

Article 5. Use Regulations

Sec. 21-5.10 Purpose and Intent.....	5-1
Sec. 21-5.20 Use Classification	5-1
Sec. 21-5.30 Use Table	5-3
Sec. 21-5.40 Agricultural Uses	5-9
(a) Crop Production	5-9
(b) Livestock Keeping.....	5-12
(c) Agricultural Support.....	5-13
(d) Accessory Agricultural Uses	5-15
Sec. 21-5.50 Residential Uses	5-21
(a) Household Living.....	5-21
(b) Group Living	5-22
(c) Accessory Residential Uses	5-23
Sec. 21-5.60 Public, Civic and Institutional Uses	5-29
(a) Assembly	5-29
(b) Communication.....	5-30
(c) Education	5-33
(d) Government	5-35
(e) Park and Open Space	5-35
(f) Utility.....	5-36
Sec. 21-5.70 Commercial Uses.....	5-41
(a) Day Care	5-41
(b) Eating and Drinking.....	5-41
(c) Lodging.....	5-42
(d) Medical.....	5-53
(e) Office	5-54
(f) Parking	5-55
(g) Personal Service	5-55
(h) Recreation, Indoor	5-57
(i) Recreation, Outdoor	5-57
(j) Retail	5-58
(k) Vehicle-Related	5-60
(l) Accessory Commercial Uses.....	5-62
Sec. 21-5.80 Industrial Uses	5-64
(a) Manufacturing and Processing	5-64
(b) Marine	5-67
(c) Repair	5-69
(d) Research and Development.....	5-69

(e) Resource Extraction	5-69
(f) Storage and Distribution	5-70
(g) Transportation	5-71
(h) Waste-Related.....	5-73
(i) Accessory Industrial Uses.....	5-74
Sec. 21-5.90 Miscellaneous Uses	5-75
(a) Historic Structure Re-Use.....	5-75
(b) Joint Development	5-75
(c) Transfer of Development	5-75

ARTICLE 5. USE REGULATIONS

Sec. 21-5.10 Purpose and Intent

The purpose of this article is to set forth the table of permitted uses, define permitted uses and identify the development and design standards for particular uses.

Sec. 21-5.20 Use Classification

- (a) Refer to Table 21-5.30 to determine whether a use is allowed as a permitted principal or accessory use in a particular zoning district, requires discretionary land use permit approval, or is not allowed.
- (b) Where a proposed use is not specifically listed in the Use Table in Sec. 21-5.30, the Director will review the proposed use and, based on its characteristics and its similarity to the uses listed in the category, determine the regulatory requirements for that use.
- (c) The following categories of uses apply on the Use Table in Sec. 21-5.30.

(1) Ministerial Uses:

Ministerial uses are those uses that are approved administratively, without requiring a conditional use permit or Plan Review.

P = A permitted principal or accessory use.

P* = A permitted principal or accessory use that is subject to specific use standards (see link in right-hand column).

Eu = An existing use with a valid use permit that is allowed to continue and is not considered nonconforming. Does not allow for any new establishment of the use. Such uses may be modified through the minor conditional use permit process.

(2) Discretionary Uses:

Discretionary uses are those uses that require a conditional use permit or Plan Review.

Cm = A use that requires an approved minor conditional use permit.

C = A use that requires an approved major conditional use permit.

Cm* or C* = A use that requires an approved minor or major conditional use permit that must also meet specific use standards (a link to the standards is provided in the right-hand column).

PRU = A use that requires Plan Review approval.

(3) Not Permitted:

-- = A use that is not permitted.

- (d) The specific use standards of this Article apply to both ministerial and discretionary uses designated on the Use Table in Sec. 21-5.30 with an asterisk (*). Development standards located elsewhere in this Land Use Ordinance apply to all uses.

- (e) It is intended that all lands within a state-designated conservation district be zoned P-1 restricted preservation district. Within the P-1 restricted preservation district, all uses, structures, and development standards are governed by the appropriate state agencies. For this reason, the P-1 District is not shown on the use table.

Sec. 21-5.30 Use Table

The following table does not include the Waikiki Special District – please refer to Table 21-9.6(A).

Table 21-5.1 Table of Allowed Uses	Preservation, Agricultural, Country				Residential, Apartment					Apartment Mixed Use, Resort				Business, Business Mixed Use				Industrial, Industrial Commercial Mixed Use				Definition/ Standards
	P-2	AG-1	AG-2	Country	R-20, R-10	R-7.5, R-5, R-3.5	A-1	A-2	A-3	AMX-1	AMX-2	AMX-3	Resort	B-1	B-2	BMX-3	BMX-4	I-1	I-2	I-3	IMX-1	
P = Permitted Use C = Major Conditional Use Cm = Minor Conditional Use Eu = Existing Use Only PRU = Plan Review Use * = Use Standards Apply																						
AGRICULTURAL USES																						
Crop Production																						
Aquaculture	P	P	P	P	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	Sec. 21-5.40(a)(1)
Composting																						
Minor	P*	P*	P*	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P*	--	--	Sec. 21-5.40(a)(2)
Major	C*	C*	C*	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P*	--	--	Sec. 21-5.40(a)(2)
Community Garden	P*	P*	P*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	--	--	--	Cm*	Sec. 21-5.40(a)(3)
Crop Raising	P	P	P	P	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	Sec. 21-5.40(a)(4)
Forestry	P	P	P	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	Sec. 21-5.40(a)(5)
Plant Nursery	--	P	P	P	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	--	P	Sec. 21-5.40(a)(6)
Urban Agriculture	--	--	--	--	--	--	--	--	--	Cm*	Cm*	Cm*	--	Cm*	Cm*	Cm*	Cm*	--	--	--	Cm*	Sec. 21-5.40(a)(7)
Vertical Farm	--	P*	P*	P*	--	--	--	--	--	--	--	--	--	P	P	--	--	P	P	--	P	Sec. 21-5.40(a)(8)
Livestock Keeping																						
Animal Raising	P	P	P	P	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	Sec. 21-5.40(b)(1)
Animal Raising, Confined	--	P*	P*	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	Sec. 21-5.40(b)(2)
Agricultural Support																						
Agricultural Equipment Service	--	P*	P*	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	--	P	Sec. 21-5.40(c)(1)
Collection and Storage																						
Minor	--	P	P	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	--	--	Sec. 21-5.40(c)(2)
Major	--	C*	C*	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C*	P	--	--	Sec. 21-5.40(c)(2)
Feed Store	--	P*	P*	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	--	--	Sec. 21-5.40(c)(3)
Livestock Veterinary Service	--	P	P	P	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	Sec. 21-5.40(c)(6)
Processing																						
Minor	--	P*	P*	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P*	P*	--	P*	Sec. 21-5.40(c)(4)
Major	--	C*	C*	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P*	--	--	Sec. 21-5.40(c)(4)
Sawmill	--	P*	P*	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	--	--	Sec. 21-5.40(c)(5)
Accessory Agricultural																						
Agricultural Energy Facility	--	P*	P*	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	--	--	Sec. 21-5.40(d)(1)
Agritourism	--	C*	C*	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	Sec. 21-5.40(d)(2)
Beekeeping	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	--	--	--	--	Sec. 21-5.40(d)(3)
Biofuel Processing Facility	Cm*	Cm*	Cm*	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P*	P*	Cm*	--	Sec. 21-5.40(d)(4)
Farm Dwelling	--	P*	P*	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	Sec. 21-5.40(d)(5)

Table 21-5.1 Table of Allowed Uses	Presevation, Agricultural, Country				Residential, Apartment				Apartment Mixed Use, Resort				Business, Business Mixed Use				Industrial, Industrial Commercial Mixed Use				Definition/ Standards		
	P-2	AG-1	AG-2	Country	R-20, R-10	R-7.5, R-5, R-3.5	A-1	A-2	A-3	AMX-1	AMX-2	AMX-3	Resort	B-1	B-2	BMX-3	BMX-4	I-1	I-2	I-3		IMX-1	
	P = Permitted Use C = Major Conditional Use Cm = Minor Conditional Use Eu = Existing Use Only PRU = Plan Review Use * = Use Standards Apply																						
Farm Stand	--	P*	P*	P*	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	Sec. 21-5.40(d)(6)	
Farm Worker Housing	--	Cm*	Cm*	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	Sec. 21-5.40(d)(7)	
Farmer's Market	--	Cm*	Cm*	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	Sec. 21-5.40(d)(8)	
RESIDENTIAL USES																							
Household Living																							
Single-Unit Dwelling	--	--	--	P	P	P	P	P	P	P	P	P	P	--	--	P	--	--	--	--	--	Sec. 21-5.50(a)(1)	
Duplex-Unit Dwelling	--	--	--	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	--	--	P*	--	--	--	--	--	Sec. 21-5.50(a)(2)	
Two-Unit Dwelling	--	--	--	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	--	--	P*	--	--	--	--	--	Sec. 21-5.50(a)(3)	
Three-Unit Dwelling	--	--	--	--	--	--	P*	P*	P*	P*	P*	P*	P*	--	--	P*	--	--	--	--	--	Sec. 21-5.50(a)(3)	
Multi-Unit Dwelling	--	--	--	--	--	--	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	--	--	--	--	Sec. 21-5.50(a)(4)	
Group Living																							
Small	--	Eu*	Eu*	P*	P*	P*	P*	P*	P*	P*	P*	P*	--	--	--	P*	P*	--	--	--	--	Sec. 21-5.50(b)(1)	
Large	--	Eu*	Eu*	C*	C*	C*	C*	C	C	C	C	C	--	--	--	C	Cm	--	--	--	--	Sec. 21-5.50(b)(2)	
Accessory Residential																							
Accessory Dwelling Unit	--	P*	P*	P*	P*	P*	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	Sec. 21-5.50(c)(1)	
Family Child Care Home	--	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	--	--	P*	P*	--	--	--	--	Sec. 21-5.50(c)(2)	
Home Occupation	--	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	--	--	P*	P*	--	--	--	--	Sec. 21-5.50(c)(3)	
Ohana Unit	--	P*	P*	P*	P*	P*	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	Sec. 21-5.50(c)(4)	
Poultry Raising	--	--	--	P*	P*	P*	P*	P*	P*	--	--	--	--	--	--	--	--	--	--	--	--	Sec. 21-5.50(c)(5)	
Rooming	--	--	--	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	--	--	--	P*	Sec. 21-5.50(c)(6)	
PUBLIC, CIVIC AND INSTITUTIONAL USES																							
Assembly																							
Community Recreation Center	--	--	--	Cm	Cm	Cm	Cm	Cm	Cm	P	P	P	P	P	P	P	P	P	--	--	--	--	Sec. 21-5.60(a)(1)
Convention Center, Concert or Sporting Venue	--	--	--	--	--	--	--	--	--	--	--	--	PRU	PRU	PRU	PRU	PRU	--	--	--	PRU	Sec. 21-5.60(a)(2)	
Meeting Facility																							
Small	--	Eu	Eu	Eu	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	P	P	P	P	P	P*	P*	--	P	Sec. 21-5.60(a)(3)	
Medium	--	Eu	Eu	Eu	C*	C*	C*	C*	C*	C*	C*	C*	Cm	Cm	Cm	Cm	Cm	Cm*	Cm*	--	Cm	Sec. 21-5.60(a)(3)	
Large	--	--	--	--	--	--	--	--	--	--	--	--	C	C	C	C	C	--	--	--	C	Sec. 21-5.60(a)(3)	
Communication																							
Dish Antenna	--	--	--	--	--	--	--	--	--	--	--	--	P	--	P	P	P	P	P	P	P	Sec. 21-5.60(b)(1)	
Tower Antenna	Cm*	Cm*	Cm*	Cm*	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	Sec. 21-5.60(b)(2)	
Stealth	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	P	P	P	P	P	P	P	P	P	P	P*	P*	P*	P*	Sec. 21-5.60(b)(3)	
Accessory Communication Structure	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	Sec. 21-5.60(b)(4)	
Education																							
School, K-12	--	--	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	--	P	P	P	P	--	--	--	--	Sec. 21-5.60(c)(1)	

