport and to mitigate odors.
  - (c) Areas on site where composting takes place shall be located at least 50 feet away from all surface water sources.
  - (d) No major composting facility shall be located within 1,500 feet of any zoning lot in a country, residential, apartment, apartment mixed use or resort zoning 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.
  - (e) No minor composting facility shall be located within 100 feet of any zoning lot in a country, residential, apartment, apartment mixed use or resort zoning district.
  - (f) Accessory uses may include, but are not necessarily limited to, packaging and the incidental retailing of finished compost material.
  - (g) Compost material shall be covered in such a way that no fugitive material shall leave the site.
  - (h) Controls shall be required to manage odors, vectors, and surface and groundwater contamination.
- (Added by Ord. 99-12)

**Sec. 21-5.150 Consulates.**

In the residential zoning districts, consulates shall be set back a minimum of 20 feet from all adjoining residentially zoned lots. (Added by Ord. 99-12)

**Sec. 21-5.160 Convenience stores.**

- (a) If a street tree plan exists for the street which fronts the project, the applicant shall install a street tree or trees, as required by the director.
  - (b) Drive-through windows or services shall not be allowed.
  - (c) Floor area will be limited to 2,500 square feet in the B-1, I-1, I-2 and apartment mixed use districts.
  - (d) Within the B-1 district only, when the principal entrance to a convenience store is less than 75 feet or its parking area is less than 20 feet from a country, residential, apartment or apartment mixed use district, hours of operation shall be limited to 6 a.m. to midnight. Affected convenience stores not meeting this standard and intended to operate beyond these hours may be permitted under a conditional use permit (minor).
- (Added by Ord. 99-12; Am. Ord. 17-40)

**Sec. 21-5.170 Dance or music schools.**

- (a) In the apartment mixed use zoning districts all dance or music schools shall be located in enclosed, sound-attenuated structures and shall limit hours of operation to between 8 a.m. and 10 p.m.
  - (b) In the resort zoning district, dance or music schools shall be permitted only if they promote a Hawaiian sense of place.
- (Added by Ord. 99-12)

**Sec. 21-5.180 Day-care facilities.**

In the AG-2, country, residential, apartment and apartment mixed use zoning districts, the following standards shall apply:

- (a) All common activity areas, such as playgrounds, tot lots, play courts and similar facilities, identified on the site plan shall be set back a minimum of 15 feet from adjoining lots in country, residential, apartment or apartment mixed use districts, unless a six-foot-high solid wall is provided as a buffer. This requirement may be waived by the director if topography or landscaping makes such a buffer unnecessary.



- (b) All day-care facilities shall be located with access to a street or right-of-way of minimum access width as determined by the appropriate agencies.
- (c) Facilities with a design capacity exceeding 25 care recipients shall provide an on-site pickup and drop-off area equivalent to four standard-sized parking spaces.

(Added by Ord. 99-12)

**Sec. 21-5.190 Drive-through facilities.**

No speaker boxes and drive-through lanes shall be within 75 feet and 20 feet, respectively, of a zoning lot in a country, residential, apartment or apartment mixed use district. (Added by Ord. 99-12)

**Sec. 21-5.200 Dwellings for cemetery caretakers.**

An accessory dwelling unit occupied by the caretaker of a cemetery shall not exceed a floor area of 1,000 square feet. No more than one caretaker's dwelling shall be permitted per cemetery. (Added by Ord. 99-12)

**Sec. 21-5.210 Dwellings, multifamily.**

In the BMX-3 zoning district, where multifamily dwellings are integrated with other uses, pedestrian access to the dwellings must be physically, mechanically, or technologically independent from other uses and must be designed to enhance privacy for residents and their guests.

(Added by Ord. 99-12; Am. Ord. 17-55)

**Sec. 21-5.220 Dwelling, owners or caretakers, accessory.**

Accessory dwelling units occupied by an owner or caretaker of the principal use on a zoning lot shall be located above or behind the principal uses in such a way that they do not interrupt commercial frontage. No more than four units shall be permitted on any zoning lot, with only one dwelling unit per establishment. (Added by Ord. 99-12)

**Sec. 21-5.230 Eating establishments.**

- (a) If a street tree plan exists for the street which fronts the project, the applicant shall install a street tree or trees, as required by the director.
- (b) In the apartment mixed use zoning districts, drive-through windows or services shall not be allowed.

(Added by Ord. 99-12)

**Sec. 21-5.240 Explosives and toxic chemical manufacturing, storage and distribution.**

The manufacture, storage and distribution of explosives and other materials hazardous to life or property are subject to the following standards:

- (a) No explosives and toxic chemical manufacturing, storage and distribution 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.
- (b) Explosives storage shall be effectively screened by a natural landform or artificial barrier either surrounding the entire site or surrounding each storage magazine or production facility. The landform or barrier shall be of such height that:
  - (1) A straight line drawn from the top of any side wall of all magazines or production facilities to any part of the nearest structure will pass through the landform or barrier.
  - (2) A straight line drawn from the top of any side wall of all magazines or production facilities, to any point 12 feet above the center line of a public street will pass through the landform or barricade.
  - (3) Artificial barricades shall be a mound or revetted wall of earth a minimum thickness of three feet.

(Added by Ord. 99-12)



## LAND USE ORDINANCE

### 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.

(b) Each farm dwelling and any accessory uses shall be contained within an area not to exceed 5,000 square feet of the lot.

(Added by Ord. 99-12)

### Sec. 21-5.260 Food manufacturing and processing facilities.

In the B-2 and business mixed use zoning districts, food manufacturing and processing shall be subject to the following:

(a) The slaughter of animals shall not be permitted; and

(b) Floor area shall not exceed 2,000 square feet.

(Added by Ord. 99-12)

### Sec. 21-5.270 Freight movers.

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

(a) No facility or structure which involves freight movers shall be located within 100 feet of any residential, apartment or apartment mixed use zoning district.

(b) If the facility is within 300 feet of a parcel in a residential, apartment or apartment mixed use zoning district, there shall be no pickup or drop-off of equipment between the hours of 10 p.m. and 7 a.m.

(Added by Ord. 99-12)

### Sec. 21-5.280 Golf courses.

In the P-2 zoning district, the following standards shall apply:

(a) Golf courses shall be permitted in the P-2 general preservation district only when consistent with the city's development plans. Golf courses on P-2 zoned land shall be deemed consistent with the development plans only when situated on lands designated preservation, parks and recreation, or golf course on the development plan land use maps.

(b) Uses accessory to a golf course shall be designed and scaled to meet only the requirements of the members, guests or users of the facility.

(c) Approval of requests for golf courses may be based on the following additional criteria:

(1) Encouraging the use of nonpotable water for irrigation, including sewage effluent and brackish water, or other means to reduce the need for use of potable water, subject to the approval of a proposed irrigation plan by the state departments of health and land and natural resources and the city board of water supply;

(2) Provisions to enhance the opportunities for public play for Hawaii residents;

(3) Programs to minimize and monitor the environmentally detrimental effects of the application of fertilizers, pesticides and herbicides;

(4) Programs to address any displacement of existing uses and residents;

(5) The compatibility of the proposed golf course with both existing and planned surrounding uses;

(6) Preservation or enhancement of greenbelts or open space, historic and natural resources, and public views; and

(7) Any other impacts which may potentially affect surrounding uses and residents.

(d) Those golf courses described in Section 21-2.120-1 shall require plan review use approval.

(Added by Ord. 99-12)

### Sec. 21-5.290 Group living facilities.

(a) Unless directly related to public health and safety, no group living facility shall be located within 1,000 feet of the next closest group living facility.

(b) Within agricultural districts, activities associated with group living facilities shall be of an agricultural nature. As a condition of approval, dedication to active agricultural use of 50 percent or more of the project site, as the director determines is necessary to preserve the purpose and intent of the agricultural districts, for a minimum of 10 years shall be required by way of an agricultural easement or comparable mechanism acceptable to the director.

(Added by Ord. 99-12; Am. Ord. 02-63)

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Sec. 21-5.300 Guesthouses, accessory.

Within the residential zoning districts, accessory guesthouses shall only be permitted in the R-20 district on zoning lots with a minimum lot size of 20,000 square feet.

(Added by Ord. 99-12)

Sec. 21-5.310 Heavy equipment sales and rentals.

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

(a) No facility or structure which handles heavy equipment sales and rentals shall be located within 100 feet of any residential, apartment or apartment mixed use zoning district.

(b) If the facility is within 300 feet of a parcel in a residential, apartment or apartment mixed use zoning district, there shall be no pickup or drop-off of equipment between the hours of 10 p.m. and 7 a.m.

(Added by Ord. 99-12)

Sec. 21-5.320 Helistops.

In the agricultural, resort, B-2, business mixed use, I-1 and industrial-commercial mixed use zoning districts, the following standards shall apply:

(a) All helistops shall be accessory to a principal use otherwise permitted in the underlying zoning district.

(b) The maintenance, repair or storage of helicopters, or the storage of equipment for the maintenance and repair of helicopters, or the storage of aviation fuel, shall not be allowed within a helistop, or the use which it serves.

(Added by Ord. 99-12)

Sec. 21-5.330 Historic structures, use of.

It is the intent of this section to provide an incentive for owners of historic structures to retain them, by allowing uses not otherwise permitted in the underlying zoning district. The director may deny any request which is judged to have major adverse effects on the neighborhood that cannot be mitigated. Any structure on the state or national register of historic places may be occupied by a use not otherwise permitted in the underlying zoning district, provided that any proposed alteration, repair or renovation beyond its original design and the proposed use is approved by the state historic preservation officer. (Added by Ord. 99-12)

Sec. 21-5.340 Home improvement centers.

In the B-2 and BMX-3 zoning districts, home improvement centers shall locate incidental storage of material and equipment in fully enclosed buildings. (Added by Ord. 99-12)

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 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 storage of materials and supplies shall be 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 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.
- (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.
- (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 pickups and/or deliveries as a service to the home occupation.

(Added by Ord. 99-12; Am. Ord. 10-19)

#### **Sec. 21-5.360 Hotels.**

- (a) Hotels shall be permitted in the I-2 intensive industrial district and IMX-1 industrial-commercial mixed use district provided:
  - (1) They are within one-half mile by the usual and customary route of vehicular travel from the principal entrance of an airport utilized by commercial airlines, having regularly scheduled flights. For Honolulu International Airport, the principal entrance shall be the intersection of Paiea Street and Nimitz Highway.
  - (2) They have frontage on a major or secondary street or highway.
  - (3) They have a minimum lot area of 15,000 square feet and minimum lot width of 70 feet.
  - (4) The maximum floor area ratio shall be 2.0.
  - (5) Parking requirements of at least one space per two lodging or dwelling units shall be provided.
  - (6) Front yards shall have a minimum depth of 10 feet, and except for necessary driveways and walkways, shall be maintained in landscaping.
  - (7) Signs shall conform to the sign requirements applicable within B-2 community business district regulations.
- (b) Hotels shall be permitted in the BMX-3 community business mixed use district provided:
  - (1) They are located within the Primary Urban Center Development Plan, the Ewa Development Plan, or the Central Oahu Sustainable Communities Plan areas, as established by Chapter 24.
  - (2) Hotels with more than 180 dwelling and/or lodging units shall require a conditional use permit (major).
  - (3) When eating or drinking establishments, meeting facilities, retail establishments or other commercial establishments are on the same zoning lot, these uses shall be treated as separate permitted uses for purposes of this chapter.
  - (4) Multifamily dwellings and hotel use shall not be permitted on the same floor level.
  - (5) No hotel unit shall be used as a time share or transient vacation unit.

(Added by Ord. 99-12; Am. Ord. 13-10)

**Sec. 21-5.370 Off-site joint development of two or more zoning lots.**

- (a) Off-site joint development of two or more zoning lots is intended to provide an incentive for the preservation of certain historic properties by permitting the transfer of development rights from a zoning lot in a business



mixed use district with a historic site, building or structure to up to 10 other lots within a business mixed use district. This enables qualified property owners freely to sell, trade, broker or otherwise transfer a portion of the floor area that would normally be permitted under the applicable zoning district regulations on the lot where the historic site is located.

- (b) The transferable floor area may be acquired or transferred to be jointly used as part of the development of one or more other qualified zoning lots, subject to the following:
- (1) The historic site, building or structure must be suitable for preservation and/or rehabilitation and any proposed alterations of the site shall have no adverse effect on the historic value of the historic site, building or structure, as determined by the state historic preservation officer and any O'ahu historic preservation commission.
  - (2) A maintenance agreement for the historic site, building or structure that shall remain in effect for a minimum of thirty (30) years shall have been reviewed and approved by the state historic preservation officer and any O'ahu historic preservation commission.
  - (3) The floor area eligible to be transferred shall be calculated by determining the maximum allowable floor area for the donor lot on which the historic site, building or structure is located, including any applicable density bonuses for open space or for the preservation of the historic site, building or structure, and subtracting therefrom the sum of: (A) The floor area of all structures to be retained on the donor lot; and (B) The floor area of all structures designated in an approved plan for development or redevelopment of the donor lot.
  - (4) The unused floor area from the donor lot with the historic site, building or structure may be transferred to up to 10 receiving lots, provided that the donor lot and each receiving lot shall be located in a business mixed use district. In no case shall the maximum floor area on a receiving lot under off-site joint development be more than 15 percent in excess of the maximum floor area that would otherwise be permitted on the lot. Only floor area may be transferred; all other zoning requirements applicable to the receiving lot shall not be affected.
  - (5) The 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 zoning lots who believe that the transfer of floor area in the manner described in this section will result in more efficient use of the zoning lots may apply for a conditional use permit to undertake off-site joint development.
  - (6) The donor and receiving lots shall be jointly developed as a unified project.
    - (A) The historic site, building or structure on the donor lot shall be maintained in accordance with the approved maintenance agreement. The maintenance agreement shall provide for periodic review and possible amendment, subject to the approval of the state historic preservation officer, any O'ahu historic preservation commission and the director.
    - (B) The department shall not issue a building permit for a building or structure utilizing the transferred floor area on the receiving lot or lots unless and until the state historic preservation officer and any O'ahu historic preservation commission are satisfied that suitable measures have been taken to ensure the preservation of the historic site, building or structure on the donor lot.
  - (7) Additional floor area may be developed on the donor lot, provided there is sufficient remaining permitted floor area that has not been transferred to any receiving lots and the development of the additional floor area will not diminish the value of the historic site, building or structure on the donor lot or conflict with the approved maintenance agreement. The added floor area permitted on receiving lots under off-site joint development shall not be used in a way that will diminish or destroy the value of a historic site, building or structure or a site, building or structure that is eligible for listing on the state register of historic places.
- (c) When applying for the conditional use permit, the applicants shall submit the following:
- (1) Zoning lot area calculations for all donor and receiving lots;
  - (2) Documentation demonstrating that the donor lot or lots contain a historic site, building or structure that is listed on the national or state register of historic places, or both;
  - (3) A plan approved by the state historic preservation officer and any O'ahu historic preservation commission for the restoration, renovation, or rehabilitation, if necessary, and for the maintenance of the historic site, building or structure on the donor lots for a minimum period of 30 years, including calculation of the current floor area of all historic and nonhistoric buildings or structures on the donor lots. The plan for restoration may be phased;



- (4) A plan for the development or redevelopment of the receiving lots, which may be phased, including information as to the effect of the development or redevelopment on any historic site, building or structure on or near the receiving lots; and
- (5) A proposed agreement running with the land for all donor and receiving lots, binding all owners of these lots and their lessees, mortgagees, heirs, successors and assigns, individually and collectively, to comply with the plans described in subdivisions (3) and (4) for a minimum of 30 years, subject to subsections (f) and (g). The proposed agreement shall be in recordable form and shall provide that it shall be enforceable by the city. The proposed agreement shall state the consideration to be given for the proposed transfer of density.
- (d) The director shall grant approval of the application if the director determines that:
- (1) The proposed agreement provides adequate protection for the historic site, building or structure;
  - (2) All proposed donor and receiving lots meet the requirements of this section;
  - (3) The transfer of density to the receiving lots will not cause the density of any of the receiving lots to exceed the maximum density permitted under subdivision (4) of subsection (b);
  - (4) The plan for development or redevelopment of the receiving lots will not diminish or destroy the value of any historic site, building or structure or of any site, building or structure that is eligible to be listed on the state register of historic places and will not create adverse effects on lots in the vicinity of a receiving lot that are inconsistent with the purpose of the zoning designation of those lots; and
  - (5) The proposed plan referred to in subdivision (3) of subsection (c) and the proposed agreement referred to in subdivision (5) of subsection (c) will adequately ensure the preservation of the historic site, building or structure on the donor lot.
- (e) Until the applicants have recorded with the bureau of conveyances and/or the land court of the State of Hawaii, as appropriate, the agreement specified in subdivision (5) of subsection (c), for all donor and receiving lots, no building permit or construction permit shall be approved for a building or structure which would not conform to development standards that would be applicable in the absence of the conditional use permit.
- (f) Notwithstanding any provision of this section to the contrary, the owner, owners, duly authorized agents of the owners or duly authorized lessees of all donor and receiving lots of an approved off-site joint development may jointly apply to the director for revocation of the conditional use permit if:
- (1) Plans for development of the receiving lots have changed so that a transfer of density from the donor lots under off-site joint development is no longer required for the planned development of the receiving lots; or
  - (2) The receiving lots have been developed in accordance with the plans described in the agreement, but due to:
    - (A) Demolition of buildings or structures on the receiving lots;
    - (B) Expansion of the lot area of receiving lots;
    - (C) Amendments to density or other zoning regulations applicable to the receiving lots;
    - (D) Rezoning of the receiving lots; or
    - (E) Other factors,
 the buildings and structures on the receiving lots meet the maximum density restrictions and other development standards applicable to the receiving lots without the necessity of off-site joint development.

An application for the revocation of a conditional use permit for off-site joint development shall be processed in the same manner as an application for a conditional use permit for off-site joint development. Upon the director's approval of the revocation, the agreement recorded pursuant to subsection (e) may be rescinded or revoked if it has not expired.

- (g) Notwithstanding any provision of this section to the contrary, all of the owners of all of the donor and receiving lots may jointly apply to the director for modification of the conditional use permit and, after receiving the director's approval, modify the agreement recorded pursuant to subsection (e) in accordance with the director's approval.

The application for the modification of a conditional use permit for off-site joint development shall be processed in the same manner as an application for a conditional use permit for off-site joint development. The director may grant the modification only if the modification meets all of the requirements of this section for the initial approval of a conditional use permit for off-site joint development.



- (h) If, after:
- (1) Approval of a conditional use permit for off-site joint development; and
  - (2) Issuance of a building or construction permit for a structure on the receiving lot which would permit development in excess of the maximum floor area that would be permitted without the benefit of off-site joint development,
- but before the expiration of the approved maintenance agreement, the state historic preservation officer and any O'ahu historic preservation commission determine that the historic site, building or structure on a donor lot has been destroyed and cannot or should not be restored, the donor lot may be developed in accordance with this chapter and other applicable laws, subject to the following limitations on maximum floor area:
- (A) If the owner or lessee of the donor lot or any authorized agent thereof can demonstrate that the destruction of the historic site, building or structure was not due to the negligence of or otherwise due to the fault of an owner of the donor lot or of any lessee, sublessee or agent of an owner of the donor lot, the maximum floor area permitted on the donor lot shall be reduced by any floor area that has been transferred to a receiving lot; and
  - (B) If the owner or lessee of the donor lot or any authorized agent thereof cannot demonstrate that the destruction of the historic site, building or structure was not due to the negligence of or otherwise due to the fault of an owner of the donor lot or of any lessee, sublessee or agent of an owner of the donor lot, the maximum floor area permitted on the donor lot shall be determined by subtracting any floor area that has been transferred to a receiving lot from 50 percent of the maximum floor area normally allowed under the applicable zoning district for the donor lot.
- (i) The director may impose any reasonable conditions on the development and maintenance of any donor and receiving lots, including but not limited to additional yards or setbacks, in order to mitigate any potential adverse effects of the planned off-site joint development on the surrounding neighborhood and to facilitate the enforcement of the plans referred to in subdivisions (3) and (4) of subsection (c) and of the agreement referred to in subdivision (5) of subsection (c).
- (j) Notwithstanding the expiration of the approved maintenance agreement referred to in subdivision (5) of subsection (c), the donor lot shall not thereafter be entitled to any floor area that has been transferred to a receiving lot. This subsection shall not apply if the conditional use permit for off-site joint development is revoked pursuant to subsection (f).
- (Added by Ord. 99-12; Am. Ord. 05-028)

**Sec. 21-5.380 Joint development of two or more adjacent subdivision lots.**

- (a) Whenever two or more adjacent subdivision lots are developed jointly in accordance with the provisions of this section, they will be considered and treated as one zoning lot, provided that whenever the lots involve two or more zoning districts, the lots will be subject to the provisions enumerated in Section 21-4.50.
- (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 subdivision lots who believe that joint development of their properties 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 for joint development under this section, the applicants shall submit to the director an agreement which binds themselves and their successors in title or lease, individually and collectively, to maintain the pattern of joint development proposed in such a way that there will be conformity with applicable zoning regulations. The development standards listed in Section 21-2.90-2(c) may not be modified through a conditional use permit for joint development unless allowed through another discretionary approval. The right to enforce the agreement will also be granted to the city. The agreement is subject to the approval of the corporation counsel of the city.
- (d) If the director finds that the proposed agreement assures future protection of the public interest, the director shall issue the conditional use permit. Upon issuance of the permit, the agreement, which must be one of the conditions of the permit, must be filed as a covenant running with the land with the bureau of conveyances or the registrar of the land court. Proof of such filing in the form of a copy of the covenant certified by the appropriate agency must be filed with the director prior to the issuance of any building permit.