Table 21-5.1 Table of Allowed Uses	Preservation, Agricultural, Country				Residential, Apartment					Apartment Mixed Use, Resort				Business, Business Mixed Use				Industrial, Industrial Commercial Mixed Use				Definition/ Standards
	P-2	AG-1	AG-2	Country	R-20, R-10	R-7.5, R-5, R-3.5	A-1	A-2	A-3	AMX-1	AMX-2	AMX-3	Resort	B-1	B-2	BMX-3	BMX-4	I-1	I-2	I-3	IMX-1	
P = Permitted Use C = Major Conditional Use Cm = Minor Conditional Use Eu = Existing Use Only PRU = Plan Review Use * = Use Standards Apply																						
School, Vocational																						
Minor	--	--	--	--	--	--	--	--	--	P*	P*	P*	--	P	P	P	P	P	P	--	P	Sec. 21-5.60(c)(2)
Major	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	--	P	Sec. 21-5.60(c)(2)
University, College	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	Sec. 21-5.60(c)(3)
Government																						
Consulate	--	--	--	--	P*	P*	P	P	P	P	P	P	P	P	P	P	P	--	--	--	--	Sec. 21-5.60(d)(1)
Prison	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	Sec. 21-5.60(d)(2)
Public Facility	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	Sec. 21-5.60(d)(3)
Parks and Open Space																						
Cemetery	P	--	Cm*	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	Sec. 21-5.60(e)(1)
Park	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	--	--	--	P	Sec. 21-5.60(e)(2)
Utility																						
Small	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	Sec. 21-5.60(f)(1)
Medium	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Sec. 21-5.60(f)(2)
Large	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	Sec. 21-5.60(f)(3)
COMMERCIAL USES																						
Day Care																						
Child Day Care	--	--	C*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	P	P	P	P	P	P	P	--	P	Sec. 21-5.70(a)(1)
Adult Day Care	--	--	C	Cm	Cm	Cm	Cm	Cm	Cm	Cm	Cm	Cm	P	P	P	P	P	P	P	--	P	Sec. 21-5.70(a)(2)
Eating and Drinking																						
General Eating and Drinking	--	--	--	--	--	--	--	--	--	P*	P*	P*	P	P	P	P	P	P	P	P	P	Sec. 21-5.70(b)(1)
Bar/Nightclub																						
Minor	--	--	--	--	--	--	--	--	--	--	--	--	P	--	P*	P*	P*	P*	P	--	P*	Sec. 21-5.70(b)(2)
Major	--	--	--	--	--	--	--	--	--	--	--	--	P	--	P*	--	P*	--	--	--	P*	Sec. 21-5.70(b)(2)
Lodging																						
Bed and Breakfast Home	--	--	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	--	--	P*	P*	--	--	--	--	Sec. 21-5.70(c)(1)
Hotel																						
Minor	--	--	--	--	--	--	--	--	--	--	--	--	P	--	--	Cm*	P	--	--	--	P*	Sec. 21-5.70(c)(2)
Major	--	--	--	--	--	--	--	--	--	--	--	--	P	--	--	C*	P	--	--	--	--	Sec. 21-5.70(c)(2)
Time Share	--	--	--	--	--	--	--	P*	--	--	--	--	P	--	--	--	--	--	--	--	--	Sec. 21-5.70(c)(3)
Transient Vacation Unit	--	--	--	--	--	--	P*	P*	--	--	--	--	P*	--	--	--	--	--	--	--	--	Sec. 21-5.70(c)(4)
Medical Services																						
General Medical Services	--	--	--	--	--	--	--	--	--	P*	P*	P*	P	P	P	P	P	--	--	--	P*	Sec. 21-5.70(d)(1)
Hospital	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	Sec. 21-5.70(d)(2)
Medical Laboratory	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	P	P	P	--	P	Sec. 21-5.70(d)(3)
Office																						
General Office	--	--	--	--	--	--	--	--	--	P*	P*	P*	P	P	P	P	P	P	P	--	P	Sec. 21-5.70(e)(1)

Table 21-5.1 Table of Allowed Uses	Preseration, Agricultural, Country				Residential, Apartment					Apartment Mixed Use, Resort				Business, Business Mixed Use				Industrial, Industrial Commercial Mixed Use				Definition/ Standards
	P-2	AG-1	AG-2	Country	R-20, R-10	R-7.5, R-5, R-3.5	A-1	A-2	A-3	AMX-1	AMX-2	AMX-3	Resort	B-1	B-2	BMX-3	BMX-4	I-1	I-2	I-3	IMX-1	
	P = Permitted Use C = Major Conditional Use Cm = Minor Conditional Use Eu = Existing Use Only PRU = Plan Review Use * = Use Standards Apply																					
Parking																						
Remote Parking	--	--	--	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Sec. 21-5.70(f)(1)
Commercial Parking	--	--	--	--	--	--	--	--	--	P*	P*	P*	P	P	P	P	P	P	P	--	P	Sec. 21-5.70(f)(2)
Personal Services																						
General Personal Services	--	--	--	--	--	--	--	--	--	P*	P*	P*	P	P	P	P	P	--	--	--	P*	Sec. 21-5.70(g)(1)
Animal Care																						
Minor	--	--	--	--	--	--	--	--	--	--	P*	P*	P*	P*	P*	P*	P*	P*	P	--	P*	Sec. 21-5.70(g)(2)
Major	--	--	P*	P*	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	--	--	Sec. 21-5.70(g)(2)
Wedding Services	--	--	--	--	--	--	--	--	--	P*	P*	P*	P	P	P	P	P	--	--	--	P	Sec. 21-5.70(g)(3)
Recreation, Indoor																						
General Indoor Recreation	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	P	P	P	P	P	P	Sec. 21-5.70(h)(1)
Theater	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	P	P	--	--	--	P	Sec. 21-5.70(h)(2)
Recreation, Outdoor																						
General Outdoor Recreation	--	--	--	--	--	--	--	--	--	--	--	--	C*	C*	C*	--	C*	C*	C*	--	Cm*	Sec. 21-5.70(i)(1)
Golf Course	PRU	--	--	--	--	--	--	--	--	--	--	--	PRU	--	--	--	--	--	--	--	--	Sec. 21-5.70(i)(2)
Retail																						
General Retail																						
Small	--	--	--	--	C*	C*	C*	C*	C*	P*	P*	P*	P*	P*	P*	P*	P*	P	P	P	P*	Sec. 21-5.70(j)(1)
Medium	--	--	--	--	--	--	--	--	--	P*	P*	P*	P*	P*	P*	P*	P*	P	P	--	P*	Sec. 21-5.70(j)(1)
Large	--	--	--	--	--	--	--	--	--	--	--	--	P*	P*	P*	P*	P*	P	P	--	P*	Sec. 21-5.70(j)(1)
Alternative Financial Service	--	--	--	--	--	--	--	--	--	--	--	--	--	Cm	Cm	Cm	Cm	--	--	--	Cm	Sec. 21-5.70(j)(2)
Mobile Commercial Establishment	--	--	--	Cm*	--	--	--	--	--	P*	P*	P*	--	P*	P*	P*	P*	P*	P*	P*	P*	Sec. 21-5.70(j)(3)
Vehicle-Related																						
Car Wash	--	--	--	--	--	--	--	--	--	--	--	--	--	P*	P*	P*	P*	P*	P*	--	P*	Sec. 21-5.70(k)(1)
Vehicle Fueling Station	--	--	--	--	--	--	--	--	--	--	--	--	--	P*	P	P	P	P	P	--	P	Sec. 21-5.70(k)(2)
Vehicle Repair																						
Service	--	--	--	--	--	--	--	--	--	--	--	--	--	P*	P*	P*	P*	P	P	P	P*	Sec. 21-5.70(k)(3)
Light	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P*	P	P	--	Sec. 21-5.70(k)(3)
Heavy	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	--	Sec. 21-5.70(k)(3)
Vehicle Sales and Rental																						
Light	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P*	P*	P*	P	P	--	P*	Sec. 21-5.70(k)(4)
Heavy	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	--	Sec. 21-5.70(k)(4)
Accessory Commercial																						
Caretaker Unit	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	--	--	P	P	P	P	Sec. 21-5.70(l)(1)
Drive-Thru	--	--	--	--	--	--	--	--	--	--	--	--	--	P*	P*	P*	P*	P*	P*	P*	P*	Sec. 21-5.70(l)(2)
Retail	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P*	P*	P*	--	Sec. 21-5.70(l)(3)

Table 21-5.1 Table of Allowed Uses	Preservation, Agricultural, Country				Residential, Apartment					Apartment Mixed Use, Resort				Business, Business Mixed Use				Industrial, Industrial Commercial Mixed Use				Definition/ Standards		
	P-2	AG-1	AG-2	Country	R-20, R-10	R-7.5, R-5, R-3.5	A-1	A-2	A-3	AMX-1	AMX-2	AMX-3	Resort	B-1	B-2	BMX-3	BMX-4	I-1	I-2	I-3	IMX-1			
	P = Permitted Use C = Major Conditional Use Cm = Minor Conditional Use Eu = Existing Use Only PRU = Plan Review Use * = Use Standards Apply																							
Vacation Cabin	C*	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	Sec. 21-5.70(l)(4)		
INDUSTRIAL USES																								
Manufacturing and Processing																								
General Manufacturing and Processing																								
Light					--	--	--	--	--	--	--	--	--	--	P*	P*	P*	P*	P	P	P	P	Sec. 21-5.80(a)(1)	
Heavy					--	--	--	--	--	--	--	--	--	--	--	--	--	--	P*	P	P	--	Sec. 21-5.80(a)(1)	
Bio-Fuel Processing Facility					C*	C*	C*	--	--	--	--	--	--	--	--	--	--	--	--	Cm*	Cm*	--	Sec. 21-5.80(a)(2)	
Brewery, Distillery, Winery																								
Minor					--	--	--	--	--	--	--	--	--	P	P	P	P	P	P	P	P	P	Sec. 21-5.80(a)(3)	
Major					--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	P	Sec. 21-5.80(a)(3)	
Explosive/Toxic Chemical Manufacturing, Storage and Distribution					--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C*	--	--	Sec. 21-5.80(a)(4)	
Food Manufacturing and Processing					--	--	--	--	--	--	--	--	--	--	--	P*	P*	P*	P	P	P	P	Sec. 21-5.80(a)(5)	
Linen Suppliers					--	--	--	--	--	--	--	--	--	--	P	P	P	P	P	P	P	P	Sec. 21-5.80(a)(6)	
Petrochemical Plant					--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C*	Cm*	--	Sec. 21-5.80(a)(7)	
Production Studio					--	--	--	--	--	--	--	--	--	--	P	P	--	--	P	P	--	P	Sec. 21-5.80(a)(8)	
Publishing Facility					--	--	--	--	--	--	--	--	--	--	P	--	P	--	P	P	--	P	Sec. 21-5.80(a)(9)	
Marine																								
General Marine																								
Minor					C	--	--	--	--	--	--	--	--	Cm*	--	Cm*	Cm*	Cm*	--	P	P	P*	Sec. 21-5.80(b)(1)	
Major					--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	--	Sec. 21-5.80(b)(1)	
Port					--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	--	Sec. 21-5.80(b)(2)	
Repair																								
General					--	--	--	--	--	--	--	P*	P*	P*	--	P	P	P	P	P	P	P	Sec. 21-5.80(c)(1)	
Heavy					--	--	--	--	--	--	--	--	--	--	--	--	--	--	P*	P	P	--	Sec. 21-5.80(c)(2)	
Research and Development																								
General Research and Development					--	--	--	--	--	--	--	--	--	--	--	P	P	P	P	P	P	--	P	Sec. 21-5.80(d)(1)
Resource Extraction																								
General Resource Extraction					--	C*	C*	--	--	--	--	--	--	--	--	--	--	--	--	--	P	--	--	Sec. 21-5.80(e)(1)
Storage and Warehousing																								
General Storage, Warehousing and Distribution					--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	P	Sec. 21-5.80(f)(1)
Self-Storage					--	--	--	--	--	--	--	--	--	--	--	P*	P*	P*	P	P	--	P	Sec. 21-5.80(f)(2)	

Table 21-5.1 Table of Allowed Uses	Preservation, Agricultural, Country				Residential, Apartment					Apartment Mixed Use, Resort				Business, Business Mixed Use				Industrial, Industrial Commercial Mixed Use				Definition/ Standards
	P-2	AG-1	AG-2	Country	R-20, R-10	R-7.5, R-5, R-3.5	A-1	A-2	A-3	AMX-1	AMX-2	AMX-3	Resort	B-1	B-2	BMX-3	BMX-4	I-1	I-2	I-3	IMX-1	
P = Permitted Use C = Major Conditional Use Cm = Minor Conditional Use Eu = Existing Use Only PRU = Plan Review Use * = Use Standards Apply																						
Storage Yard	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P*	P*	P*	--	Sec. 21-5.80(f)(3)
Transportation																						
Airport	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	Sec. 21-5.80(g)(1)
Base Yard	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P*	P*	P*	P*	Sec. 21-5.80(g)(2)
Heliport	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	--	--	Sec. 21-5.80(g)(3)
Multi-Modal Facility	--	--	--	--	--	--	--	--	--	C	C	C	C	Cm	Cm	Cm	Cm	Cm	--	--	Cm	Sec. 21-5.80(g)(4)
Truck Terminal	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	--	Sec. 21-5.80(g)(5)
Waste-Related																						
Salvage, Scrap and Junk Storage or Processing	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	Cm*	Cm*	--	Sec. 21-5.80(h)(1)
Waste Disposal and Processing	C*	--	C*	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	Cm*	Cm*	--	Sec. 21-5.80(h)(2)
Accessory Industrial																						
Helistop	--	C*	C*	--	--	--	--	--	--	--	--	--	C*	--	C*	C*	C*	C*	P*	P*	C*	Sec. 21-5.80(i)(1)
MISCELLANEOUS																						
Historic Structure Re-Use	Cm*	Cm*	Cm*	C*	C*	C*	C*	C*	C*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Sec. 21-5.90(a)
Joint Development	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Sec. 21-5.90(b)
Transfer of Development	--	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Sec. 21-5.90(c)

Sec. 21-5.40 Agricultural Uses

(a) Crop Production

The production of crops, including growing grains, vegetables, fruits, nuts, flowers, seeds, ornamental plants and grasses, generally for consumption off-site or further processing on- or off-site for off-site use. Crop production uses are consolidated into the following groups in Sec. 21-5.30 Use Table.

(1) Aquaculture

(A) Defined

Cultivating and raising aquatic plants such as limu, wetland taro, kelp, or algae and aquatic animals such as fish or shellfish in controlled natural or artificial bodies of water.

(B) Standards

None.

(2) Composting

(A) Defined

Biological decomposition of organic or mixed solid waste materials under controlled conditions that produces a stable humus-like mulch or soil amendment. Composting does not include the bioremediation of fuel-contaminated soil.