(Added by Ord. 99-12; Am. Ord. 10-19, 17-40, 17-50)



**Sec. 21-5.380A Joint development of two or more adjacent subdivision lots - Waikiki special district or Ala Moana transit-oriented development special district.**

- (a) This section applies to the joint development of two or more adjacent subdivision lots in the Waikiki special district or any transit-oriented development special district established pursuant to Section 21-9.100 around the Ala Moana rail transit station. The provisions of Section 21-5.380 apply to the joint development except to the extent the provisions conflict with the provisions of this section, in which case the provisions of this section will control.
- (b) One or more of the adjacent subdivision lots that has been developed jointly with one or more adjacent subdivision lots pursuant to a conditional use permit for joint development, may be developed jointly with other adjacent subdivision lots pursuant to a conditional use permit for a second joint development in accordance with this section, where at least one adjacent subdivision lot involved in the first joint development is excluded from the second joint development. An adjacent subdivision lot may be jointly developed under this section pursuant to no more than two conditional use permits for joint development. The owner, owners, duly authorized agents of the owners or duly authorized lessees whose adjacent subdivision lots are jointly developed under the first conditional use permit for joint development, but are excluded from the second joint development, shall not be applicants for the conditional use permit for the second joint development nor parties to the agreement for joint development for the second joint development.
- (c) The first joint development and the second joint development shall be considered and treated as separate zoning lots. That is to say, that there will be two separate reviews for zoning compliance, one for each joint development. The exception is that any otherwise applicable height or yard setback requirements of the underlying zoning will apply only to the outer perimeter of the combined joint developments. Unless otherwise agreed by the parties to both joint development agreements, the development rights attributed to subdivision lots covered by the first joint development, which lots are not part of the second joint development, cannot be used or transferred to the second joint development.
- (d) Under a second joint development, the applicant shall submit all of the information ordinarily required for a conditional use permit, pursuant to Section 21-2.90-1(b). As defined by this chapter, the development rights and minimum standards of the subdivision lots under the second joint development may be distributed among the included subdivision lots, demonstrating a unified project concept and furthering the public interest.
- (e) The development rights applicable to the subdivision lots involved in both joint developments must be clearly distributed between the two development agreements and listed in the second agreement.
- (f) Prior to issuing the conditional use permit for the second joint development, the director shall, in addition to the required finding of Section 21-5.380(d), find that the proposed second joint development will have no major adverse effect on the neighborhood, and will advance the objectives of applicable city plans and regulations.
- (g) Upon issuance of the conditional use permit for the second joint development, the department shall send notice of such issuance to the owner, owners, duly authorized agents of the owners, or duly authorized lessees whose adjacent subdivision lots are jointly developed under the first conditional use permit for joint development, but are excluded from the second joint development.
- (h) Notwithstanding any provision of this section to the contrary, the owner, owners duly authorized agents of the owners or duly authorized lessees of all subdivision lots in an approved joint development or second joint development may jointly or unilaterally apply to the director for complete or partial revocation of the conditional use permit when:
- (1) Plans for development have changed so that a distribution of development rights under the joint development or second joint development is no longer required; and
  - (2) The applicant or applicants applying for revocation show, to the satisfaction of the director, that all adjacent subdivision lots included in the conditional use permit for joint development can separately meet all minimum development standards as independent subdivision lots, or can otherwise satisfy development standards, such as the use of off-site parking.
- (i) An application for the revocation of a conditional use permit for a joint development or second joint development shall be processed in the same manner as an application for a conditional use permit. Upon the director's approval of the revocation, the applicant for such revocation shall record a revocation of the

agreement recorded pursuant to subsection (d). As part of the approval for revocation, the owner, owners, duly authorized agents



of the owners, or duly authorized lessees of all subdivision lots must agree to indemnify, defend and hold the city, including the department, harmless from and against any and all claims made in connection with the conditional use permit for joint development and the revocation thereof.

(Added by Ord. 17-50)

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

- (a) Joint use of private off-street parking facilities in satisfaction of appropriate portions of off-street parking or loading area requirements may be allowed, provided the requirements of the following subsections are met.
- (b) The distance of the entrance to the parking or loading facility from the nearest principal entrance of the establishment or establishments involved in the joint use cannot exceed 400 feet by normal pedestrian routes.
- (c) The amount of off-street parking or loading area that may be credited against the requirements for the use or uses involved cannot exceed the number of spaces reasonably anticipated to be available during differing periods of peak demand.
- (d) All parties involved with a joint parking or loading facility shall execute a written agreement assuring continued availability of the number of spaces at the periods indicated, and file a certified copy with the department. In these cases, no change in use or new construction will be permitted if the change increases the requirements for off-street parking or loading area space unless the required additional space is provided. The agreement will be subject to the approval of the corporation counsel.
- (e) When joint parking or loading facilities serving eating or drinking establishments adjoin a zoning lot in a residential, apartment, or apartment mixed use district, the director shall require a solid fence or wall six feet in height to be erected and maintained on the common property line. The director may modify the requirements of this subsection if warranted by topography.

(Added by Ord. 99-12; Am. Ord. 17-40)

**Sec. 21-5.400 Kennels.**

- (a) In the AG-2 and country zoning districts, commercial kennels shall not be located within 100 feet of any property line unless soundproofed and air-conditioned.
- (b) In the B-2, BMX-3, BMX-4, I-1 and IMX-1 zoning districts, commercial kennels involving more than two animals shall be soundproofed and air-conditioned.

(Added by Ord. 99-12)

**Sec. 21-5.410 Livestock production—Major.**

- (a) Any feedlot or fowl or poultry enclosures shall be set back a minimum of 300 feet from any adjoining residential, apartment or apartment mixed use district.
- (b) Piggeries shall be set back a minimum of 300 feet from any adjoining residential, apartment or apartment mixed use district.

(Added by Ord. 99-12)

**Sec. 21-5.420 Manufacturing, processing and packaging, general.**

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

- (a) No facility or structure involving manufacturing, processing and packaging establishments, other than those specified under principal uses, shall be located within 100 feet of any residential, apartment or apartment mixed use zoning district.
- (b) If the facility is within 300 feet of a parcel in a residential, apartment or apartment mixed use zoning district, there shall be no pickup or drop-off of equipment between the hours of 10 p.m. and 7 a.m.

(Added by Ord. 99-12)

**Sec. 21-5.430 Marina accessories.**

In the preservation, resort, business, business mixed use and industrial-commercial mixed use zoning districts, the following standards shall apply: Launching ramps, boat repair facilities, establishments for sale of boating supplies and fuel, clubhouses and drydock facilities or other areas for storage of boats on land, which are to be open for use between the hours of 9 p.m. and 7 a.m., shall be located at least 300 feet from the nearest

zoning lot of any zoning district that permits a residence as a principal use. If any of those uses or facilities are not open between the hours of



9 p.m. and 7 a.m., then the distance to the nearest lot line may be reduced to 150 feet. Also, if boat storage areas other than drydock facilities are enclosed by a solid wall at least six feet in height, the distance may be reduced to 150 feet. (Added by Ord. 99-12)

**Sec. 21-5.440 Medical clinics.**

In the apartment mixed use zoning districts, medical clinics shall have no emergency services. (Added by Ord. 99-12)

**Sec. 21-5.450 Meeting facilities.**

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

- (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) 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.

(b) In the I-1 and I-2 zoning districts, the following standards shall apply:

- (1) Prior to commencement of a meeting facility use in an industrial district, the owner and operator of the meeting facility shall file with the department and record in the bureau of conveyances and/or the land court of the State of Hawaii, as is appropriate, a declaration acceptable to the department, stating that the owner and operator recognizes that:

(A) Structures formerly in industrial use may require upgrades in order to comply with different governmental regulations governing use of a structure as a meeting facility. These regulations include but are not limited to building, electrical, mechanical, fire, and occupancy code requirements; and

(B) Abutting and neighboring properties can, by right, include potentially annoying or even noxious industrial uses at any time, including after the commencement of the meeting facility use.

The declaration shall also contain provisions which preclude the meeting facility and its representatives from filing nuisance complaints against any industrial use operating in compliance with applicable laws;

- (2) No accessory uses shall be permitted unless the accessory use also is a permitted use in the district as enumerated in Table 21-3, provided that this subdivision shall not prohibit the following accessory uses to a religious facility such as a church, temple or synagogue:

(A) A school for the vocational training of adults for the priesthood, ministry, or rabbinate;

and

(B) Classes on religious subjects;

- (3) A parking lot and landscaping plan demonstrating compliance with the minimum requirements of this chapter for off-street parking, loading, and landscaping and screening shall be submitted to the director for review. This plan shall be approved by the director before the space can be used as a meeting facility; and

- (4) In the I-2 zoning district, no meeting facility shall be located within 1,000 feet of another meeting facility in the same or another industrial district, whether the other meeting facility is a permitted use or a nonconforming use.

(Added by Ord. 99-12; Am. Ord. 09-33, 10-19)

**Sec. 21-5.460 Motion picture and television production studios.**

In the B-2 and BMX-3 zoning districts, outdoor sets shall not be allowed. (Added by Ord. 99-12)

**Sec. 21-5.470 Neighborhood grocery stores.**

(a) Neighborhood grocery stores which request a conditional use permit (minor) shall have occupied their present location prior to October 22, 1986.

(b) All neighborhood grocery stores shall be limited to the floor area occupied on October 22, 1986; provided, that total floor area shall not exceed 5,000 square feet.

- (c) Neighborhood grocery stores shall be limited to the hours between 6 a.m. and 10 p.m. for operation on any day.
- (d) All sales, services or displays shall be within enclosed structures, and there shall be no display service or storage of merchandise outside such structures.



- (e) No public address systems or other devices for reproducing or amplifying voices or music shall be mounted outside any structure on the premises, nor shall any amplified sound be audible beyond any adjacent property line.
  - (f) Drive-through windows or services shall not be allowed.
- (Added by Ord. 99-12)

**Sec. 21-5.480 Off-site vehicular and bicycle parking facilities.**

- (a) The distance of the entrance to the vehicular parking facility from the nearest principal entrance of the establishment or establishments involved cannot exceed 400 feet by customary pedestrian routes. The distance of the entrance to the bicycle parking facility from the nearest principal entrance of the establishment or establishments involved cannot exceed 200 feet by customary pedestrian routes.
  - (b) If the off-site vehicular or bicycle parking is necessary to meet minimum parking requirements, a written agreement assuring continued availability of the number of spaces indicated must be drawn and executed, and a certified copy of the agreement must be filed with the director. The agreement must stipulate that if such space is not maintained, or space acceptable to the director substituted, the use, or such portion of the use as is deficient in number of parking spaces, must be discontinued. The agreement will be subject to the approval of the corporation counsel.
  - (c) In the apartment, apartment mixed use, and resort zoning districts, there is no minimum lot area, width or depth for off-site vehicular or bicycle parking facilities.
- (Added by Ord. 99-12; Am. Ord. 17-55)

**Sec. 21-5.490 Offices, accessory.**

Offices, including administrative and executive offices, shall be clearly accessory and incidental to uses on the same zoning lot. (Added by Ord. 99-12)

**Sec. 21-5.500 Petroleum processing.**

No petroleum 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. (Added by Ord. 99-12)

**Sec. 21-5.500A Plant nurseries.**

- (a) In the AG-1 and AG-2 zoning districts, the following standards shall apply:
    - (1) Retail sales shall be limited to plants sold directly from the greenhouse or open field where the product has been grown or cultivated, and only sales of the products in their primary form shall be allowed. There shall be no retail sales of secondary products such as jams, candies, juices, and baked goods.
    - (2) Except for an accessory roadside stand or an enclosed structure approved by a conditional use permit for accessory agribusiness activities, there shall be no separate structures utilized primarily for retail sales.
  - (b) In the I-1, I-2 and IMX-1 zoning districts, all plant cultivation and sales activities shall be within a structure.
- (Added by Ord. 09-26)

**Sec. 21-5.500B Real estate offices.**

In the resort zoning districts, real estate offices shall not exceed a floor area of 500 square feet. (Added by Ord. 00-09)

**Sec. 21-5.510 Recreational facilities—Outdoor.**

- (a) Not more than five riding animals shall be kept for each acre of land within a site used for a riding academy or stable.