(i) Minor

Composting organic materials such as plant matter or animal manure. Includes processing for sale and marketing.

(ii) Major

Composting non-organic material such as solid waste residue, sewage sludge, and animal food processing waste. Includes processing for sale and marketing.

(B) Standards

(i) Minor

- a. All incoming and outgoing loads must be covered or otherwise managed to prevent material from falling onto the ground while in transport and to mitigate odors.
- b. On-site areas where composting takes place must be located at least 50 feet away from all surface water, streams, or wetlands.
- c. Controls to manage odors, vectors, and surface and groundwater contamination are required.
- d. Compost material must be covered in such a way that no material will leave the site.
- e. All structures and activities must be set back a minimum of 100 feet from an adjoining Residential, Apartment, or Apartment Mixed Use or Resort District.

(ii) Major

- a. All incoming and outgoing loads must be covered and managed to prevent material from falling onto the ground while in transport and to mitigate odors.
- b. On-site areas where composting takes place must be located at least 50 feet away from all surface water, streams or wetlands.
- c. Controls to manage odors, vectors, and surface and groundwater contamination are required.
- d. Compost material must be covered in such a way that no material will leave the site.
- e. All structures and activities must be set back a minimum of 1,500 feet from an adjoining Country, Residential, Apartment, Apartment Mixed Use, or Resort District. When it can be determined by the Director 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 may the distance be less than 500 feet.

(3) Community Garden**(A) Defined**

Cultivating, maintaining, and harvesting crops primarily for personal or group use, consumption or donation. Does not include commercial use but may allow non-profit sales. Land may be cultivated jointly or divided into designated plots for cultivation by individuals acting independently.

(B) Standards

- (i) Community gardens are required to prepare a management plan for review as part of the conditional use process, to address how activities will be managed to avoid impacts on surrounding land uses and natural systems. The management plan must include:
 - a. A site plan.
 - b. Operating hours.
 - c. A description of the type of equipment necessary and the frequency and duration of anticipated use.
 - d. Disclosure of any intent to spray or apply agricultural chemicals or pesticides, frequency and duration of application, and the plants, diseases, pests or other purposes for which they are intended.
 - e. Disclosure of the spreading of manure.
 - f. A proposed sediment and erosion control plan.
- (ii) Only mechanical equipment designed for household use may be used.
- (iii) A farm dwelling is not allowed as an accessory use to a community garden.

(4) Crop Raising**(A) Defined**

Cultivating, maintaining, and harvesting crops, generally conducted in an open field or greenhouse. Includes cultivating crops with hydroponics.

(B) Standards

None.

(5) Forestry**(A) Defined**

Creating, conserving, and managing forests or forest lands for commodity benefits such as lumber or edible fruit or non-commodity benefits such as conservation or education.

(B) Standards

None.

(6) Plant Nursery**(A) Defined**

Propagating and growing plants for off-site sale. On-site accessory sales (both wholesale and retail) are included in this definition.

(B) Standards

None.

(7) Urban Agriculture**(A) Defined**

Cultivating, maintaining, and harvesting crops, often using intensive agriculture and large-scale farm equipment, primarily for profit, by an organization or business.

(B) Standards

- (i)** A management plan must be prepared for review as part of the conditional use process, to address how activities will be managed to avoid impacts on surrounding land uses and natural systems. The management plan must include:
 - a.** A site plan.
 - b.** Operating hours.
 - c.** A description of the type of equipment necessary or intended for use in each season, and the frequency and duration of anticipated use.
 - d.** Disclosure of any intent to spray or apply agricultural chemicals or pesticides, frequency and duration of application, and the plants, diseases, pests, or other purposes for which they are intended.
 - e.** Disclosure of the spreading of manure.

- f. A proposed sediment and erosion control plan.
- (ii) Building area for structures such as tool sheds, planting preparation houses, and restrooms must not exceed 15% of lot area.

(8) Vertical Farm

(A) Defined

Cultivating, maintaining, and harvesting crops in indoor environments such as warehouses or tunnels in stacked layers using hydroponic, aeroponic, or aquaponic techniques.

(B) Standards

Permitted only on soils that are rated poor (C or worse).

(b) Livestock Keeping

Uses directly related to the raising, feeding, and keeping of domesticated animals, generally for off-site use or consumption. Livestock keeping uses are consolidated into the following groups in Sec. 21-5.30 Use Table.

(1) Animal Raising

(A) Defined

Raising, feeding and keeping cattle, horses, goats, poultry, birds, rabbits, and swine, primarily in unconfined outdoor areas where they are free to roam or graze. Animals may be kept indoors overnight. Does not include feedlots. Includes boarding and care of domestic animals.

(B) Standards

None.

(2) Animal Raising, Confined

(A) Defined

Raising and feeding cattle, horses, goats, poultry, birds, rabbits, and swine primarily in confined indoor or outdoor areas, such as pens, stalls, or cages. Includes feedlots, defined as any animal feeding operation that congregates animals, feed, manure and urine, dead animals, and production operations on a small land area. Feed is brought to the animals rather than the animals grazing or otherwise seeking feed in pastures, fields, or on rangeland.

(B) Standards

- (i) All zoning lots must be a minimum of 3 acres in size.
- (ii) Feedlots and fowl, poultry, or swine enclosures must be set back a minimum of 300 feet from an adjoining Residential, Apartment, or Apartment Mixed Use District.

(c) Agricultural Support

Processing or storage of crop- and animal-related material prior to consumer consumption or use, and services supporting crop production and livestock keeping. Agricultural support uses are consolidated into the following groups in Sec. 21-5.30 Use Table.

(1) Agricultural Equipment Service**(A) Defined**

Selling and repairing machinery used in agricultural production, such as tractors, planters and harvesters.

(B) Standards

- (i) All structures and activities must be set back a minimum of 100 feet from an adjoining Residential, Apartment or Apartment Mixed Use District.
- (ii) Building area of all agricultural support facilities must not exceed 25% of lot area.

(2) Collection and Storage**(A) Defined**

Collecting and storing crops and animal-related products essential to supporting a variety of agriculture uses for distribution to wholesale and retail markets.

(i) Minor

Collecting and storing crops and live animal by-products such as milk, eggs and honey.

(ii) Major

Collecting and storing dead animals and associated by-products.

(B) Standards**(i) Minor**

Building area of all agricultural support facilities must not exceed 25% of lot area.

(ii) Major

- a. All structures and activities must be set back a minimum of 100 feet from an adjoining Residential, Apartment or Apartment Mixed Use District.
- b. Building area of all agricultural support facilities must not exceed 25% of lot area.

(3) Feed Store**(A) Defined**

Storing and selling products essential to agricultural production, such as seed, feed, and fertilizer.

(B) Standards

- (i) Only products which are clearly incidental to agricultural activities may be sold or stored.
- (ii) Building area of all agricultural support facilities must not exceed 25% of lot area.
- (iii) All structures and activities must be set back a minimum of 100 feet from an adjoining Residential, Apartment, or Apartment Mixed Use District.

(4) Livestock Veterinary Service**(A) Defined**

Caring for and treating large, domesticated animals such as cows, horses, goats, and swine. Does not include caring for and treating household pets such as cats and dogs.

(B) Standards

None.

(5) Processing**(A) Defined**

Processing local crops and local animal-related products essential to supporting a variety of agriculture uses for distribution to storage structures or wholesale and retail markets.

(i) Minor

Processing crops and live animal by-products such as milk, eggs, and honey.

(ii) Major

Slaughtering and processing dead animals and associated by-products.

(B) Standards**(i) Minor**

All structures and activities must be set back a minimum of 50 feet from an adjoining Country, Residential, Apartment, Apartment Mixed Use or Resort District.

(ii) Major

- a. All structures and activities must be set back a minimum 1,500 feet from an adjoining Country, Residential, Apartment, Apartment Mixed Use or Resort District.
- b. When it can be determined by the Director 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 may the distance be less than 500 feet.

(6) Sawmill**(A) Defined**

Processing timber, including hardwood or softwood, to produce pulp, lumber, logs, poles, posts, or wood chips.

(B) Standards

All structures and activities must be set back a minimum of 300 feet from an adjoining Residential, Apartment, or Apartment Mixed Use District.

(d) Accessory Agricultural Uses

Uses that provide services that indirectly support crop raising, livestock keeping and agricultural support uses that are in continuous use, including necessary and customary fallowing periods. Generally, accessory agricultural uses are operated by the owner or operator whose primary source of income is from the principal agricultural use. Accessory agricultural uses are consolidated into the following groups in Sec. 21-5.30 Use Table.

(1) Agricultural-Energy Facility**(A) Defined**

An accessory facility that generates, stores, or distributes renewable energy fuels from products of crop production or livestock keeping. Includes operational infrastructure of the appropriate type and scale for the economic commercial generation, storage, distribution, and other similar handling of energy, including equipment, feedstock, fuels, and other products of agricultural-energy facilities necessary for an enterprise that integrally incorporates an agricultural activity with an agricultural-energy facility. Does not include solar facilities.

(B) Standards

The primary activity on the zoning lot must be crop production or livestock keeping, consistent with the regulation of permissible uses within Agricultural Districts (HRS Section 205-4.5(a)(17)).

(2) Agritourism**(A) Defined**

Accessory agricultural-related tourism for recreational or educational purposes on zoning lots primarily used for ongoing crop production and livestock keeping. Agricultural-related tourism activities include kayaking, hiking, mountain biking, boating, horseback riding, ziplining, and picnicking. Limited destination events, such as weddings, are included in this definition.

(B) Standards

- (i)** At least 75% of the activity on the zoning lot must be crop production or livestock keeping.
- (ii)** The agritourism use must not render any portion of the land incapable of being converted to agricultural use with minimal effort.

- (iii) No excavation, paving, graveling, construction of permanent nonagricultural structures, or other activity that would diminish the productive capacity of the soils is permitted in connection with such activities.
- (iv) Structures primarily dedicated to agritourism must not exceed 10% of the total lot area.
- (v) Buildings and structures associated with agritourism that are not required as part of the crop production or livestock keeping on the site are limited to 10,000 square feet of total floor area for the zoning lot.
- (vi) As a condition of approval, dedication of 50% or more of the project site to active agricultural use, as determined by the Director, is necessary to preserve the purpose and intent of the Agricultural Districts. The dedication must be for a minimum of 10 years and will be required by way of an agricultural easement or comparable mechanism acceptable to the Director. The dedication shall be extended and remain in place as long as the agritourism activity continues.
- (vii) Bus, jeep, or off-road vehicle tours using motorized vehicles, including an all-terrain vehicle (ATV), quad, four-wheeler, off-highway motorcycle, or any other all-terrain or four-wheel drive vehicle, may only be conducted on a working farm, and require major conditional use approval subject to the following standards:
 - a. Tours must have an educational purpose related to the agricultural use of the property; and
 - b. Tours must not interfere with surrounding farm operations.
- (viii) Weddings and similar accessory destination events are limited as follows:
 - a. Events must take place at a designated event space.
 - b. No more than 2 events may occur each week.
 - c. Attendance at each event is limited to no more than 50 persons.
 - d. No more than 10 parking spaces associated with the event space are allowed, due to the limited road capacity in agricultural areas and to encourage shared ride and shuttle service to events. Full-size tour buses may not be used in association with any wedding or other destination event.
 - e. Predominantly open-air physical improvements associated with destination events, such as a roofed pavilion, are allowed, provided the floor area does not exceed 1,000 square feet.

(3) Beekeeping

(A) Defined

Accessory keeping of bees in artificial hives, such as honeybees and varieties of native bees, as a hobby or for commercial purposes. Commercial beekeeping in the Residential or Apartment Districts must comply with standards for home occupations.

(B) Standards

See also Sec. 7-2.5(b) Honeybees.

(i) Lot Size

The minimum lot size required for the keeping of bees is 5,000 square feet.

(ii) Lot Area Required

- a. No more than 2 beehives may be established on zoning lots less than 10,000 square feet.
- b. No more than 4 beehives may be established on zoning lots from 10,000 to 20,000 square feet.
- c. No more than 6 beehives may be established on zoning lots greater 20,000 square feet.

(iii) Setbacks

Hives must be set back a minimum of 25 feet from any property line except:

- a. When situated behind a solid fence, dense hedge, or similar barrier, at least 6 feet in height, parallel to the property line, established in front of the entrance of all ground-level hives so that bee departures and arrivals occur no less than 6 feet in height at interior property lines. The barrier for the purpose of influencing the flyway must extend 2 feet from each side of the hive openings.
- b. When located at least 8 feet or more above adjacent ground level.

(4) Biofuel Processing Facility**(A) Defined**

An accessory facility that produces liquid or gaseous fuels from organic sources such as biomass crops, agricultural residues, and oil crops, including palm, canola, soybean, and waste cooking oils; grease; food wastes; and animal residues and wastes that can be used to generate energy. Includes operational infrastructure of the appropriate type and scale for economic commercial storage and distribution, and other similar handling of feedstock, fuels, and other products of Biofuel Processing Facilities associated with the production and refining of biofuels normally considered directly accessory and secondary to the growing of the energy feedstock.

(B) Standards

- (i) All energy feedstocks must be grown on-site in Preservation or Agricultural Districts.
- (ii) Agricultural land and other agricultural uses in the vicinity must not adversely impacted, consistent with the regulation of permissible uses within the Agricultural Districts in HRS section on permissible uses within Agricultural Districts (HRS Section 205-4.5(a)(16)).
- (iii) Transitional setbacks apply as follows:
 - a. Preservation Districts: 1 additional foot of setback for every 2 feet above 15 feet in height.
 - b. Agricultural Districts: 1 additional foot of setback for every 2 feet above 15 feet in height.

- c. Industrial Districts: Every 1 foot in structure height requires 2 feet of setback from the vertical projection of the center line of the street.

(5) Farm Dwelling

(A) Defined

A self-contained dwelling unit accessory to crop production or livestock keeping, which is occupied by a household earning income from an agricultural activity performed on-site.

(B) Standards

- (i) Crop production and livestock keeping must occupy a minimum of 50% of the lot area.
- (ii) Each farm dwelling (including eaves, overhangs, carports, garages, trellised areas, stairways, decks, storage sheds, and swimming pools) must be contained within an area not to exceed 5,000 square feet confined to a polygon for which no exterior angle is greater than 180 degrees.
- (iii) In the AG-1 District, the number of farm dwellings must not exceed 1 for every 5 acres of lot area.
- (iv) In the AG-2 District, the number of farm dwellings must not exceed 1 for every 2 acres of lot area.
- (v) Where multiple farm dwelling lots are allowed, they must not exceed 10% of the total lot area.
- (vi) Farm dwelling is not allowed as an accessory use to open space, forestry, community garden or urban agriculture uses.
- (vii) Leasing land, managing labor, or managing a business is not considered performance of an agricultural activity.

(6) Farm Stand

(A) Defined

Selling merchandise primarily grown or made on the property with limited sales of prepackaged food and drinks. Does not include food trucks or mobile vendors.

(B) Standards

- (i) No more than 1 farm stand for the growers and producers of agricultural products is allowed on a zoning lot. More than one grower or producer is allowed at the farm stand.
- (ii) Enclosed floor area for the farm stand must not exceed 500 square feet. Additional unenclosed floor area may be roofed but must otherwise be open to the elements. No electricity, sewer, water, or other utility services are allowed in conjunction with a farm stand.
- (iii) The farm stand must be located on private property and not on any public right-of-way.

(7) Farm Worker Housing**(A) Defined**

Dwelling units accessory to an active agricultural use, exclusively for employees and their immediate family members who currently actively work on agricultural land.

(B) Standards

- (i) All structures and facilities associated with farm worker housing must occupy a contiguous total land area limited to whichever of the following is less:
 - a. 5% of the total agricultural land area on the zoning lot; or
 - b. 50 acres.
- (ii) The plans for farm worker housing must be supported by agricultural plans. The amount of labor necessary must justify the number of dwelling units proposed.
- (iii) Farm worker housing may be comprised of multiple individual units or attached units or may consist of multifamily units, provided that no more than 1 employee and their immediate family live in each unit or up to 3 unrelated employees may share 1 dwelling unit.
- (iv) Each dwelling unit must not exceed 800 square feet.
- (v) No more than 8 dwelling units are allowed in any multifamily structure.
- (vi) Building area must not exceed 50% of the land area associated with the farm worker housing. Impervious area must not exceed 75% of the area associated with the farm worker housing.
- (vii) Yards and height setbacks abutting the boundaries of the entire farm worker housing site must not be less than the minimum requirements for the underlying district. Additionally, the front yard for all lots fronting public streets must not be less than the front yard requirement of the underlying district.
- (viii) The landowner must not plan or develop a residential subdivision on the agricultural land, except in accordance with the plantation community subdivision regulations in the HRS section on permissible uses within the Agricultural Districts (HRS Section 205-4.5(a)(12)).
- (ix) When the associated farm is no longer in active production or no longer employing workers, no workers may be housed on the property. An exception is allowed to house 1 caretaker and their immediate family.

(8) Farmer's Market**(A) Defined**

An accessory facility with multiple agricultural product producers selling merchandise primarily grown or made in the City or elsewhere in the State of Hawaii with limited sales of prepackaged food and drinks. Does not include temporary retail activities in commercial areas or farmer's markets categorized for public use.

(B) Standards

Farmer's market may include structures for:

- (i) The sale and display of agricultural products grown or produced on-site, in the City, or elsewhere in the State of Hawaii.
- (ii) The preparation, display, sale, and consumption of finished foods, drinks, or other goods primarily made from agricultural products grown or produced on-site, in the City, or elsewhere in the State of Hawaii.
- (iii) The preparation display and sale of non-food items made primarily from agricultural products grown or produced on-site, in the City or elsewhere in the State of Hawaii.
- (iv) All walls must be at least 50% open.
- (v) Hours of operation for a farmer's market are between 6 a.m. and 8 p.m.
- (vi) Must provide adequate parking and vehicular access, as determined by the Director.
- (vii) As a condition of approval, the dedication of 50% 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.

Sec. 21-5.50 Residential Uses

(a) Household Living

Living in a dwelling unit as a household. Household living is consolidated into the following unit arrangements in Sec. 21-5.30 Use Table.

(1) Single-Unit Dwelling

(A) Defined

One principal dwelling unit in a single structurally independent building.

(B) Standards

None.

(2) Duplex-Unit Dwelling

(A) Defined

Two principal dwelling units, each in a single structurally independent building on a separate zoning lot, attached across a side or rear lot line.

(B) Standards

Each duplex-unit dwelling must be attached by a boundary wall for not less than 15 feet or 50% of the longer dwelling unit, excluding carports or garages, whichever is the greater length. A duplex-unit dwelling does not require a demising wall.

(3) Two-Unit Dwelling

(A) Defined

Two principal dwelling units in a single structurally independent building.

(B) Standards

- (i) Each two-unit dwelling must be surrounded by a yard.
- (ii) Dwelling units may be:
 - a. On separate floors; OR
 - b. Attached by a solid wall a minimum of 15 feet in length, carport, or garage.

(4) Three-Unit Dwelling

(A) Defined

Three principal dwelling units in a single structurally independent building.

(B) Standards

- (i) Each three-unit dwelling must be surrounded by a yard.
- (ii) Dwelling units may be:
 - a. On separate floors; OR

- b. Attached by a solid wall a minimum of 15 feet in length, carport, or garage.

(5) Multi-Unit Dwelling

(A) Defined

Four or more principal dwelling units in a single building, including courtyard apartments and cluster housing. Includes 1 to 3 principal dwelling units in a building with another permitted use.

(B) Standards

In the B-1 and B-2 Districts, multi-unit dwellings must be located above the first floor of a building occupied by a permitted, principal nonresidential use. A residential lobby of up to 1,500 square feet of floor area along with other necessary points of ingress or egress may be located on the ground floor. All other residential uses must be located above the non-residential use.

(b) Group Living

Residential occupancy that is not included in household living, or that is licensed, certified, registered, or monitored by the State. Includes State-licensed facilities such as adult residential care home, assisted living facility, adult daycare center, development domiciliary home, special treatment facility, clean and sober homes, and hospice homes. Includes any other type of special needs housing for the elderly. Also includes cooperative housing. Group living uses are consolidated into the following groups in Sec. 21-5.30 Use Table.

(1) Group Living, Small

(A) Defined

Group Living of up to 8 residents, not including resident managers or supervisors or their families, in a dwelling unit.

(B) Standards

Must be licensed, certified, registered, or monitored by the State.

(2) Group Living, Large

(A) Defined

Group Living of 9 or more residents, not including resident managers or supervisors or their families, or occupancy of a dwelling unit by more than 6 unrelated residents.

(B) Standards

- (i) Must be licensed, certified, registered, or monitored by the State, except where the residential occupancy of a dwelling unit is for 6 or more unrelated residents not subject to State regulation.
- (ii) Unless directly related to public health and safety, a group living facility must not be located within 1,000 feet of the next closest Large Group Living Facility in the Country, Residential and A-1 Districts. An exception is allowed for multifamily dwellings that provide housing for students or staff of an educational institution

with a total enrollment of 10,000 or more students that are located in the A-1 District within a 0.5-mile radius of the educational institution.

- (iii) Where special needs housing for the elderly is provided, the district regulations may be modified during consideration of a minor conditional use permit, as follows:
 - a. Maximum unit density may be increased by not more than 25% of the density permitted in the district.
 - b. Maximum Height may be increased by no more than 25% or 30 feet, whichever is less, of the maximum height permitted in the district.
 - c. Off-street parking requirements may be reduced to a minimum of 1 parking stall per 4 dwelling or lodging units and 1 guest parking stall per 10 dwelling or lodging units.
 - d. Where any district modifications are allowed during the conditional use process, 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 must be recorded with the Bureau of Conveyances 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 must be submitted with the application for a conditional use permit. The instrument is subject to the approval of the Director and the Corporation Counsel. The restriction on use must be part of the conditions of the permit.

(c) Accessory Residential Uses

Activities that provide services that indirectly support household living or group living uses. Accessory residential uses are operated by the owner or occupant of the principal residential use located on the same zoning lot. Accessory residential uses are consolidated into the following groups in Sec. 21-5.30 Use Table.

(1) Accessory Dwelling Unit

(A) Defined

An accessory residential unit on a zoning lot that includes a principal dwelling unit or a multi-unit dwelling.

(B) Standards

(i) General

- a. Accessory dwelling units are not permitted on lots in planned development housing or clusters.
- b. The floor area of an accessory dwelling unit must not exceed:
 1. 500 square feet for lots up to 4,999 square feet in area; and
 2. 800 square feet for lots 5,000 square feet or more in area.
- c. The construction or conversion of an accessory dwelling unit must meet all development standards for the primary use in the underlying district.

- d. An accessory dwelling unit may be created by:
 - 1. Building a new structure (attached or detached from the principal dwelling unit); or
 - 2. Converting a legally established structure (attached to or detached from the principal dwelling unit), attic, or basement.
- e. Only one accessory dwelling unit is allowed on a lot (including a multi-unit lot).

(ii) Advertisement

- a. 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.
- b. The burden of proof is on the owner to establish that the subject property either is not being used as a bed and breakfast home or transient vacation unit or that it is being used legally for such purpose.

(iii) Conditions of Approval

- a. At the time of building permit application, the applicant must 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.
- b. The owner of a structure constructed without a building permit prior to the effective date of Ordinance 15-41 (September 14, 2015) who wants to convert that structure to an accessory dwelling unit must 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.

c. Covenant for Accessory Dwelling Units

The owner or owners of the lot must 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. 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 covenant will be deemed a violation of Chapter 21 and will be grounds for enforcement by the Director pursuant to Section 21-2.150. The covenant must state:

- 1. The accessory dwelling unit may only be used for long-term rental and cannot be used as a bed and breakfast home or transient vacation unit.

2. The deed restrictions lapse upon removal of the accessory dwelling unit.
3. All the foregoing covenants are binding upon any and all heirs, successors, and assigns of the owner or owners.
4. Neither the owner nor 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 the HRS to separate the ownership of an accessory dwelling unit from the ownership of its principal dwelling unit.

(iv) Removal

The Department of Planning and Permitting must be notified upon removal of an accessory dwelling unit.

(2) Family Child Care Home

(A) Defined

An accessory use in a private residence at which care is provided for up to 6 children at any given time who are unrelated to the caregiver by blood, adoption, guardianship, marriage, or other duly authorized custodial relationship.

(B) Standards

- (i) No more than 6 children may be cared for at once.
- (ii) In the Agricultural Districts, a family child care home must be located in a farm dwelling or farm worker housing.
- (iii) No internal or external alterations inconsistent with the residential use and character of the building are permitted.
- (iv) Employees are limited to the following:
 - a. Household members.
 - b. Non-household members serving as a substitute caregiver for family child care home when:
 1. The principal caregiver is rendered unavailable by an emergency, including but not limited to illness of the principal caregiver or an immediate relative of the principal caregiver; and
 2. Such substitute employment does not exceed 5 days per calendar month plus a single instance of up to 14 days annually.

(3) Home Occupation

(A) Defined

An accessory use providing a service or product for compensation in a dwelling unit, in a building accessory to a dwelling unit, or on a zoning lot used primarily for dwelling purposes.

(B) Standards**(i) General**

- a. The exterior appearance and character of the dwelling must remain that of a dwelling.
- b. No internal or external alterations that require a building permit and are inconsistent with the residential use and character of the building are permitted.
- c. No outdoor storage of materials or supplies is permitted.
- d. For those activities which may have potential negative noise or odor impacts on adjoining residences, the Director may require that such activities be conducted in fully enclosed, noise-attenuated structures.
- e. Under no circumstances may the home occupation adversely impact the surrounding area due to increased traffic or parking demand, noise, smells or fumes, or the presence of dangerous or noxious activities.

(ii) Permitted Home Occupations

Permitted activities include, but are not limited to:

- a. Group Instruction.
- b. Sale of items produced by the household members.
- c. Occasional grooming or boarding of animals with no more than 5 animals on-site per day.

(iii) Prohibited Home Occupations

The following list identifies some of the activities that are prohibited as part of the Home Occupation Use. Prohibited activities include but are not limited to:

- a. Commercial automobile repair and painting.
- b. Routinely providing care, treatment or boarding of animals in exchange for money, goods, or services.
- c. Uses and activities which are only permitted in the Industrial Districts.
- d. Commercial weddings.
- e. Contractor's storage yards.
- f. Mail and package handling and delivery businesses.
- g. Sale of guns and ammunition.
- h. 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.

(iv) Employees

Employees are limited to household members.