- (b) All buildings housing animals, and all corrals in which animals are kept or assembled, shall be at least 100 feet from any property line when they adjoin zoning lots in country, residential, apartment or apartment mixed use districts.



- (c) In the AG-2 general agricultural district, dedication to active agricultural use or as open space of 50 percent or more of the project site, as the director determines is necessary to preserve the purpose and intent of the agricultural districts, for a minimum of 10 years shall be required as a condition of approval by way of an agricultural easement or comparable mechanism acceptable to the director.

(Added by Ord. 99-12; Am. Ord. 02-63)

**Sec. 21-5.510A 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.

(Added by Ord. 10-19)

**Sec. 21-5.520 Resource extraction.**

- (a) Blasting operations shall be restricted to Mondays through Fridays between 8 a.m. and 5 p.m.
- (b) The plan to be submitted with the application for a conditional use permit shall include a plan for development of the property which shall consist of two phases: the exploitation phase and the reuse phase.
- (1) The plan for the exploitation phase shall show the proposed development as planned in relation to surrounding property within 300 feet, and shall include topographic surveys and other materials indicating existing conditions (including drainage) and the conditions (including topography, drainage and soils) which shall exist at the end of the exploitation phase. Contour intervals for topography shall be five feet in areas where slope is greater than 10 percent, two feet in areas where slope is 10 percent or less.
- (2) The plan for the reuse phase shall indicate how the property is to be left in a form suitable for reuse for purposes permissible in the district, relating such reuses to uses existing or proposed for surrounding properties. Among items to be included in the plan are feasible circulation patterns in and around the site, the treatment of exposed soil or subsoil (including measures to be taken to replace topsoil or establish vegetation in excavated areas) in order to make the property suitable for the proposed reuse, treatment of slopes to prevent erosion and delineation of floodways and floodplains (if any) to be maintained in open usage. In the plan for reuse, intermittent lakes and marshes shall not be allowed, except in areas included in flood hazard districts and if situated more than 1,000 feet from the nearest residential, apartment, apartment mixed use or resort zoning district boundary.

(Added by Ord. 99-12)

**Sec. 21-5.530 Retail, accessory.**

Retailing of products shall be limited to those which are manufactured or processed on the premises, except as otherwise specified under principal uses. (Added by Ord. 99-12)

**Sec. 21-5.540 Roadside stand, accessory.**

No more than one roadside stand as an accessory to agricultural production on the same premises shall be permitted, provided that no stand shall exceed 500 square feet in floor area. (Added by Ord. 99-12)

**Sec. 21-5.550 Roomers, accessory.**

Accessory roomers shall be limited to a maximum of three, provided the dwelling is also occupied by a family composed of persons related by blood, marriage or adoption, and is not used as a group living facility.

(Added by Ord. 99-12)

**Sec. 21-5.560 Sale and service of machinery used in agricultural production.**

In the agricultural zoning districts, the following standards shall apply:

- (a) No such facility shall be located within 300 feet of any residential, apartment or apartment mixed use district.

(b) Building area shall not exceed 25 percent of lot area.  
(Added by Ord. 99-12)



**Sec. 21-5.570 Salvage, scrap and junk storage and processing.**

No salvage, scrap and junk storage and processing operations 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. (Added by Ord. 99-12)

**Sec. 21-5.580 Sawmills.**

All sawmills shall be set back a minimum of 300 feet from any adjoining residential, apartment or apartment mixed use district. (Added by Ord. 99-12)

**Sec. 21-5.590 Schools—Elementary, intermediate and high.**

In the AG-2, country, residential, apartment and apartment mixed use zoning districts, the following standards shall apply:



- (a) All structures shall be set back a minimum of 20 feet from all adjoining lots in country, residential, apartment or apartment mixed use districts. This requirement may be waived by the director if topography or landscaping makes such a buffer unnecessary.
  - (b) The minimum lot size shall be 20,000 square feet.
  - (c) Schools with a design capacity in excess of 25 students shall provide an off-street drop-off area, with a minimum capacity equivalent to four standard-sized parking spaces. This number may be increased by the director as the design capacity of the school increases.
  - (d) Schools with a design capacity in excess of 50 students shall provide at least one bus bay. This number may be increased by the director as the design capacity of the school increases.
  - (e) All schools shall be located with access to a street or right-of-way of minimum access width as determined by the appropriate agencies.
- (Added by Ord. 99-12)

**Sec. 21-5.600 Schools, language.**

In the country, residential, apartment, apartment mixed use and resort zoning districts, the following standard shall apply: all classrooms shall be set back a minimum of 20 feet from all side and rear property lines.

(Added by Ord. 99-12)

**Sec. 21-5.610 Self-storage facilities.**

In the B-2 and business mixed use zoning districts, the following shall apply:

- (a) No public address system or other devices for reproducing or amplifying sound shall be mounted outside any structure on the premises, nor shall any amplified sound be audible beyond any adjacent property line.
  - (b) No individual storage area shall exceed 3,600 cubic feet in size.
- (Added by Ord. 99-12)

**Sec. 21-5.610A Special needs housing for the elderly.**

- (a) District regulations may be modified as follows:
  - (1) An increase of not more than 25 percent in the maximum density permitted in the district;
  - (2) An increase of no more than 25 percent or 30 feet, whichever is less, in the maximum height permitted in the district; and
  - (3) A reduction in off-street parking requirements, but not to below a minimum of one parking stall per four dwelling or lodging units and one guest parking stall per ten dwelling or lodging units.
- (b) An appropriate instrument restricting the use of the property to special needs housing for the elderly for the life of any structure developed or used on the property for this purpose shall be recorded with the bureau of conveyances and/or the office of the assistant registrar of the land court of the State of Hawaii, as is appropriate, as a covenant running with the land. A draft of the instrument shall be submitted with the application for a conditional use permit. The instrument shall be subject to the approval of the director and the corporation counsel. The restriction on use shall be part of the conditions of the permit.

(Added by Ord. 01-12)

**Sec. 21-5.620 Storage and sale of seed, feed, fertilizer and other products essential to agricultural production.**

In the agricultural zoning districts, the following standards shall apply:

- (a) Only products which are clearly incidental to agricultural activities shall be permitted.
- (b) Maximum building area shall not exceed 25 percent of lot area.
- (c) No such facility shall be located within 300 feet of any adjoining residential, apartment or apartment mixed use district.

(Added by Ord. 99-12)

**Sec. 21-5.630 Storage yards.**

- (a) There shall be no sale or processing of scrap, salvage or secondhand material.



- (b) Yards shall be completely enclosed, except for necessary openings for ingress and egress, by a fence or wall not less than six feet in height.
  - (c) Within the I-1 zoning district, if the facility is within 300 feet of a parcel in a residential, apartment or apartment mixed use zoning district, equipment startup, including vehicles, shall be limited to the hours between 7 a.m. and 10 p.m.
  - (d) Within the I-1 zoning district, no facility shall be located within 100 feet of any parcel in a residential, apartment or apartment mixed use zoning district.
- (Added by Ord. 99-12)

**Sec. 21-5.640 Time sharing units.**

Time sharing units are permitted in the A-2 medium density apartment zoning district provided:

- (a) They are within 3,500 feet of a resort zoning district of greater than 50 contiguous acres; and
  - (b) The resort district and the A-2 district shall have been rezoned pursuant to the same zone change application as part of a master-planned resort community.
- (Added by Ord. 99-12; Am. Ord. 19-18)

**Sec. 21-5.650 Utility installations.**

- (a) Type B.
    - (1) All requests for Type B utility installations shall be accompanied by a landscape plan which shall be approved by the director. Special emphasis shall be placed on visual buffering for the installation from adjacent streets and highways.
    - (2) Type B utility installations for telecommunications shall provide fencing or other barriers to restrict public access within the area exposed to a power density of 0.1 milliwatt/cm<sup>2</sup> for all associated antennas involving radio frequency (RF) or microwave transmissions.
    - (3) In residential districts where utility lines are predominantly located underground, antennas shall not exceed the governing height limit.
  - (b) Type A. When a Type A utility installation involving a transmitting antenna is located in the preservation, agricultural, A-2, A-3, AMX-2, AMX-3, resort, business, business mixed use, industrial and industrial-commercial mixed use zoning districts, it shall be fenced or otherwise restrict public access within the area exposed to a power density of 0.1 milliwatt/cm<sup>2</sup>.
- (Added by Ord. 99-12)

**Sec. 21-5.660 Vacation cabins.**

- (a) Vacation cabins shall not exceed 800 square feet in floor area.
  - (b) Vacation cabins shall be permitted only as an accessory use to outdoor recreation facilities.
  - (c) The overall density for vacation cabins shall not exceed one vacation cabin per acre of land area.
- (Added by Ord. 99-12)

**Sec. 21-5.670 Veterinary establishments.**

In the business, business mixed use and IMX-1 zoning districts, veterinary establishments shall be soundproofed and air-conditioned. (Added by Ord. 99-12)

**Sec. 21-5.680 Waste disposal and processing.**

No waste disposal and 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. (Added by Ord. 99-12)

**Sec. 21-5.690 Wholesaling and distribution outlets.**

In the B-2 and BMX-3 zoning districts, the following standards shall apply:



- (a) No more than 2,000 square feet of floor area shall be used for wares to be sold at wholesale or to be distributed; and
  - (b) No vehicle rated at more than 1.5 ton capacity shall be used.
- (Added by Ord. 99-12)