(v) Parking

- a. Home occupations that depend on client visits, including group instruction, must provide 1 off-street parking space per 5 clients on the premises at any given time in addition to the parking required for the dwelling use.
- b. Residents of multifamily buildings may fulfill their parking requirement using guest parking with the approval of the building owner, manager, or condominium association.
- c. Commercial vehicles associated with the home occupation (other than occasional, infrequent, and momentary parking of a vehicle for pick-ups and deliveries as a service to the home occupation) must not park on the street and may not be stored on the property unless they can be parked within a garage or carport or similar area fully-screened from the street and neighboring properties.

(4) Ohana Unit**(A) Defined**

An accessory attached or detached unit on a zoning lot that includes a principal dwelling unit, for the relatives of a household occupying a principal dwelling unit on the same zoning lot.

(B) Standards**(i) General**

The Ohana Unit and the principal dwelling may be located within a single structure such as a two-unit dwelling or detached from the principal dwelling but located on the same lot.

(ii) Occupants

The Ohana Unit must be occupied by persons who are related by blood, adoption, guardianship, marriage, or other duly-authorized custodial relationship to the family residing in the principal dwelling; except those Ohana Units for which a building permit was obtained before September 10, 1992, are not subject to this subsection and their occupancy by persons other than family members is permitted.

(iii) Covenant for Ohana Unit

The owner or owners of the lot must 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. 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 covenant will be deemed a violation of Chapter 21 and will be grounds for enforcement by the Director pursuant to Section 21-2.150. The covenant must state:

"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 the HRS to separate the ownership of an accessory dwelling unit from the ownership of its principal dwelling unit.”

(5) Poultry Raising

(A) Defined

The accessory raising, feeding, and keeping of female poultry (hens), but not roosters.

(B) Standards

- (i) The keeping of hens is for non-commercial, personal use only.
- (ii) No sales are allowed on the premises.
- (iii) The maximum number of hens allowed is based on total lot size:
 - a. 2 hens for lots up to and including 3,000 square feet in area; and
 - b. 1 hen for each additional 1,000 square feet of area.
- (iv) Hens must be kept 20 feet from an adjacent property in the Residential, Apartment, and Apartment Mixed Districts.
- (v) Hens must be kept in the rear or side yard (but not in the front yard) and must be within a fenced area. If an enclosure is permanently affixed to the ground, it must meet all requirements for accessory structures.

(6) Rooming

(A) Defined

Providing accessory overnight living accommodations for compensation for a period of 30 days or more in the same dwelling unit occupied by an owner or occupant.

(B) Standards

Rooming is subject to the following specific use development standards.

- (i) No more than 3 roomers may reside in a dwelling unit (in addition to the members of a related household), provided the dwelling is not used as a Group Living Facility.
- (ii) Overnight accommodations provided for compensation must be for periods of 30 days or more in the same dwelling unit as that occupied by an owner, lessee, operator, or proprietor.

Sec. 21-5.60 Public, Civic and Institutional Uses

(a) Assembly

Uses for the assembly of people for a common purpose. Assembly uses are consolidated into the following groups in Sec. 21-5.30 Use Table.

(1) Community Recreation Center

(A) Defined

A non-commercial, community-based recreation center, including accessory outdoor recreation, meeting rooms, and maintenance offices.

(B) Standards

As required by conditional use permit.

(2) Convention Center, Concert, or Sporting Venue

(A) Defined

Professional or business convention centers focused primarily on serving the tourist trade, and venues for large-scale concerts and sporting events.

(B) Standards

As required during Plan Review (PRU).

(3) Meeting Facility

(A) Defined

The assembly of public, non-profit, and private membership-based organizations for educational, fraternal, or social purposes. Facilities may include accessory kitchens, multi-purpose rooms, storage space, training space, and classrooms for teaching religious subjects. Does not include activities considered Home Occupations.

(i) Meeting Facility, Small

A Meeting Facility accommodating up to 100 persons.

(ii) Meeting Facility, Medium

A Meeting Facility accommodating from 101 persons and up to 2,000 persons.

(iii) Meeting Facility, Large

A Meeting Facility accommodating over 2,000 persons.

(B) Standards

(i) Meeting Facility, Small or Medium

- a. In the AG-2 and Country Districts, a Small or Medium Meeting Facility may only be established on land designated by the State as Urban. Existing facilities that do not meet this standard are not considered nonconforming. Such existing facilities are considered a discretionary land use permit, are allowed to continue, and are allowed to make minor modifications,

provided they meet the development standards of the district and do not exceed the nonconforming provisions of Sec. 21-4.110.

- b. In the AG-2, Country, Residential, Apartment, and Apartment Mixed Use Districts, all Small or Medium Meeting Facilities must 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.
- c. In the I-1 and I-2 Districts, prior to commencement of a Small or Medium Meeting Facility use in an Industrial District, the owner and operator of the Meeting Facility must file with the Director and record in the Bureau of Conveyances or the Land Court of the State of Hawaii or both, as is appropriate, a declaration acceptable to the Department, stating that the owner and operator recognize that:
 - 1. Structures formerly in industrial use may require upgrades 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.
 - 2. 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 must also contain provisions that preclude the Meeting Facility and its representatives from filing nuisance complaints against any industrial use operating in compliance with applicable laws.
- d. In the I-2 District, no Small or Medium Meeting Facility may be located within 1,000 feet of another Meeting Facility of any size in the same or another Industrial District. Includes Meeting Facilities that are permitted uses and nonconforming uses.
- e. Under no circumstances may the meeting facility adversely impact the surrounding area due to increased traffic or parking demand, noise, smells or fumes, or the presence of dangerous or noxious activities.

(ii) **Meeting Facility, Large**

As required by conditional use permit.

(b) Communication

Uses for transmitting radio waves or wireless services. Communication uses are consolidated into the following groups in Sec. 21-5.30 Use Table.

(1) Dish Antenna

(A) Defined

A receiver or transmitter of electromagnetic energy, especially microwaves or radio waves, that consists of a reflector over 1 meter in size shaped like a shallow dish.

(B) Standards

None.

(2) Tower Antenna**(A) Defined**

A facility designed and constructed primarily to support 1 or more antennas such as self-supporting lattice towers, guyed towers, and monopoles. Includes radio and television transmission towers, microwave towers, common-carrier towers, and cellular telephone towers. Does not include amateur radio antennas.

(B) Standards

- (i) Tower antennas that are freestanding must be set back from every property line a minimum of 1 foot for every 5 feet of height.
- (ii) Tower antennas supported by guy wires must be set back from every property line a minimum of 1 foot for every 1 foot of height.
- (iii) AM broadcast tower antennas must be set back a minimum of 500 feet from any adjoining Country, Residential, Apartment, or Apartment Mixed Use District.
- (iv) FM and TV tower antennas must be set back a minimum of 2,500 feet from any adjoining Country, Residential, Apartment, or Apartment Mixed Use District.
- (v) All tower antennas must be designed to structurally accommodate the maximum number of additional users technically practicable but in no case less than the following:
 - a. For TV tower antennas, at least 3 high power television antennas and 1 microwave facility or 1 low power television antenna, or 2 FM antennas and at least 1 two-way radio antenna for every 10 feet of the tower over 200 feet.
 - b. For any other tower antennas, at least 1 two-way radio antenna for every 10 feet of the tower, or at least 1 two-way radio antenna for every 20 feet of the tower, and at least 1 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.
- (vi) Once a tower antenna or tower antenna site is approved, additional antennas and accessory uses proposed within the approved envelope (i.e. height and distance from tower) will be processed without requiring a modification to the permit, unless it is within a Special District. When the site is approved for a tower antenna, but the tower antenna needs to be replaced, a new permit is only required if the replacement facility is taller, or in a substantively different location.
- (vii) If it is determined that a tower 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 must correct the situation or discontinue the use and remove the structures at the applicant's expense.

(viii) The following must be submitted as part of any application for a tower antenna:

- a. Where a tower antenna is being requested, a quantitative description of the additional tower capacity anticipated must be submitted, including the approximate number and types of antennas. The applicant must also describe any limitations on the ability of the tower to accommodate other uses such as radio frequency interference, mass, height, or other characteristics.
- b. Evidence of a lack of space on all existing towers that 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.

(ix) Tower antennas and associated facilities must be enclosed by fencing not less than 6 feet in height and towers must be equipped with an anti-climbing device.

(x) All requests for tower antenna installations must be accompanied by a landscape plan, which must be approved by the Director. Special emphasis will be placed on visual buffering for the installation from adjacent streets and highways.

(xi) Monotree installations must be designed to fit with surrounding trees.

(3) Stealth Antenna Structure

(A) Defined

A facility such as a rooftop structure, facade-mounted structure, clock tower, campanile, steeple, light structure, and other wireless communication support structures that support an antenna.

(B) Standards

- (i) At-grade equipment shelters must be surrounded by a minimum 10-foot wide buffer.
- (ii) Stealth antenna structures must be set back a distance equal to the height of the structure from a property line unless the facility is proposed to be located on an existing building.
- (iii) The stealth antenna structure must comply with applicable State and local regulations, including, but not limited to, building and safety codes.
- (iv) When the site is approved for a stealth antenna structure, but the structure needs to be replaced, a new permit is only required if the new facility is higher, in a substantively new location, or is proposing new stealth components to minimize visibility.
- (v) Any facade-mounted, ground-mounted, or roof-mounted stealth antenna structure must be completely screened from view from adjacent streets and utilize stealth technology to physically and visually minimize the visibility of the facility.

- (vi) All requests for stealth antenna structures must be accompanied by a landscape or screening plan, which must be approved by the Director. Special emphasis will be placed on visual buffering of the installation from adjacent streets or public viewing areas.

(4) Accessory Communication Structure

(A) Defined

Any communications structure or system not regulated by the Federal Communications Commission, including a satellite dish up to 1 meter in size and an amateur (ham) radio antenna.

(B) Standards

- (i) All antennas must not be located in the required yard.
- (ii) All antennas must be set back from all property lines $\frac{1}{3}$ of the height of the antenna or the district setback requirements, whichever is greater.
- (iii) The antenna must be located at a distance equal to or greater than the antenna height from the nearest residential dwelling, excluding the owner's primary dwelling or structure.
- (iv) The antenna must not be lit.
- (v) All antennas must be equipped with devices that will, in a safe manner, prevent them from being climbed and must be securely fastened.
- (vi) All guy wires must be anchored on-site and outside of any right-of-way.
- (vii) Receive-only antennas when mounted on the ground must be screened by walls, earth berms, or landscaping a minimum of 4 feet in height.

(c) Education

Uses that educate students. Education uses are consolidated into the following groups in Sec. 21-5.30 Use Table.

(1) School, K-12

(A) Defined

A facility educating students enrolled in pre-kindergarten through 12th grade operated by a private institution using a curriculum equivalent to a Hawaii public school.

(B) Standards

- (i) All structures and facilities must be set back a minimum of 20 feet from an adjoining Country, Residential, Apartment, or Apartment Mixed Use District. This requirement may be waived by the Director if topography or landscaping makes such a buffer unnecessary.
- (ii) The minimum lot size is 20,000 square feet.
- (iii) Schools must 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.

(iv) Parking and loading:

- a. Schools with a design capacity of more than 25 students must provide an off-street drop-off area, with a minimum capacity equivalent to 4 standard-sized parking spaces. This number may be adjusted by the Director as the design capacity of the school changes, or if a traffic management plan is approved.
- b. Schools with a design capacity of more than 50 students must provide at least 1 multi-purpose bay that is a minimum of 40 feet in depth by 14 feet in width to accommodate bus pick-up and drop-off. This multipurpose bay may be used for other activities outside of pickup and drop-off hours. These numbers may be adjusted by the Director as the design capacity of the school changes.

- (v) In the AG-2 District, a school may only be established on land designated by the State as Urban as a minor conditional use or on land designated by the State as AG, by major conditional use permit.

(2) School, Vocational**(A) Defined**

A facility for post-secondary education with a curriculum devoted primarily to business (including barbers and beauticians), industry, trade or other vocational-technical instruction, or language school.

(i) Minor

Facilities that do not include the operation of industrial equipment such as floor-mounted woodworking or machine shop equipment.

(ii) Major

Facilities that include the operation of industrial equipment such as floor-mounted woodworking or machine shop equipment.

(B) Standards**(i) Minor**

Hours of operation are limited to between 6 a.m. and 10 p.m.

(ii) Major

None.

(3) University, College**(A) Defined**

A facility operated by an institution of higher education that awards an Associate, Bachelor, Master, or Ph.D. degree.

(B) Standards

As required during Plan Review (PRU).

(d) Government

Uses that serve a public purpose. Government uses are consolidated into the following groups in Sec. 21-5.30 Use Table.

(1) Consulate**(A) Defined**

A facility that includes the offices of an official appointed by a foreign government that serves the interests of foreign citizens, including administrative offices. Consulate may include space for residential occupancy. Consulates are public facilities eligible for waivers.

(B) Standards

All structures and facilities must be set back a minimum setback of 20 feet from an adjoining Residential, Apartment, or Apartment Mixed Use District unless buffered by a solid wall, screening fence or buffering hedge that is 6 feet tall.

(2) Prison**(A) Defined**

A public facility or a facility run by a State-licensed entity for the confinement, housing, and supervision of persons awaiting trial or serving terms of imprisonment for the violation of criminal law.

(B) Standards

As required during Plan Review (PRU).

(3) Public Facility**(A) Defined**

A facility providing a government function, activity or service in accordance with public policy, for public benefit. Does not include buildings leased by the government to a private or nonprofit organization unless the organization is contracted to act as a public entity or execute a public program. Includes administrative offices and transportation stops.

(B) Standards

None.

(e) Park and Open Space

Uses that provide active or passive outdoor recreation. Park and open space uses are consolidated into the following groups in Sec. 21-5.30 Use Table.

(1) Cemetery**(A) Defined**

A property divided into cemetery lots for sale as burial plots at an interment facility, including columbaria and mausoleums.

(B) Standards

- (i) 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.
- (ii) No burials are allowed within 50 feet of the cemetery boundary.

(2) Park**(A) Defined**

A publicly-accessible area used for outdoor play or recreation, often containing recreational equipment such as slides, swings, climbing frames, ball fields, soccer fields, basketball courts, swimming pools, tennis courts, and botanical gardens. May include both passive and active recreation. Includes projects that promote and enhance ecosystem benefits, keeping of wildlife on land with preserved natural features, as well as picnic grounds, beaches, beach access, greenways, and areas for hiking, fishing, hunting, and other scenic interests. This does not include a community recreation center.

(B) Standards

None.

(f) Utility

A facility for generating and distributing utility services such as electricity, gas, sewer, water, cable, and internet. In order to determine the appropriate category for a particular project, the Director will look at the specific components of the project intended to be located on the affected site, and not to any other off-site components (for example, the addition of a new substation and its capacity alone, and not on the power generating source it is attached to). Utility uses are consolidated into the following groups in Sec. 21-5.30 Use Table.

(1) Small**(A) Defined**

Utility infrastructure that provides primarily utility services to the site, with no on-site personnel. Includes geothermal, wind, and solar energy generation up to and including 20 kilowatts with supporting storage, control, and transmission equipment; stormwater retention or detention pond; aeration and septic system; drainage; and water supply well and water tank.

(B) Standards**(i) General**

All equipment, including rooftop-mounted equipment, must be set back pursuant to the height setbacks in Articles 3 and 9 for the underlying zoning district or special district.

(ii) Wind and Solar Energy Generation**a. General**

1. Energy generation systems are limited to systems that produce electricity from the sun or the wind.
2. Energy generation systems must be operated so that no disruptive electromagnetic interference is caused. If the Director determines that the system is causing harmful interference, the operator must promptly mitigate the interference.
3. Energy generation systems will be deemed abandoned if not in continuous use for at least 1 year, with the exception of periods related to necessary maintenance or repair. Upon determination by the Director that an energy generation system has been abandoned, the structure must be dismantled and removed within 30 days after written notice.

b. Wind Energy

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 6-foot high fence and cannot be within 7 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. Guy wires must be equipped with devices that will, in a safe manner, prevent them from being climbed and must be securely fastened.
4. All guy wires must be anchored on-site and outside of any right-of-way.

(2) Medium**(A) Defined**

Utility infrastructure that provides primarily on-site utility services to a single commercial or industrial site, or a neighborhood, with no on-site personnel. Includes energy generation over 20 kilowatts that must be carried on transmission lines that handle up to 46 kV, along with supporting storage, control and transmission equipment and any expansion of generation capacity up to 5 MW; stormwater retention or detention pond; aeration and septic system; water and wastewater pump station or lift station; drainage; and water supply well, water tank or tower.

(B) Standards**(i) General**

- a. All equipment, including rooftop-mounted equipment, must be set back pursuant to the height setbacks in Articles 3 and 9 for the underlying zoning district or special district precinct.
- b. All clearances to utility facilities, including overhead lines and poles, must comply with any standards of the applicable utility provider.

(ii) Energy Generation**a. General**

1. Energy generation systems must be operated so that no disruptive electromagnetic interference is caused. If the Director determines that the system is causing harmful interference, the operator must promptly mitigate the interference.
2. Energy generation systems will be deemed abandoned if not in continuous use for at least 1 year, with the exception of periods related to necessary maintenance or repair. Upon determination by the Director that an Energy Generation System has been abandoned, the structure must be dismantled and removed within 30 days after written notice.

(iii) Wind Energy

- a. 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 6-foot high fence and cannot be within 7 feet of any roof or structure unless the blades are completely enclosed by a protective screen or fence.
- b. A public safety sign must be posted at the base of the tower warning of high voltage and dangerous moving blades.
- c. Guy wires must be equipped with devices that will, in a safe manner, prevent them from being climbed and must be securely fastened.
 1. All guy wires must be anchored on-site and outside of any right-of-way.
 2. Wind machines must be set back from all property lines 1 foot for each foot of height, measured from the highest vertical extension of the system.
 3. Horizontal-axis and ground-mounted vertical-axis wind machines with a rated capacity of up to 100 kilowatts must be set back from all property lines at 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. Horizontal-axis and ground-mounted vertical-axis wind machines with a rated capacity of 100 kilowatts or greater must be set back a minimum of 1.25 miles from the zoning lot lines of any lot located in

the Country, Residential, Apartment, Apartment Mixed Use and Resort Districts.

4. Rooftop mounted vertical-axis wind machines with a rated capacity of up to 100 kilowatts must be set back pursuant to the height setbacks in the underlying zoning district or special district precinct.

(3) Large

(A) Defined

Utility infrastructure that provides primarily off-site services to multiple neighborhoods. Includes energy generation that must be carried on transmission lines that handle over 46 kV, along with supporting storage, control and transmission equipment, and any expansion of generation capacity over 5 MW; water and wastewater pump stations or lift station; waste treatment plant; water tanks or tower; telecommunications switching and transmission line; reservoir; and electrical substation.

(B) Standards

(i) General

- a. All equipment, including rooftop-mounted equipment, must be set back pursuant to the height setbacks in Articles 3 and 9 for the underlying zoning district or special district precinct.
- b. All clearances to utility facilities, including overhead lines and poles, must comply with any standards of the applicable utility provider.

(ii) Energy Generation

a. General

1. Energy generation systems must be operated so that no disruptive electromagnetic interference is caused. If the Director determines that the system is causing harmful interference, the operator must promptly mitigate the interference.
2. Energy generation systems will be deemed abandoned if not in continuous use for at least 1 year, with the exception of periods related to necessary maintenance or repair. Upon determination by the Director that an Energy Generation System has been abandoned, the structure must be dismantled and removed within 30 days after written notice.

(iii) Wind Energy

- a. 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 6 foot high fence and cannot be within 7 feet of any roof or structure unless the blades are completely enclosed by a protective screen or fence.
- b. A public safety sign must be posted at the base of the tower warning of high voltage and dangerous moving blades.
- c. Guy wires must be equipped with devices that will, in a safe manner, prevent them from being climbed and must be securely fastened.

1. All guy wires must be anchored on-site and outside of any right-of-way.
2. Wind machines must be set back from all property lines 1 foot for each foot of height, measured from the highest vertical extension of the system.
3. Horizontal-axis and ground-mounted vertical-axis wind machines with a rated capacity of up to 100 kilowatts must be set back from all property lines at 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. Horizontal-axis and ground-mounted vertical-axis wind machines with a rated capacity of 100 kilowatts or greater must be set back a minimum of 1.25 miles from the zoning lot lines of any lot located in the Country, Residential, Apartment, Apartment Mixed Use and Resort Districts.
4. Rooftop mounted vertical-axis wind machines with a rated capacity of up to 100 kilowatts must be set back pursuant to the height setbacks in the underlying zoning district or special district precinct.

Sec. 21-5.70 Commercial Uses

(a) Day Care

Providing care and supervision of children or adults on a regular basis in a facility away from their primary residence. Day care is consolidated into the following groups in Sec. 21-5.30 Use Table.

(1) Child Day Care

(A) Defined

A facility other than a private home for supervision and care of 7 or more children under 18 years of age for fewer than 24 hours per day, operated by a licensed person, society, agency, corporation, institution, or group for pay. Includes before-school and after-school child care, group child care centers, group child care homes, and infant and toddler child care centers. See also Family Child Care Home in Sec. 21-5.50(c)(2).

(B) Standards

- (i) All outdoor activity areas, such as playgrounds, tot lots, play courts, and similar facilities, must be set back a minimum of 15 feet from an adjoining Country, Residential, Apartment, or Apartment Mixed Use District and a 6-foot high solid wall must be provided as a buffer. This requirement may be waived by the Director if topography or landscaping makes such a buffer unnecessary.
- (ii) Facilities with a design capacity exceeding 25 care recipients must provide an on-site pickup and drop-off area equivalent to 4 standard-sized parking spaces.

(2) Adult Day Care

(A) Defined

A licensed facility maintained and operated by an individual, organization or agency for the purpose of providing the opportunity to interact with other adults while being part of a safe and structured environment, with or without charging a fee, for fewer than 24 hours per day. Adult day care typically includes staffed activities such as music and exercise programs and discussion groups.

(B) Standards

As required by conditional use permit.

(b) Eating and Drinking

Preparing and selling food and drink. Eating and drinking are consolidated into the following groups in Sec. 21-5.30 Use Table.

(1) General Eating and Drinking

(A) Defined

Preparing and selling food and drink for on-site and off-site consumption. Includes restaurant, ☺, coffee or tea shop, ice cream shop, juice or smoothie bar, and catering facility. See also Drive-Thru in Sec. 21-5.70(l)(1).

(B) Standards

The density controls of Table 21-3.3 and Section 21-3.90-1(c)(4) apply.

(2) Bar/Nightclub**(A) Defined**

A facility for preparing and selling liquor for on-site consumption. Does not include liquor product-on - see Brewery, Distillery, Winery, Sec. 21-5.80(a)(3). May include a dance floor or live or amplified recorded music or professional entertainment, subject to licensing by the Honolulu Liquor Commission.

(i) Minor

A Bar/Nightclub open until 2:00 am.

(ii) Major

A Bar/Nightclub open until 4:00 am.

(B) Standards**(i) Major or Minor**

A Major or Minor Bar/Nightclub must be set back a minimum of 300 feet from a Residential, Apartment, or Apartment Mixed Use District.

(c) Lodging

Accommodations arranged for short-term stays that are typically less than 30 calendar days. Lodging is consolidated into the following groups in Sec. 21-5.30 Use Table.

(1) Bed and Breakfast Home**(A) Defined**

A use in which overnight accommodations are advertised, solicited, offered, or provided, or any combination of the preceding, to guests for compensation, for periods of less than 30 days, in the same detached dwelling as that occupied by an owner, lessee, operator or proprietor of the detached dwelling. For purposes of this definition, compensation includes, but is not limited to, monetary payment, services, or labor of guests.

(B) Standards**(i) Permitted Districts**

Bed and breakfast homes are permitted in the A-1 low-density apartment zoning district and 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-1 or A-2 district, as applicable, were rezoned pursuant to the same zone change application as part of a master-planned resort community.

- c. Notwithstanding any contrary provisions in this chapter, bed and breakfast homes are prohibited and may not operate without a valid nonconforming use certificate in areas where the applicable development plan or sustainable communities plan prohibits or does not permit new bed and breakfast homes.

(ii) Requirements

In all zoning districts where bed and breakfast homes are permitted, except for the Resort District, the Resort Mixed Use Precinct of the Waikiki Special District, and the A-1 low-density apartment district and the A-2 Districts pursuant to subsection (i), and except as otherwise provided in subsection (v) below, the following standards and requirements apply:

a. Registration

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, must register the bed and breakfast home with the department and must submit the following in the initial application for registration:

1. Affirmation that the applicant of the bed and breakfast home is a natural person;
2. Affirmation that the applicant does not hold a registration for or operate more than 1 bed and breakfast home or transient vacation unit in the City at the same time;
3. A valid current State of Hawaii general excise tax license and transient accommodations tax license for the subject property;
4. Evidence of a real property tax home exemption for the subject property, and evidence that the applicant has a minimum 50% ownership interest in the subject property;
5. An initial fee of \$1,000 for the bed and breakfast home;
6. Evidence that the use as a bed and breakfast home is covered by an insurance carrier for the subject property;
7. 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;
8. 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;
9. A floor plan showing the location of guest rooms for a bed and breakfast home;
10. For bed and breakfast homes located in the AG-2 District, evidence that the portion of the subject property that is not being used as a farm dwelling is currently dedicated for a specific agricultural use pursuant to Section 8-7.3; and

11. 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 eviction within the last 12 months.

b. Registration Renewal

1. 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, must submit to the Department:
 - i. Affirmation that the applicant for the bed and breakfast home is a natural person;
 - ii. Affirmation that the applicant does not hold registration for or operate more than 1 bed and breakfast home or transient vacation unit in the City at the same time;
 - iii. Evidence of having paid State of Hawaii general excise taxes and transient accommodations taxes for the subject property;
 - iv. Evidence of a real property tax home exemption for the subject property;
 - v. A renewal fee of \$2,000 for the bed and breakfast home;
 - vi. Evidence that the use as a bed and breakfast home is covered by an insurance carrier for the property;
 - vii. 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;
 - viii. 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
 - ix. For bed and breakfast homes located in the AG-2 District, evidence that the portion of the subject property that is not being used as a farm dwelling pursuant to Sec. 21-5.40(d)(5), is currently dedicated for a specific agricultural use pursuant to Section 8-7.3.
2. The renewal of a registration for a bed and breakfast home will be granted upon receipt of an application meeting all of the requirements of 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.

c. Restrictions and Standards

Bed and breakfast homes must operate in accordance with the following restrictions and standards:

1. Dwelling units in detached dwellings used as bed and breakfast homes must be occupied by a household, and renters of any room in the detached dwelling other than the bed and breakfast home guests are not permitted;
2. No more than 2 guest rooms in a bed and breakfast home may be rented to guests, and a maximum of 4 guests are permitted within the bed and breakfast home at any one time;
3. Functioning smoke and carbon monoxide detectors must be installed in each bedroom;
4. 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;
5. When any guest room in a bed and breakfast home is being rented to guests, the owner or operator must remain on the premises during quiet hours;
6. The owner or operator must maintain a current 2-year registry setting forth the names and telephone numbers of all guests and the dates of their respective stays;
7. No exterior signage that shows the dwelling unit is used as a bed and breakfast home is allowed;
8. Registration as a bed and breakfast home is not transferable, and must not run with the land;
9. 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-2 Districts pursuant to subsection (i) 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 0.5% 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 0.5% limitation, acceptance of applications will be selected on a lottery basis. When renewal applications fall below the 0.5% limitation, new applications will be accepted on a lottery basis. The Director must adopt rules pursuant to HRS Chapter 91 to implement and administer the lottery;
10. Multifamily Dwelling Density Limit. Excluding multifamily dwellings in the Resort District, Resort Mixed Use Precinct of the Waikiki Special District, and the A-2 Districts pursuant to subsection (i), 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% of the total dwelling units in a multifamily dwelling;

11. If a bed and breakfast home is located in the AG-2 District, the portion of the subject property that is not being used as a farm dwelling pursuant to Sec. 21-5.40(d)(5), must be currently dedicated for a specific agricultural use pursuant to Section 8-7.3;
12. 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 or A-2 Districts pursuant to subsection (i), and (2) bed and breakfast homes located outside of those 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
 - iii. The owner or operator must 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 must 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.
- d. Upon reasonable notice, any bed and breakfast home must be made available for inspection by the Department.
- e. 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.
- f. This subsection does not apply to bed and breakfast homes operating under valid nonconforming use certificates pursuant to Section 21-4.110-2.
- g. The Director may revoke a registration at any time under the following circumstances:
 1. Recurring violations of the standards and requirements for bed and breakfast homes in Sec. 21-5.70(c)(3).

2. 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
3. The Director determines that good cause exists for revocation of the registration.

(iii) Advertisements

a. Definitions

As used in this subsection:

1. 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.
2. 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.

b. Prohibition

Advertisements for all bed and breakfast homes are subject to this subsection.

1. It is unlawful for any person to advertise or cause the advertisement of a bed and breakfast home without including in the advertisement:
 - i. A current registration number obtained pursuant to this section, or nonconforming use certificate number obtained pursuant to Section 21-4.110-2; 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-2 Districts pursuant to subsection (i), the street address, including, if applicable, any apartment unit number, for that bed and breakfast home.
2. Within 7 days after receipt of a notice of violation, the owner or operator of a bed and breakfast home must 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 7 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, for each day the advertisement is on public display beyond 7 days from the date the notice of violation is received.

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

c. Exemptions

The following are exempt from the provisions of this subsection.

1. Legally established hotels, whether owned by 1 person or owned individually as unit owners but operating as a hotel as defined in Chapter 21, Article 10.
2. Legally established time share units, as provided in Sec. 21-5.70(c)(3).
3. Legally established dwelling units that are rented for periods of 30 consecutive days or more at any one time.

(iv) Unpermitted Bed and Breakfast Homes

a. Definitions

As used in this subsection:

1. Unpermitted bed and breakfast home means a bed and breakfast home that is not:
 - i. Located in the Resort District, Resort Mixed Use Precinct of the Waikiki Special District, or A-2 Districts pursuant to subsection (i);
 - ii. Operating under a valid nonconforming use certificate pursuant to Section 21-4.110-2; or
 - iii. Validly registered under this section.

b. Unlawful Actions

It is unlawful for any owner or operator of an unpermitted bed and breakfast home, or the owner or operator's agent or representative to:

1. Rent, offer to rent or enter into a rental agreement to rent, an unpermitted bed and breakfast home for fewer than 30 consecutive days;
2. Rent, offer to rent, or enter into a rental agreement to rent, an unpermitted bed and breakfast home, 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;
3. Set aside or exclusively reserve an unpermitted bed and breakfast home 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

4. Advertise, solicit, offer, or knowingly provide rental of an unpermitted bed and breakfast home to transient occupants for less than 30 consecutive days.

(v) Complaints

Any person may submit a written complaint to the Director reporting a violation of the provisions of this section regarding bed and breakfast homes.

- a. A complaint reporting a suspected violation of the provisions of this section must:
 1. Identify the address of the bed and breakfast home that is the subject of the suspected violation;
 2. State all the facts that cause the complainant to believe that a violation has occurred;
 3. Identify the provisions of this section that the complainant believes are being violated; and
 4. Provide the complainant's address where the Director may mail a response to the complaint.
- b. 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:
 1. Declining jurisdiction over the complaint, in which case the complainant may pursue judicial relief pursuant to HRS Section 46-4(b);
 2. Entering a finding of no violation, which will be appealable to the Zoning Board of Appeals pursuant to Charter Section 6-1516; or
 3. Advising the complainant that the Director has initiated an investigation of the complaint.

(2) Hotel

(A) Defined

Providing lodging and dwelling units to guests as overnight accommodations for periods of less than 30 days. Includes services intended primarily for the convenience and benefit of hotel guests, such as restaurants, bars, retail space, meeting rooms, special event facilities, recreational facilities, and entertainment facilities.

(i) Minor

A minor hotel must not exceed any of the following thresholds:

- a. 180 lodging units per zoning lot.
- b. 2,000 square feet of total floor area devoted to meeting facilities.
- c. Only limited meal service for guests may be provided, such as breakfast.

(ii) **Major**

A major hotel is any hotel that exceeds one or more of the thresholds for a minor hotel.

(B) Standards

(i) **Minor**

- a. In BMX-3, minor hotels are only permitted within the Primary Urban Center Development Plan, the Ewa Development Plan, or the Central Oahu Sustainable Communities Plan areas as established by Chapter 24.
- b. In IMX, minor hotels are only permitted within 1 mile of a Daniel K. Inouye International Airport entrance.

(ii) **Major**

In BMX-3, major hotels are only permitted within the Primary Urban Center Development Plan, the Ewa Development Plan, or the Central Oahu Sustainable Communities Plan areas as established by Chapter 24.

(3) Time Share

(A) Defined

Occupying or possessing 1 or more dwelling or lodging units shared among various persons for less than a 60-day period in any year for any occupant and subject to State law. Includes time share units where the purchaser receives an ownership interest, and where the purchaser does not receive an ownership interest. Includes units in hotels, multi-unit dwellings, and transient vacation units.

(B) Standards

Time Share units are permitted in the A-2 District provided:

- (i) The A-2 District was rezoned with the Resort District pursuant to the same zone change application as part of a master-planned resort community.
- (ii) All time share units must be within 3,500 feet of a Resort District of greater than 50 contiguous acres measured as the shortest straight-line distance between the edge of each site's zoning lot line.
- (iii) Time share units may be either a Hotel, Transient Vacation Unit, or Multi-Unit Dwelling.

(4) Transient Vacation Unit

(A) Defined

A dwelling unit or lodging unit that is advertised, solicited, offered, or provided, or any combination of the preceding, for compensation to transient occupants for less than 30 days, other than a bed and breakfast home. For the purposes of this definition, compensation includes, but is not limited to, monetary payment, services, or labor of transient occupants.

(B) Standards**(i) Permitted Districts**

Transient vacation units are permitted in the A-1 and A-2 Districts provided:

- a. They are within 3,500 feet of a Resort District of greater than 50 contiguous acres; and
- b. The Resort District and the A-1 or A-2 Districts, as applicable, were rezoned pursuant to the same zone change application as part of a master-planned resort community.
- c. Notwithstanding any contrary provisions in this chapter, transient vacation units are prohibited and may not operate without a valid nonconforming use certificate in areas where the applicable development plan or sustainable communities plan prohibits or does not permit new transient vacation units.

(ii) Advertisements**a. Definitions**

As used in this subsection:

1. 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 transient vacation unit.
2. 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.

b. Prohibition

Advertisements for all transient vacation units are subject to this subsection.

1. It is unlawful for any person to advertise or cause the advertisement of a 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
 - ii. For 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 or A-2 Districts pursuant to subsection (i), the street address, including, if applicable, any apartment unit number, for that transient vacation unit.
2. Within 7 days after receipt of a notice of violation, the owner or operator of a transient vacation unit must 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 7 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 transient vacation unit, for each day the advertisement is on public display beyond 7 days from the date the notice of violation is received.

3. The existence of an advertisement will be prima facie evidence that 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 transient vacation unit, or that the advertisement was placed without the property owner's knowledge or consent.

c. Exemptions

The following are exempt from the provisions of this subsection.

1. Legally established hotels, whether owned by 1 person or owned individually as unit owners but operating as a hotel as defined in Chapter 21, Article 10.
2. Legally established time share units, as provided in Sec. 21-5.70(c)(3).
3. Legally established dwelling units that are rented for periods of 30 consecutive days or more at any one time.

(iii) Unpermitted Transient Vacation Units

a. Definitions

As used in this subsection:

1. Unpermitted transient vacation unit means a transient vacation unit that is not:
 - i. Located in the Resort District, Resort Mixed Use Precinct of the Waikiki Special District, or A-1 or A-2 Districts pursuant to subsection (i); or
 - ii. Operating under a valid nonconforming use certificate pursuant to Section 21-4.110-1.

b. Unlawful Actions

It is unlawful for any owner or operator of an unpermitted transient vacation unit, or the owner or operator's agent or representative to:

1. Rent, offer to rent, or enter into a rental agreement to rent, an unpermitted transient vacation unit for fewer than 30 consecutive days;
2. Rent, offer to rent, or enter into a rental agreement to rent, an 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;

3. Set aside or exclusively reserve an 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
4. Advertise, solicit, offer, or knowingly provide rental of an unpermitted transient vacation unit to transient occupants for less than 30 consecutive days.

(iv) Complaints

Any person may submit a written complaint to the Director reporting a violation of the provisions of this section regarding transient vacation units.

- a. A complaint reporting a suspected violation of the provisions of this section must:
 1. Identify the address of the transient vacation unit that is the subject of the suspected violation;
 2. State all the facts that cause the complainant to believe that a violation has occurred;
 3. Identify the provisions of this section that the complainant believes are being violated; and
 4. Provide the complainant's address where the Director may mail a response to the complaint.
- b. 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:
 1. Declining jurisdiction over the complaint, in which case the complainant may pursue judicial relief pursuant to HRS Section 46-4(b);
 2. Entering a finding of no violation, which will be appealable to the Zoning Board of Appeals pursuant to Charter Section 6-1516; or
 3. Advising the complainant that the Director has initiated an investigation of the complaint.

(d) Medical

Providing medical, surgical, or dental care to patients such as the diagnosis, treatment, mitigation, cure, or prevention of disease. Includes medical research and development. Medical is consolidated into the following groups in Sec. 21-5.30 Use Table.

(1) General Medical Services**(A) Defined**

Providing out-patient medical, surgical or dental care by a physician or health care worker in a facility that does not include on-site overnight care. Includes a doctor's office, ambulatory surgery facility, freestanding surgical out-patient facility, freestanding birthing center, chiropractor, dentist, orthodontist, physical therapist, kidney dialysis, blood donation or collection services, acute care, urgent care, and any administrative offices necessary for operation of the facility.

(B) Standards

- (i) In the Apartment Mixed Use Districts, the density controls of Table 21-3.3 and Section 21-3.90-1©(4) apply.
- (ii) In the Industrial Mixed Use District, the density controls of Table 21-3.5 and Section 21-3.140-1(c) apply.

(2) Hospital**(A) Defined**

Providing primarily in-patient, intensive, medical, or surgical care, including emergency care services. Includes facilities for extended care, intermediate care and out-patient care, living facilities for staff, research and educational facilities, doctor's offices, and any administrative offices necessary for the operation of the facility.

(B) Standards

As required during Plan Review (PRU).

(3) Medical Laboratory**(A) Defined**

Conducting medical research or testing and examining of materials derived from the human body, such as fluid, tissue or cells, for the purpose of providing information on diagnosis, treatment, mitigation, cure, or prevention of disease. Includes compounding pharmacy and training of medical students.

(B) Standards

None.

(e) Office

Providing business and professional services in an office setting. Office is consolidated into the following groups in Sec. 21-5.30 Use Table.

(1) General Office**(A) Defined**

Business and professional services in a private or co-working setting including, accounting, advertising, architecture, auditing, banking, bookkeeping, consulting,

design, employment, engineering, insurance, investment, landscape architecture, real estate, security, or technology services. Includes data storage centers and call centers.

(B) Standards

The density controls of Table 21-3.3 and Section 21-3.90-1©(4) apply.

(f) Parking

Parking as a principal use on a zoning lot, with or without a fee. Parking is consolidated into the following groups in Sec. 21-5.30 Use Table.

(1) Remote Parking

(A) Defined

A facility that provides parking on a different zoning lot than the principal use it serves.

(B) Standards

- (i) In the Apartment, Apartment Mixed Use and Resort Districts, there is no minimum lot area, width, or depth for remote parking facilities.
- (ii) For additional requirements for Remote Parking see Sec. 21-6.70.

(2) Commercial Parking

(A) Defined

A facility that provides parking as a principal use on the site.