**Sec. 21-5.700 Wind machines.**

- (a) All horizontal-axis wind machines and ground-mounted vertical-axis wind machines must be set back from all property lines a minimum distance equal to the height of the system. Height includes the height of the tower or its vertical support structure and the farthest vertical extension of the wind machine. Section 21-4.60(c)(7) notwithstanding, for rooftop mounted vertical-axis wind machines, the machinery must be set back pursuant to the height setbacks enumerated in articles 3 and 9 for the underlying zoning district or special district precinct.
  - (b) In residential zoning districts, in addition to the above, the following apply:
    - (1) For any ground-mounted wind machine, the tower climbing apparatus and blade tips of the wind machine cannot be lower than 15 feet from ground level, unless enclosed by a six-foot high fence, and cannot 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 must be posted at the base of the tower warning of high voltage and dangerous moving blades;
    - (3) The system base and rotor blade must be a minimum of 15 feet from any overhead electrical transmission or distribution lines;
    - (4) Anchor points for guy wires for any wind machine must be located within property lines and not on or across any overhead electrical transmission or distribution lines. Guy wires must be equipped with devices that will, in a safe manner, prevent them from being climbed and must be securely fastened;
    - (5) The applicant shall provide manufacturer's specifications that certify the safety of the machine; provided that the appropriate equipment, structures, and devices were used and proper installation procedures followed, as outlined in the manufacturer's manual;
    - (6) The wind machine must be operated so that no disruptive electromagnetic interference is caused. If the director determines that the system is causing harmful interference, the operator shall promptly mitigate the interference;
    - (7) The system must be kept in good repair and operating condition at all times; and
    - (8) The system will be restricted to a rated capacity of no more than 15 kilowatts.
  - (c) In the agricultural and country zoning districts, accessory wind machines must have a rated capacity of no more than 100 kilowatts. Wind machines with a rated capacity of more than 100 kilowatts shall not be deemed accessory to other uses and require a conditional use permit (major).
  - (d) In the business zoning districts, wind machines may have a rated capacity of no more than 15 kilowatts.
  - (e) In all zoning districts, a wind machine will be deemed abandoned if not in continuous use for at least one year. Upon determination by the director that a wind machine has been abandoned, the structure must be dismantled and removed within 30 days after written notice thereof.
- (Added by Ord. 99-12; Am. Ord. 10-19, 17-40, 17-46)

**Sec. 21-5.710 Zoos.**

- (a) All zoo structures and activity areas shall be set back a minimum of 300 feet from all adjoining country, residential, apartment or apartment mixed use districts.
  - (b) All zoos must be surrounded by a fence or wall six feet in height, which shall be set back a minimum of 10 feet from all property lines.
  - (c) Any application for a zoo shall be accompanied by a landscape plan for the area outside the wall required in subsection (b) and shall be subject to the approval of the director.
- (Added by Ord. 99-12)

**Sec. 21-5.720 Accessory dwelling units.**

- (a) The purpose of this section is to encourage and accommodate the construction of accessory dwelling units to increase the number of affordable rental units, without substantially altering existing neighborhood character, in order to alleviate the housing shortage in the city.



- (b) It is intended that accessory dwelling units only be allowed in areas where wastewater, water supply, and transportation facilities are adequate to support the additional dwelling units.
- (c) One accessory dwelling unit may be located on a lot in the country, R-3.5, R-5, R-7.5, R-10, and R-20 zoning districts, subject to the following conditions:
  - (1) The maximum size of an accessory dwelling unit shall be as follows:

Lot Area	Maximum Floor Area
3,500 to 4,999 sq. ft.	400 sq. ft.
5,000 sq. ft. or more	800 sq. ft.

- (2) Accessory dwelling units are not permitted:
  - (A) On lots with a lot area of less than 3,500 square feet;
  - (B) On lots that have more than one dwelling unit, including but not necessarily limited to, more than one single-family dwelling, two family dwelling, accessory authorized ohana dwelling, guest house, multi-family dwellings, planned development housing, cluster, or group living facility; or
  - (C) On lots that are landlocked.
- (3) The property owner or owners or persons who are related by blood, marriage, or adoption to the property owner or owners, or designated authorized representative shall occupy the primary dwelling unit or the accessory dwelling unit; except in unforeseen hardship circumstances (e.g., active military deployment, serious illness) that prevent the continued occupancy of the primary dwelling unit or the accessory dwelling unit, subject to confirmation by the director.
- (4) One off-street parking space per accessory dwelling unit must be provided in addition to the required off-street parking for the primary dwelling unit, except for accessory dwelling units located within one-half mile of a rail transit station. For purposes of this section, the minimum distance requirement is measured as the shortest straight line distance between the edge of the station area and the zoning lot line(s) of the project site.
- (5) The owner or owners of the lot shall record covenants running with the land with the bureau of conveyances or the land court of the State of Hawaii, or both, as is appropriate, stating that:
  - (A) Neither the owner or owners, nor the heirs, successors or assigns of the owner or owners will submit the lot or any portion thereof to a condominium property regime under the provisions of HRS Chapter 514A to separate the ownership of an accessory dwelling unit from the ownership of its primary dwelling unit;
  - (B) The property owner or owners, or persons who are related by blood, marriage, or adoption to the property owner or owners, or designated authorized representative(s) shall occupy the primary dwelling unit or the accessory dwelling unit so long as the other unit is being rented or otherwise occupied; except in cases of unforeseen hardship circumstances (e.g., active military deployment, serious illness) that prevent the continued occupancy of the primary dwelling unit or the accessory dwelling unit, subject to confirmation by the director. For purposes of this section, “designated authorized representative(s)” means the person or persons designated by the property owner or owners to the department of planning and permitting, who are responsible for managing the property;
  - (C) The accessory dwelling unit may only be used for long-term rental or otherwise occupied for periods of at least six months, and cannot be used as a bed and breakfast home or transient vacation unit;
  - (D) If the property owner or owners, or persons who are related by blood, marriage or adoption to the property owner or owners, or designated authorized representative(s) choose to receive rent for the primary dwelling unit and occupy the accessory dwelling unit, the primary dwelling unit may only be used for long-term rental or otherwise occupied for a minimum period of six months, and cannot be used as a bed and breakfast home or transient vacation unit;
  - (E) The accessory dwelling unit is limited to the approved size in accordance with the provisions of Chapter 21; and



(F) The deed restrictions lapse upon removal of the accessory dwelling unit, and all of the foregoing covenants are binding upon any and all heirs, successors and assigns of the owner or owners.

The covenant must be recorded on a form approved by or provided by the director and may contain such terms as the director deems necessary to ensure its enforceability. The failure of an owner or of an owner's heir, successor or assign to abide by such a covenant will be deemed a violation of Chapter 21 and will be grounds for enforcement by the director pursuant to Section 21-2.150, et seq.

(6) All other provisions applicable to the zoning district apply.

(7) All rentals of an accessory dwelling unit, or of the primary dwelling unit if the property owner or owners, or persons who are related by blood, marriage or adoption to the property owner or owners, or designated authorized representative(s) choose to receive rent for the primary dwelling unit and occupy the accessory dwelling unit, must be evidenced by a written rental agreement signed by the owner and the tenant for a lease period of at least six months; provided that after the initial lease period is concluded, the owner may allow the same tenant to continue renting the accessory dwelling unit on a consecutive month-to-month basis.

(d) At the time of application, the applicant shall first obtain written confirmation from the responsible agencies that wastewater treatment and disposal, water supply, and access roadways are adequate to accommodate the accessory dwelling unit.

(e) An accessory dwelling unit may be created by building a new structure (attached or detached from the primary dwelling unit) or through conversion of a legally established structure (attached to or detached from the primary dwelling unit), attic or basement, subject to meeting all pertaining zoning requirements.

(f) The owner of a structure constructed without a building permit prior to the effective date of this ordinance, who wants to convert that structure to an accessory dwelling unit shall obtain an after-the-fact building permit. In addition to fulfilling the base requirements of the after-the-fact permit, any adjustments to the structure must conform to the accessory dwelling unit regulations enumerated in this section and any additional adopted policies and rules.

(g) The department of planning and permitting must be notified upon removal of an accessory dwelling unit.

(h) Prima facie evidence. If an accessory dwelling unit is advertised as a bed and breakfast home or transient vacation unit, the existence of such advertisement will be prima facie evidence of the following:

(1) That the owner of the advertised unit disseminated or directed the dissemination of the advertisement in that form and manner; and

(2) That a bed and breakfast home or transient vacation unit, as applicable, is being operated at the location advertised.

The burden of proof is on the owner to establish otherwise with respect to the advertisement and that the subject property either is not being used as a bed and breakfast or transient vacation unit, or that it is being used legally for such purpose. (Added by Ord. 15-41)

**Sec. 21-5.730 Bed and breakfast homes and transient vacation units.**

(a) Bed and breakfast homes and transient vacation units are permitted in the A-1 low-density apartment zoning district and A-2 medium-density apartment zoning district provided:

(1) They are within 3,500 feet of a resort zoning district of greater than 50 contiguous acres; and

(2) The resort district and the A-1 or A-2 district, as applicable, were rezoned pursuant to the same zone change application as part of a master-planned resort community.

(b) In all zoning districts where bed and breakfast homes are permitted, except for the resort district, resort mixed use precinct of the Waikiki special district, and the A-1 low-density apartment district and A-2 medium-density apartment district pursuant to subsection (a), and except as otherwise provided in subdivision (6), the following standards and requirements apply:

(1) The owner or operator of a bed and breakfast home, including for purposes of this subdivision the trustee of a revocable trust that owns the subject property, shall register the bed and breakfast home with the department and shall submit the following in the initial application for registration:

(A) Affirmation that the applicant of the bed and breakfast home is a natural person;

(B) Affirmation that the applicant does not hold a registration for or operate more than one bed and breakfast home or transient vacation unit in the city at one time;



- (C) A valid current State of Hawaii general excise tax license and transient accommodations tax license for the subject property;
  - (D) Evidence of a real property tax home exemption for the subject property, and evidence that the applicant has a minimum 50 percent ownership interest in the subject property;
  - (E) An initial fee of \$1,000 for the bed and breakfast home;
  - (F) Evidence that the use as a bed and breakfast home is covered by an insurance carrier for the subject property;
  - (G) Confirmation that the bed and breakfast home is permitted by any applicable homeowners association, apartment owners association, or condominium property regime articles, by-laws, and house rules;
  - (H) An affidavit, signed by the owner, indicating that the owner does not own an interest in any other bed and breakfast home or transient vacation unit in the city;
  - (I) A floor plan showing the location of guest rooms for a bed and breakfast home;
  - (J) For bed and breakfast homes located in the AG-2 general agricultural district, evidence that the portion of the subject property that is not being used as a farm dwelling pursuant to Section 21-5.250, is currently dedicated for a specific agricultural use pursuant to Section 8-7.3; and
  - (K) Evidence that a dwelling unit proposed for use as a bed and breakfast home:
    - (i) Is not an affordable unit subject to income restrictions;
    - (ii) Did not receive housing or rental assistance subsidies; and
    - (iii) Was not subject to an eviction within the last 12 months.
- (2) Registration renewal requirements. Annually, by August 30, the owner or operator of a bed and breakfast home, including for purposes of this subdivision the trustee of a revocable trust that owns the subject property, shall submit to the department:
- (A) Affirmation that the applicant for the bed and breakfast home is a natural person;
  - (B) Affirmation that the applicant does not hold a registration for or operate more than one bed and breakfast home or transient vacation unit in the city at one time;
  - (C) Evidence of having paid State of Hawaii general excise taxes and transient accommodations taxes for the subject property;
  - (D) Evidence of a real property tax home exemption for the subject property;
  - (E) A renewal fee of \$2,000 for the bed and breakfast home;
  - (F) Evidence that the use as a bed and breakfast home is covered by an insurance carrier for the property;
  - (G) Confirmation that the bed and breakfast home is permitted by any applicable homeowners association, apartment owners association, or condominium property regime articles, by-laws, and house rules;
  - (H) An affidavit, signed by the owner, indicating that the owner does not own an interest in any other bed and breakfast home or transient vacation unit in the city; and
  - (I) For bed and breakfast homes located in the AG-2 general agricultural district, evidence that the portion of the subject property that is not being used as a farm dwelling pursuant to Section 21-5.250, is currently dedicated for a specific agricultural use pursuant to Section 8-7.3.

The renewal of a registration for a bed and breakfast home will be granted upon receipt of an application meeting all requirements set forth in this section; provided that if complaints from the public indicate that noise or other nuisances created by guests disturbs residents of the neighborhood in which the bed and breakfast home is located, or where other good cause exists, the director may deny the renewal application.

- (3) Restrictions and Standards. Bed and breakfast homes must operate in accordance with the following restrictions and standards:
- (A) Dwelling units in detached dwellings used as bed and breakfast homes must be occupied by a family, and renters of any room in the detached dwelling other than the bed and breakfast home guests are not permitted;
  - (B) No more than two guest rooms in a bed and breakfast home may be rented to guests, and a maximum of four guests are permitted within the bed and breakfast home at any one time;
  - (C) Functioning smoke and carbon monoxide detectors must be installed in each bedroom;

(D) House rules, including quiet hours between 10:00 p.m. and 8:00 a.m., and emergency contact information for the owner or operator must be provided to all guests and posted in conspicuous locations;

(E) When any guest room in a bed and breakfast home is being rented to guests, the owner or operator shall remain on the premises during quiet hours;



(F) The owner or operator shall maintain a current two-year registry setting forth the names and telephone numbers of all guests and the dates of their respective stays;

(G) No exterior signage that shows the dwelling unit is used as a bed and breakfast home is allowed;

(H) Registration as a bed and breakfast home is not transferable, and shall not run with the land;

(I) Development Plan Area Density Limit. Excluding bed and breakfast homes and transient vacation units in the resort district, resort mixed use precinct of the Waikiki special district, and the A-1 low-density apartment district and A-2 medium-density apartment district pursuant to subsection (a), where there is no limit on the number of bed and breakfast homes and transient vacation units allowed, the number of bed and breakfast homes and transient vacation units permitted in each development plan area is limited to no more than one half of one percent of the total number of dwelling units in that development plan area. The total number of dwelling units in a development plan area will be based on the latest figures from the U.S. Census data. Where the initial number of bed and breakfast home applications for a development plan area exceeds the one half of one percent limitation, acceptance of applications will be selected on a lottery basis. When renewal applications fall below the one half of one percent limitation, new applications will be accepted on a lottery basis. The director shall adopt rules pursuant to HRS Chapter 91 to implement and administer the lottery;

(J) Multifamily Dwelling Density Limit. Excluding multifamily dwellings in the resort district, resort mixed use precinct of the Waikiki special district, and the A-1 low-density apartment district and A-2 medium-density apartment district pursuant to subsection (a), unless otherwise specified in apartment bylaws, covenants, or correspondence from a homeowners association, apartment owners association, or condominium property regime, the total number of bed and breakfast homes and transient vacation units must not exceed 50 percent of the total dwelling units in a multifamily dwelling;

(K) If a bed and breakfast home is located in the AG-2 general agricultural district, the portion of the subject property that is not being used as a farm dwelling pursuant to Section 21-5.250, must be currently dedicated for a specific agricultural use pursuant to Section 8-7.3;

(L) A bed and breakfast home must not be located within a 1,000-foot radius of another bed and breakfast home or a transient vacation unit; provided that this spacing requirement:

(i) Does not apply as between (1) bed and breakfast homes and transient vacation units in the resort district, resort mixed use precinct of the Waikiki special district, or the A-1 low-density apartment district or A-2 medium-density apartment district pursuant to subsection (a), and (2) bed and breakfast homes located outside of those zoning districts and precincts; and

(ii) Does not preclude the continued operation of bed and breakfast homes operating under valid nonconforming use certificates pursuant to Section 21-4.110-2; and

(M) The owner or operator shall provide occupants of dwelling units within 250 feet of the dwelling unit used as a bed and breakfast home with a phone number that must be answered 24 hours a day, to call in complaints regarding the bed and breakfast home. The owner or operator shall keep a log of all complaints received during the applicable registration period, and submit the log with each registration renewal application, and at any other time upon the request of the director. The log must include the name, phone number, and address of the complainant, date of the complaint, date the complaint was resolved, and how the complaint was resolved.

(4) Upon reasonable notice, any bed and breakfast home must be made available for inspection by the department.

(5) The violation of any provision of this subsection will be grounds for administrative fines and nonrenewal unless corrected before the renewal deadline. Recurring or multiple violations will result in denial of renewal requests.

(6) This subsection does not apply to bed and breakfast homes operating under valid nonconforming use certificates pursuant to Section 21-4.110-2.

(7) The director may revoke a registration at any time under the following circumstances:

- (A) Recurring violations of the standards and requirements for bed and breakfast homes in Section 21-5.730(b);
- (B) Complaints from the public indicate that noise or other nuisances created by guests disturbs residents of the neighborhood in which the bed and breakfast home is located; or
- (C) The director determines that good cause exists for revocation of the registration.



## (c) Advertisements.

## (1) Definitions. As used in this subsection:

“Advertisement” means any form of communication, promotion, or solicitation, including but not limited to electronic media, direct mail, newspapers, magazines, flyers, handbills, television commercials, radio commercials, signage, e-mail, internet websites, text messages, verbal communications, or similar displays, intended or used to induce, encourage, or persuade the public to enter into a contract for the use or occupancy of a bed and breakfast home or transient vacation unit.

“Person” means a judicial person or a natural person, and includes businesses, companies, associations, non-profit organizations, firms, partnerships, corporations, limited liability companies, and individuals.

## (2) Prohibition. Advertisements for all bed and breakfast homes and transient vacation units are subject to this subsection.

(A) It is unlawful for any person to advertise or cause the advertisement of a bed and breakfast home or transient vacation unit without including in the advertisement:

(i) A current registration number obtained pursuant to this section, or nonconforming use certificate number obtained pursuant to Section 21-4.110-1 or Section 21-4.110-2; or

(ii) For bed and breakfast homes or transient vacation units located in the resort district, apartment precinct or resort mixed use precinct of the Waikiki special district, or in the A-1 low-density apartment district or A-2 medium-density apartment district pursuant to subsection (a), the street address, including, if applicable, any apartment unit number, for that bed and breakfast home or transient vacation unit.

(B) Within seven days after receipt of a notice of violation, the owner or operator of a bed and breakfast home or a transient vacation unit shall remove, or cause the removal of, the advertisement identified in the notice, including, without limitation, any advertisement made through a hosting platform. If the advertisement is not removed within seven days after receipt of the notice of violation, a fine of not less than \$1,000 and not more than \$10,000 per day will be levied against the owner or operator associated with the bed and breakfast home or transient vacation unit, for each day the advertisement is on public display beyond seven days from the date the notice of violation is received.

(C) The existence of an advertisement will be prima facie evidence that a bed and breakfast home or a transient vacation unit is being operated at the listed address. The burden of proof is on the owner of the subject real property to establish that the property is not being used as a bed and breakfast home or transient vacation unit, or that the advertisement was placed without the property owner's knowledge or consent.

## (3) Exemptions. The following are exempt from the provisions of this subsection.

(A) Legally established hotels, whether owned by one person, or owned individually as unit owners but operating as a hotel as defined in Chapter 21, Article 10.

(B) Legally established time-sharing units, as provided in Section 21-5.640.

(C) Legally established dwelling units that are rented for periods of 30 consecutive days or more at any one time.

## (d) Unpermitted bed and breakfast homes or unpermitted transient vacation units.

## (1) Definitions. As used in this subsection:

“Unpermitted bed and breakfast home” means a bed and breakfast home that is not:

(A) Located in the resort district, resort mixed use precinct of the Waikiki special district, or A-1 low-density apartment district or A-2 medium-density apartment district pursuant to subsection (a);

(B) Operating under a valid nonconforming use certificate pursuant to Section 21-4.110-2; or

(C) Validly registered under this section.

“Unpermitted transient vacation unit” means a transient vacation unit that is not:

(A) Located in the resort district, resort mixed use precinct of the Waikiki special district, or A-1 low-density apartment district or A-2 medium-density apartment district pursuant to subsection (a); or

(B) Operating under a valid nonconforming use certificate pursuant to Section 21-4.110-1.

- (2) It is unlawful for any owner or operator of an unpermitted bed and breakfast home or unpermitted transient vacation unit, or the owner or operator's agent or representative to:
  - (A) Rent, offer to rent, or enter into a rental agreement to rent an unpermitted bed and breakfast home or unpermitted transient vacation unit for fewer than 30 consecutive days;



- (B) Rent, offer to rent, or enter into a rental agreement to rent an unpermitted bed and breakfast home or unpermitted transient vacation unit, where such rental, offer, or rental agreement limits actual occupancy of the premises to a period of less than the full stated rental period, or conditions the right to occupy the rented premises for the full stated rental period on the payment of additional consideration;
  - (C) Set aside or exclusively reserve an unpermitted bed and breakfast home or unpermitted transient vacation unit for rental or occupancy for a period of 30 consecutive days or more, but limit actual occupancy of the premises to a period of less than the full stated rental period, or condition the right to occupy the rented premises for the full stated rental period on the payment of additional consideration; or
  - (D) Advertise, solicit, offer, or knowingly provide rental of an unpermitted bed and breakfast home or unpermitted transient vacation unit to transient occupants for less than 30 consecutive days.
- (e) Any person may submit a written complaint to the director reporting a violation of the provisions of this section regarding bed and breakfast homes and transient vacation units.
- (1) A complaint reporting a suspected violation of the provisions of this section must:
    - (A) Identify the address of the bed and breakfast home or transient vacation unit that is the subject of the suspected violation;
    - (B) State all of the facts that cause the complainant to believe that a violation has occurred;
    - (C) Identify the provisions of this section that the complainant believes are being violated;
    - (D) Provide the complainant's address where the director may mail a response to the complaint.
  - (2) Within 30 days after receiving a written complaint reporting a violation of the provisions of this section, the director must provide a written response to the complainant either:
    - (A) Declining jurisdiction over the complaint, in which case the complainant may pursue judicial relief pursuant to HRS Section 46-4(b);
    - (B) Entering a finding of no violation, which will be appealable to the zoning board of appeals pursuant to Charter Section 6-1516; or
    - (C) Advising the complainant that the director has initiated an investigation of the complaint.
- (Added by Ord. 19-18)

**Article 6. Off-street Parking and Loading**

**Sections:**

- 21-6.10 Off-street parking and loading-Intent.**
- 21-6.20 Off-street parking requirements.**
- 21-6.30 Method of determining number.**
- 21-6.40 Arrangement of parking spaces.**
- 21-6.50 Minimum dimensions.**
- 21-6.60 Improvement of off-street parking spaces, parking lots and driveways.**
- 21-6.70 Parking spaces and required yards.**
- 21-6.80 Mechanical parking and storage garages.**
- 21-6.90 Required parking spaces located off premises.**
- 21-6.100 Off-street loading requirements.**
- 21-6.110 Method of determining number.**
- 21-6.120 Dimensions of loading spaces.**
- 21-6.130 Location and improvement of loading spaces.**
- 21-6.140 Exceptions to off-street parking and loading requirements.**
- 21-6.150 Bicycle parking.**



**Sec. 21-6.10 Off-street parking and loading—Intent.**

- (a) Parking and loading standards are intended to minimize street congestion and traffic hazards, and to provide safe and convenient access to residences, businesses, public services and places of public assembly. Parking standards are not intended to satisfy maximum parking demand.
- (b) Off-street parking and loading spaces shall be provided in such numbers, at such locations and with such improvements as required by the provisions of this article.

(Added by Ord. 99-12)

**Sec. 21-6.20 Off-street parking requirements.**

Except as otherwise provided in this chapter, the minimum number of required off-street parking spaces shall be as shown on Tables 21-6.1, 21-6.2 and 21-6.3 which follow. When there is a change in use, the number of off-street parking spaces shown on Tables 21-6.1, 21-6.2 and 21-6.3 for the new use shall be provided, except as provided under Section 21-4.110(e) relating to nonconforming parking and loading. (Added by Ord. 99-12)

**Sec. 21-6.30 Method of determining number.**

- (a) To determine the required number of off-street parking spaces, floor area shall be as defined in Article 10 of this chapter, except that for the purposes of this section, basement floor area shall be included as floor area for parking purposes when it is devoted to uses having a parking requirement specified in Tables 21-6.1, 21-6.2 and 21-6.3.
- (b) When computation of the total required parking spaces for a zoning lot results in a fractional number with a major fraction (i.e., 0.5 or greater), the number of spaces required shall be the next highest whole number.
- (c) In stadiums, sports arenas, meeting facilities, and other places of assembly in which patrons or spectators occupy benches, pews or other similar seating facilities, each 24 inches of width shall be counted as a seat for the purpose of determining requirements for off-street parking.
- (d) All required parking spaces must be standard-sized parking spaces, except that duplex units, detached dwellings and multifamily dwellings may have up to 50 percent compact spaces, and accessory dwelling units may have one compact space.
- (e) All spaces, other than for one- and two-family dwellings, shall be individually marked if more than four spaces are required. Compact spaces shall be labeled “compact only.”
- (f) When a building or premises include uses incidental or accessory to a principal use, the total number of spaces shall be determined on the basis of the parking requirements of the principal use(s).
- (g) Parking requirements for conversion or development of hotels to condominium ownership other than in the resort district shall be as follows:
  - (1) One parking space per dwelling unit or lodging unit.
  - (2) One parking space per 800 square feet for any accessory uses.
  - (3) This subsection shall not apply so long as the structure continues in hotel use.

<b>Table 21-6.1 Off-street Parking Requirements</b>	
<b>Use<sup>1</sup></b>	<b>Requirement<sup>2</sup></b>
AGRICULTURE	
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



<b>Table 21-6.1 Off-street Parking Requirements</b>									
<b>Use<sup>1</sup></b>	<b>Requirement<sup>2</sup></b>								
<b>ANIMALS</b>									
Kennels, commercial	1 per 400 square feet, but no less than 4								
<b>COMMERCE AND BUSINESS</b>									
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								
Bed and breakfast homes <sup>7</sup>	1 per guest bedroom <sup>8</sup>								
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								
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 <sup>3</sup>	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.								
<b>DWELLINGS AND LODGINGS</b>									
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, accessory dwelling unit	1 per accessory dwelling unit or none if the accessory dwelling unit is located within one-half mile of a rail transit station								
Dwellings, detached, duplex and farm	Excluding carport or garage areas: 2 per unit up to 3,249 square feet 3 per unit from 3,250 to 3,999 square feet 4 per unit from 4,000 to 4,749 square feet 1 additional for each 750 square feet over 4,000 square feet.								
Dwellings, multifamily	<table border="0" style="width: 100%;"> <tr> <td style="text-align: left;"><b>Floor Area of Dwelling or Lodging Units</b></td> <td style="text-align: right;"><b>Required Parking per Unit</b></td> </tr> <tr> <td>600 sq. ft. or less</td> <td style="text-align: right;">1</td> </tr> <tr> <td>More than 600 but less than 800 sq. ft.</td> <td style="text-align: right;">1.5</td> </tr> <tr> <td>800 sq. ft. and over</td> <td style="text-align: right;">2</td> </tr> </table>	<b>Floor Area of Dwelling or Lodging Units</b>	<b>Required Parking per Unit</b>	600 sq. ft. or less	1	More than 600 but less than 800 sq. ft.	1.5	800 sq. ft. and over	2
<b>Floor Area of Dwelling or Lodging Units</b>	<b>Required Parking per Unit</b>								
600 sq. ft. or less	1								
More than 600 but less than 800 sq. ft.	1.5								
800 sq. ft. and over	2								

	Plus 1 guest parking stall per 10 units for all projects
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Hotels: dwelling units	1 per unit
Hotels: lodging units	0.75 per unit
<b>INDUSTRIAL</b>	
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
<b>OUTDOOR RECREATION</b>	
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 playfield
<b>SOCIAL AND CIVIC SERVICE</b>	
Art galleries, museums and libraries	1 per 400 square feet
Auditoriums, funeral homes/mortuaries, meeting facilities, gymnasiums, 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 per 350 square feet of classroom area, meeting area, and/or gathering space, plus 1 per 400 square feet of office floor space
Schools: elementary and intermediate	1 per 400 square feet of classroom area, plus 1 per 400 square feet of office floor space
Schools: high, language, vocational, business, technical, and trade; business colleges	1 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
<b>TRANSPORTATION AND PARKING</b>	
Automobile service stations	3 per repair stall
Car washing, mechanized	10 standing spaces for waiting vehicles for each car wash rack
<b>UTILITIES AND COMMUNICATIONS</b>	
Broadcasting stations	1 per 400 square feet



<b>Table 21-6.1 Off-street Parking Requirements</b>	
Use <sup>1</sup>	Requirement <sup>2</sup>
<p><b>PARKING TO BE DETERMINED BY THE DIRECTOR</b></p> <p><b>Agriculture</b> - aquaculture; composting (major or minor); crop production; forestry; and roadside stands.</p> <p><b>Animals</b> - game preserves; livestock grazing; livestock production (major or minor); livestock veterinary services; and zoos.</p> <p><b>Commerce and business</b> - amusement and recreation facilities, indoor and outdoor; home occupations; plant nurseries; and trade or convention centers.</p> <p><b>Dwellings and lodgings</b> - group living facilities.</p> <p><b>Industrial</b> - base yards; explosive and toxic chemical manufacturing, storage and distribution; and resource extraction.</p> <p><b>Outdoor recreation</b> - 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><b>Social and civic service</b> - cemeteries and columbaria; hospitals; prisons; public uses and structures; universities and colleges.</p> <p><b>Transportation and parking</b> - airports; heliports; helistops; and truck terminals.</p> <p><b>Utilities and communications</b> - broadcasting antennas; receive-only antennas; utility installations (Type A or B); and wind machines.</p> <p><b>Miscellaneous</b> - All other uses not herein specified</p>	<p>As determined by the director</p>

(Added by Ord. 99-12; Am. Ord. 10-19, 15-41, 19-3, 19-18)

<b>Table 21-6.2 Off-street Parking Requirements BMX-4 Central Business Mixed Use</b>	
Use <sup>4</sup>	Requirement <sup>5</sup>
Amusement and recreation facilities, indoor, other than herein specified	1 per 300 square feet, or 1 per 10 fixed seats, whichever is greater
Auditoriums	1 per 300 square feet, or 1 per 10 fixed seats, whichever is greater
Automotive equipment and boat sales and service	1 per 1,200 square feet
Bowling alleys	1 per alley
Business services	1 per 500 square feet
Consulates	1 per dwelling or lodging unit, plus 1 per 400 square feet of office floor area, but no less than 5
Dwellings, multifamily	1 per dwelling unit
Eating and drinking establishments	1 per 300 square feet of dining area over 1,500 square feet, plus 1 per 400 square feet of kitchen and other areas
Financial institutions	1 per 600 square feet over 4,000 square feet
Hotels	1 per 4 units
Kennels (other than as an accessory use)	1 per 600 square feet over 4,000 square feet
Medical clinics	1 per 600 square feet over 4,000 square feet



<b>Table 21-6.2 Off-street Parking Requirements BMX-4 Central Business Mixed Use</b>	
<b>Use<sup>4</sup></b>	<b>Requirement<sup>5</sup></b>
Medical laboratories	1 per 600 square feet over 4,000 square feet
Meeting facilities	1 per 300 square feet, or 1 per 10 fixed seats, whichever is greater
Offices, other than herein specified	1 per 600 square feet over 4,000 square feet
Personal services, other than herein specified	1 per 600 square feet over 4,000 square feet
Repair establishments, minor	1 per 600 square feet over 4,000 square feet
Retail, other than herein specified	1 per 600 square feet over 4,000 square feet
Sales: appliance, household and office furniture	1 per 1,200 square feet
Sales: machinery	1 per 1,200 square feet
Self-storage facilities	1 per 2,000 square feet

(Added by Ord. 99-12)

<b>Table 21-6.3 Off-street Parking Requirements Waikiki Special District</b>	
<b>Use<sup>6</sup></b>	<b>Requirement<sup>5</sup></b>
Art galleries, museums, libraries	1 per 300 square feet or fraction thereof in excess of 1,000 square feet, but no less than 10
Day-care facilities	1 per 10 enrollment capacity
Dwellings, detached, duplex, and multifamily	1 per dwelling or lodging unit
Group living facilities	1 per 4 patient beds
Hotels	0.25 per dwelling or lodging unit
Meeting facilities	1 per 10 seats, or where the number of seats cannot be reliably estimated or determined, at least 1 space per 200 square feet
Schools: elementary and intermediate	1 per 15 seats in the main auditorium
Schools: high	1 per 5 seats in the main auditorium or 5 spaces per classroom, whichever is greater
All other permitted uses except in the public precinct	1 per 800 square feet
All permitted uses in the public precinct	With respect to projects requiring a major special district permit, as determined by the council by resolution as appropriate for the particular use and its location; with respect to all other projects, as determined by the director as appropriate for the particular use and its location

(Added by Ord. 99-12; Am. Ord. 03-38)

**Notes:**

1. Where a proposed use is not specifically listed above, or it falls under more than one use listed above, the director will review the proposed use and, based on the characteristics of the use, determine its equivalent and applicable off-street parking and loading requirements.
2. All references to square feet refer to floor area.
3. Parking standards for individual uses shall prevail if they are not part of a commercial use that meets the definition of “shopping center.”

4. Where a proposed use is not specifically listed above, or it falls under more than one use listed above, the director will review the proposed use and, based on the characteristics of the use, determine its equivalent and applicable off-street parking and loading requirements for the BMX-4 district.
5. All references to square feet refer to floor area.



- 6. Where a proposed use is not specifically listed above, or it falls under more than one use listed above, the director will review the proposed use and, based on the characteristics of the use, determine its equivalent and applicable off-street parking and loading requirements for the Waikiki special district.
- 7. Excluding bed and breakfast homes in the resort district, resort mixed use precinct of the Waikiki special district, the A-1 low-density apartment district and A-2 medium-density apartment district pursuant to Section 21-5.730(a), and bed and breakfast homes operating under valid nonconforming use certificates pursuant to Section 21-4.110-2.
- 8. This requirement is in addition to the off-street parking requirement applicable to the dwelling unit being used as a bed and breakfast home.

(Added by Ord. 99-12; Am. Ord. 03-38, 10-19, 15-41, 19-18)

**Sec. 21-6.40 Arrangement of parking spaces.**

- (a) Except for landscaping elements as provided under Section 21-4.70(b), all spaces shall be unobstructed, provided that building columns may extend a maximum total of six inches into the sides of the parking space. A wall is not considered a building column.
- (b) Where four or more parking spaces are required, other than for one-family and two-family dwellings, the parking lot or area shall be designed or arranged in a manner that no maneuvering into or from any street, alley or walkway is necessary in order for a vehicle to enter or leave a space, and which allows all vehicles to enter the street in a forward manner.
- (c) All spaces must be arranged so that any motor vehicle may be moved without moving another motor vehicle, except that tandem parking is permissible in any of these instances:
  - (1) Where two or more parking spaces are assigned to a single dwelling unit or a parking space is assigned to an accessory dwelling unit; provided that for one-family or two-family detached dwellings or duplexes, if three or more off-street parking spaces are required, tandem parking is limited to a configuration where if stacked parking does exist that only one car needs to be moved to allow the car that is blocked to exit the property.
  - (2) For use as employee parking, except that at no time can the number of parking spaces allocated for employees exceed 25 percent of the total number of required spaces. Also, for employee parking, tandem parking is limited to a configuration of two stacked parking spaces.
  - (3) Where all parking is performed by an attendant at all times, and vehicles may be moved within the lot without entering any street, alley, or walkway.
  - (4) For public assembly facilities and temporary events when user arrivals and departures are simultaneous and parking is attendant directed.

(Added by Ord. 99-12; Am. Ord. 15-41, 19-3)

**Sec. 21-6.50 Minimum dimensions.**

- (a) Standard-sized automobile parking spaces shall be at least 18 feet in length and eight feet three inches in width, with parallel spaces at least 22 feet in length.
- (b) Compact spaces shall be at least 16 feet in length and seven and one-half feet in width, with parallel spaces at least 19 feet in length.
- (c) Parking spaces for boat launching ramps shall have a minimum dimension of 40 feet in length and 12 feet in width.
- (d) Minimum aisle widths for parking bays shall be provided in accordance with the following:

<b>Parking Angle</b>	<b>Aisle Width</b>
0° - 44°	12 ft.
45° - 59°	13.5 ft.
60° - 69°	18.5 ft.
70° - 79°	19.5 ft.
80° - 89°	21 ft.
90°	22 ft.



Notwithstanding the foregoing, with a parking angle of 90 degrees, the minimum aisle width may be reduced by one foot for every six inches of additional parking space width above the minimum width of eight feet three inches, to a minimum aisle width of 19 feet.

- (e) Ingress and egress aisles shall be provided to a street and between parking bays, and no driveway leading into a parking area shall be less than 12 feet in width, except that driveways for detached dwellings and duplex units shall be no less than 10 feet in width.

(Added by Ord. 99-12)

**Sec. 21-6.60 Improvement of off-street parking spaces, parking lots and driveways.**

- (a) All off-street parking spaces, parking lots and driveways shall be provided and maintained with an all-weather surface except in preservation, agriculture and country districts where parking lots and driveways may be surfaced with crushed rock or limestone, or as determined by the director under the provisions of Article 2.
- (b) Parking lots or areas, if illuminated, shall be shielded to prevent any direct illumination toward any zoning lot within a country, residential, apartment or apartment mixed use district.
- (c) All parking lots shall be landscaped as specified in Section 21-4.70.
- (d) Required off-street parking stalls may be converted to bicycle or motorcycle parking areas of equivalent or larger area.

(Added by Ord. 99-12)

**Sec. 21-6.70 Parking spaces and required yards.**

Parking spaces may overlap three feet of required yards, open spaces or required landscaping, if wheel stops are installed, except in special districts and as may be allowed in Article 3, under optional yard siting provisions. (Added by Ord. 99-12)

**Sec. 21-6.80 Mechanical parking and storage garages.**

Mechanical means of providing parking spaces or access to these parking spaces are permitted, provided the following conditions are met:

- (a) The director shall determine that adequate waiting and maneuvering space is provided on the zoning lot in order to minimize on-street traffic congestion.
- (b) All mechanical parking systems shall be visually screened by providing a solid wall or facade a minimum of 42 inches in height at each level of the mechanical parking system.

(Added by Ord. 99-12)



**Sec. 21-6.90 Required parking spaces located off premises.**

Off-street parking spaces required for any use may be permitted off the premises as joint use of parking facilities or off-site parking facilities but shall be subject to compliance with the provisions of Articles 2 and 5, conditional uses. (Added by Ord. 99-12)

**Sec. 21-6.100 Off-street loading requirements.**

Off-street loading requirements shall apply to all zoning lots exceeding 5,000 square feet in area for the class or kind of uses indicated below. The minimum number of off-street loading spaces shall be as follows:

Use or Use Category	Floor Area in Square Feet	Loading Space Requirements
A. Retail stores, eating and drinking establishments, shopping centers, wholesale operations, warehousing, business services, personal services, repair, manufacturing, and self-storage facilities	2,000 - 10,000	1
	10,001 - 20,000	2
	20,001 - 40,000	3
	40,001 - 60,000	4
	Each additional 50,000 or major fraction thereof	1
B. Hotels, hospitals or similar institutions, and places of public assembly	5,000 - 10,000	1
	10,001 - 50,000	2
	50,001 - 100,000	3
	Each additional 100,000 or major fraction thereof	1
C. Offices or office buildings	20,000 - 50,000	1
	50,001 - 100,000	2
	Each additional 100,000 or major fraction thereof	1
D. Multifamily dwellings	<b>Number of Units</b>	
	20 - 150	1
	151 - 300	2
	Each additional 200 or major fraction thereof	1

(Added by Ord. 99-12)

**Sec. 21-6.110 Method of determining number.**

- (a) To determine the required number of loading spaces, floor area shall be as defined in Article 10, except that when a basement is devoted to a use having a loading requirement, loading spaces shall be required as specified in Section 21-6.100.
- (b) When a building is used for more than one use, and the floor area for each use is below the minimum requiring a loading space, and the aggregate floor area of the several uses exceeds the minimum floor area of the use category requiring the greatest number of loading spaces, at least one loading space shall be required.

(Added by Ord. 99-12)



**Sec. 21-6.120 Dimensions of loading spaces.**

- (a) When only one loading space is required and total floor area is less than 5,000 square feet, the horizontal dimensions of the space shall be 19 x 8 1/2 feet. It shall have a vertical clearance of 10 feet.
  - (b) When more than one loading space is required or total floor area is more than 5,000 square feet, the minimum horizontal dimension of at least half of the required spaces shall be 12 x 35 feet and have a vertical clearance of at least 14 feet. The balance of required spaces may have horizontal dimensions of 19 x 8 1/2 feet and vertical clearance of at least 10 feet.
  - (c) Access to loading spaces shall have the same vertical clearance as required for the loading spaces.
- (Added by Ord. 99-12)

**Sec. 21-6.130 Location and improvement of loading spaces.**

- (a) No required loading space shall be in any street or alley but shall be provided within the building or adjacent to the building.
  - (b) Where loading areas are illuminated, all sources of illumination shall be shielded to prevent any direct illumination toward any country, residential, apartment or apartment mixed use districts.
  - (c) Each required loading space shall be identified as such and shall be reserved for loading purposes.
  - (d) No loading space shall occupy required off-street parking spaces or restrict access.
  - (e) All loading spaces and maneuvering areas shall be paved or covered with an all-weather surface.
  - (f) Except in front and side yards in agricultural, country and residential districts, no loading space or maneuvering area shall be located within a required yard, except if the area displaced by the loading space or maneuvering area is provided as open space immediately abutting the required yard, and the design is approved by the director.
- (Added by Ord. 99-12)

**Sec. 21-6.140 Exceptions to off-street parking and loading requirements.**

- (a) In connection with planned development-housing projects, cluster housing, and conditional use permits, and within special districts, the director may impose special parking and loading requirements.
  - (b) All buildings and uses, except multifamily dwellings and hotels, which are located within the boundaries of any improvement district for public off-street vehicular or bicycle parking, and which have been assessed their share of the cost of the improvement district, will be exempt from off-street parking or bicycle parking requirements of this chapter, or both.
- (Added by Ord. 99-12; Am. Ord. 17-55)

**Sec. 21-6.150 Bicycle Parking.**

- (a) In the apartment, apartment mixed use, business, and business mixed use districts, bicycle parking must be provided as follows:

	Short-Term Bicycle Parking	Long-Term Bicycle Parking
Non-Residential Uses	1 space for every 2,000 square feet of floor area or portion thereof or 1 space for every 10 vehicle spaces or portion thereof, whichever is greater	1 space for every 12,000 square feet of floor area or portion thereof or 1 space for every 30 vehicle spaces or portion thereof, whichever is greater
Residential Uses	1 space for up to 10 units and thereafter 1 space for every 10 units or portion thereof	1 space for every 2 dwellings or lodging units

provided that no bicycle parking is required for detached single-family and two-family dwellings and duplex dwellings.

- (b) Both short- and long-term bicycle parking must be provided whenever new floor area, a new dwelling unit, or a new parking structure is proposed. Short-term bicycle parking should be located as close as possible to the entrances of the principal uses on a lot so that it is highly visible and easily identifiable. Section 21-4.110(e), regarding nonconforming parking and loading, does not apply to short- and long-term bicycle parking.

- (c) Anchoring and Security. For each bicycle parking space required, a bicycle rack must be provided, to which a bicycle frame and one wheel may be secured with a high-security, U-shaped lock if both wheels are left on the bicycle. If a bicycle may be locked to each side of the rack without conflict, each side may be counted toward a required space.



- (d) Size and Accessibility. Each bicycle parking space must be a minimum of two feet in width and six feet in length, and must be accessible without moving another bicycle. Bicycle parking spaces must be clear of walls, poles, landscaping (other than ground cover), street furniture, drive aisles, pedestrian ways, and vehicle parking spaces for at least five feet.

(Added by Ord. 17-55)