(B) Standards

- (i) The density controls of Table 21-3.3 and Section 21-3.90-1(c)(4) apply.
- (ii) All structures and facilities must be set back a minimum of 20 feet from an adjoining Country, Residential, Apartment, or Apartment Mixed Use District.

(g) Personal Service

Providing personal and repair services. Personal service uses are consolidated into the following groups in Sec. 21-5.30 Use Table.

(1) General Personal Services

(A) Defined

Providing personal services. Includes barbershop, beauty shop, computer repair, dance, martial arts, music, photographic studio or classroom, day spa, dry cleaning drop-off, laundry cleaning and pressing, funeral home, funeral parlor, mortuary, undertaking, establishment hairdresser, garment repair, gym, fitness studio, pilates studio, yoga studio, gymnastics, cheerleading training, boxing training, climbing gym, locksmith, nail salon, tanning salon, tutoring, travel agency, tattoo or body piercing, tailoring, shoe repair, watch repair, jewelry repair, eyeglass, and hearing aid repair, and smartphone repair.

(B) Standards

- (i) In the Apartment Mixed Use Districts:
 - a. All services involving amplified music or music instruction must be located in a fully enclosed, sound-attenuated structure, and hours of operation are limited to between 6 a.m. and 10 p.m.
 - b. The density controls of Table 21-3.3 and Section 21-3.90-1©(4) apply.
- (ii) In the Industrial Mixed Use District, the density controls of Table 21-3.5 and Section 21-3.140-1(c) apply.

(2) Animal Care**(A) Defined**

Grooming, training, boarding, or keeping of household pets. Includes animal shelter, kennel, veterinary clinic, animal clinic, animal hospital, pet grooming, pet day care, or pet spa. Animal care is consolidated into the following groups in Sec. 21-5.30 Use Table.

- (i) **Minor**
Animal care primarily in an indoor setting.
- (ii) **Major**
Animal care primarily in an outdoor setting.

(B) Standards

- (i) **Minor**
 - a. Outdoor spaces for animals must be limited to supervised play areas and runs.
 - b. All animals kept overnight must be located in a fully enclosed, noise-attenuated structure.
- (ii) **Major**
All structures and facilities associated with keeping animals overnight must be set back a minimum of 100 feet from any adjacent zoning lot.

(3) Wedding Services**(A) Defined**

Providing wedding services. Includes similar services such as commitment, wedding reception, and vow renewal ceremonies, and supporting services such as catering and entertainment. See also Agritourism, Sec. 21-5.40(d)(2).

(B) Standards

- (i) All activity must be located in a fully enclosed, sound-attenuated structure, and hours of operation are limited to between 6 a.m. to 10 p.m.
- (ii) The density controls of Table 21-3.3 and Section 21-3.90-1(c)(4) apply.

(h) Recreation, Indoor

Providing daily or regularly scheduled entertainment or recreation activities primarily in an indoor setting. Indoor recreation is consolidated into the following groups in Sec. 21-5.30 Use Table.

(1) General Indoor Recreation**(A) Defined**

Providing primarily indoor entertainment or recreation in a permanent facility. Includes billiard or pool hall, bowling alley, electronic gaming, escape room, ice- or roller-skating rink, playground or trampoline park, sports facility, miniature golf, and archery or gun range. Also includes library or museum not meeting the definition of a public facility.

(B) Standards

None.

(2) Theater**(A) Defined**

A facility primarily for the performing arts or for the viewing of motion picture films. Includes performing arts center, concert hall, and other types of live theater.

(B) Standards

None.

(i) Recreation, Outdoor

Providing daily or regularly scheduled entertainment or recreation activities primarily in an outdoor setting. Outdoor recreation is consolidated into the following groups in Sec. 21-5.30 Use Table.

(1) General Outdoor Recreation**(A) Defined**

Providing primarily outdoor recreation or entertainment in a permanent outdoor facility. Includes amusement park, batting cages, drive-in theater, go-cart or automobile racetrack, golf driving range, horseback riding, miniature golf, sports facility, amphitheater, and water park. Does not include public parks, golf courses, or country clubs.

(B) Standards

- (i)** All structures and facilities must be set back a minimum of 25 feet from an adjoining Country, Residential, Apartment, or Apartment Mixed Use District. This requirement may be waived by the Director if topography or landscaping makes such a buffer unnecessary.
- (ii)** For motorized outdoor amusement facilities, additional noise mitigation measures may be required.
- (iii)** All lighting must meet the following requirements:

- a. All light fixtures must be oriented so that lighting and glare are not directed to the sky, adjoining properties, streets, or sidewalks.
- b. The maximum light level of any light fixture cannot exceed 0.5 footcandles measured at the property line, except that up to 2.0 footcandles measured at the right-of-way line of a street are allowed.
- c. The color-temperature of fixture lamps must not exceed 3200 Kelvin.
- d. All service connections for lighting must be installed underground.
- e. Recreational field lighting must only be used while activity on the field is being conducted.

(2) Golf Course

(A) Defined

A facility for playing 9 holes or more of golf. Includes associated clubhouse and driving range. Does not include miniature golf or a stand-alone driving range.

(B) Standards

As required during Plan Review (PRU).

(j) Retail

Selling, leasing, or renting new or used goods. Retail is consolidated into the following groups in Sec. 21-5.30 Use Table.

(1) General Retail

(A) Defined

A facility involved in the sale, lease, or rental of new or used products. Includes, appliance store, art gallery, automotive store, bank, bicycle sales/repair and rental, books, clothing, copy center or shipping service, printing, electronics, electronic cigarettes/vaping and similar products, department store, drug or pharmaceutical store, fabric, flowers, furniture, grocery or specialty food store, hardware store, liquor store, scooter sales and rental, musical instrument sales/repair and rental, optician, pet store, shoe store, sporting goods, toy store, and other similar retail activities.

(i) Small

Up to 2,500 square feet of total floor area.

(ii) Medium

Up to 25,000 square feet of total floor area.

(iii) Large

Unlimited floor area.

(B) Standards

(i) Small

- a. In a Residential, Apartment, or Apartment Mixed Use District, all sales, services, displays, or storage must be within a fully enclosed structure.

- b. All incidental storage of material and equipment must be located in a fully-enclosed structure for lots adjoining a Country, Residential, Apartment, or Apartment Mixed Use District.
- c. In Residential and Apartment Districts, the following standards apply:
 - 1. The lot must be located at least ½-mile from any zoning district allowing General Retail and any other small general retail use, unless it is located within ½-mile of a rail station or bus transit center.
 - 2. The adjoining street must have a minimum 20-foot paved surface.
 - 3. The use may not be located on a nonconforming lot.
- d. In the Industrial Mixed Use District, the density controls of Table 21-3.5 and Section 21-3.140-1(c) apply.
- e. Neighborhood grocery stores that occupied their present location prior to October 22, 1986, but are located in districts in which they are not permitted as small general retail, are not considered nonconforming, provided they meet the following requirements:
 - 1. No expansion of the floor area occupied on October 22, 1986 is allowed;
 - 2. Hours of operation are limited to between 6 a.m. and 10 p.m.; and
 - 3. All sales, services, or displays must be within a fully-enclosed structure, and there must be no outdoor display, service, or storage of merchandise.

(ii) Medium

- a. All incidental storage of material and equipment must be located in a fully enclosed structure for lots adjoining a Country, Residential, Apartment, or Apartment Mixed Use District.
- b. In the B-1 District, when the principal entrance is less than 75 feet or its parking area is less than 20 feet from an adjoining Country, Residential, Apartment, or Apartment Mixed use District, hours of operation are limited to between 6 a.m. to 10 p.m.
- c. In the Apartment Mixed Use District, hours of operation are limited to between 6 a.m. and 10 p.m., including any loading associated with the retail use.
- d. In the Industrial Mixed Use District, the density controls of Table 21-3.5 and Section 21-3.140-1(c) apply.

(iii) Large

- a. All incidental storage of material and equipment must be located in a fully enclosed structure for lots adjoining a Country, Residential, Apartment, or Apartment Mixed Use District.
- b. In the B-1 District, when the principal entrance is less than 75 feet or its parking area is less than 20 feet from an adjoining Country, Residential, Apartment, or Apartment Mixed Use District, hours of operation are limited to between 6 a.m. to 10 p.m. Affected retail not meeting this standard and

intended to operate beyond these hours may be permitted under a minor conditional use permit.

- c. In the Industrial Mixed Use District, the density controls of Table 21-3.5 and Section 21-3.140-1© apply.

(2) Alternative Financial Services

(A) Defined

Providing non-traditional financial services on a recurring basis. Includes payday lending, check cashing, bail bonds, debt collecting, or pawnshop.

(B) Standards

As required by conditional use permit.

(3) Mobile Commercial Establishment

(A) Defined

A vehicle with current registration and safety check used by an itinerant vendor for the sale of food products or other wares. Includes trailer attachments, push carts, lunch wagons or vans, shipping containers, food trucks, and pop-up tents. Does not include vendors at farmers' markets, fun fairs, special community events, or other special events where mobile commercial establishments are not the majority of the event or are managed by a regulatory entity.

(B) Standards

- (i) A mobile commercial establishment must operate on areas where an all-weather surface is provided, unless otherwise specified in this Chapter.
- (ii) A mobile commercial establishment must operate outside of any required yards.
- (iii) One portable sign per mobile commercial establishment is allowable during hours of operation.
- (iv) When 3 or more mobile commercial establishments operate on 1 zoning lot:
 - a. A parking management plan is required. A minimum of 5 parking spaces per mobile commercial establishment is required.
 - b. A pedestrian and vehicle circulation plan is required.
 - c. Hours of operation are limited to between 6:00 a.m. and 10:00 p.m.
 - d. When restrooms are provided, they must be adequately screened from public view.
- (v) The regulations associated with mobile commercial establishments in the Haleiwa special district supersede the standards listed here.

(k) Vehicle-Related

Selling, renting, servicing, and fueling of motor vehicles, including boats, light aircraft, and any type of trailer designed to be towed by a motor vehicle. Vehicle-related is consolidated into the following groups in Sec. 21-5.30 Use Table.

(1) Car Wash**(A) Defined**

Facility with mechanical or hand-operated equipment used for cleaning, washing, polishing, or waxing of vehicles.

(B) Standards

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

- (i) The lot must not abut a zoning lot in a Residential or Apartment District.
- (ii) A closed-loop water recycling system with no off-site discharge or run-off must be used.

(2) Vehicle Fueling Station**(A) Defined**

Providing vehicle fueling services such as gasoline, diesel, compressed natural gas or hydrogen pumps, and electric charging stations. Does not include electric charging stations that are accessory to a parking lot.

(B) Standards

Hours of operation are limited to between 6 a.m. to 10 p.m. where pump islands exist and are set back less than 75 feet from an adjoining Country, Residential, Apartment or Apartment Mixed Use District. Vehicle fueling stations intended to operate beyond these hours may be permitted under a minor conditional use permit.

(3) Vehicle Repair**(A) Defined**

A facility for servicing and repairing vehicles.

(i) Service

Routine servicing of light-duty vehicles that generally weigh less than 10,000 pounds (gross vehicle weight) and typically require less than 1 day of work. Includes servicing batteries, brakes or tires, cleaning and flushing radiators, muffler repair, windscreen replacement, emissions testing, inspection station, changing oil and lubricants, installation of audio or alarm equipment, and the sale of automotive parts used in on-site vehicle repair such as oil, grease, batteries, and tires.

(ii) Repair, Light

The repair of light-duty vehicles that generally weigh less than 10,000 pounds (gross vehicle weight) and typically require more than 1 day of work. Includes engine and transmission repair, and body and paint shops.

(iii) Repair, Heavy

The repair of heavy-duty vehicles that generally weigh more than 10,000 pounds (gross vehicle weight).

(B) Standards**(i) Service**

- a. All servicing of vehicles must occur within a fully enclosed structure.
- b. No outdoor storage is allowed.

(ii) Repair, Light

- a. All structures and activities must be set back a minimum 100 feet from an adjoining Residential, Apartment, or Apartment Mixed Use District.
- b. Any activities conducted between the hours of 10 p.m. and 6 a.m. must be set back a minimum of 300 feet from an adjoining Residential, Apartment, or Apartment Mixed Use District.

(iii) Repair, Heavy

None.

(4) Vehicle Sales and Rental**(A) Defined**

A facility that sells, rents, or leases vehicles. Vehicle rental sites that do not include a building or leasing office, or that provide only car sharing services are not included.

(i) Sales and Rental, Light

The sale, rental, or leasing of light-duty vehicles that generally weigh less than 10,000 pounds (gross vehicle weight).

(ii) Sales and Rental, Heavy

The sale, rental, or leasing of heavy-duty vehicles that generally weigh more than 10,000 pounds (gross vehicle weight). Includes sales of shipping containers and manufactured or modular homes.

(B) Standards**(i) Sales and Rental, Light**

Vehicle display areas must not be artificially elevated above the general topography of the site.

(ii) Sales and Rental, Heavy

None.

(I) Accessory Commercial Uses

Uses accessory to a permitted commercial use on the same zoning lot. Accessory commercial is consolidated into the following groups in Sec. 21-5.30 Use Table.

(1) Caretaker Unit**(A) Defined**

An accessory dwelling unit occupied by an owner or caretaker of a principal use in a district that does not allow residential uses.

(B) Standards

A caretaker unit shall be located above or behind the principal use in such a way that the unit does not interrupt commercial frontage.

(2) Drive-Thru**(A) Defined**

An accessory facility that allows a customer to be served while seated in a vehicle, typically accessory to an eating establishment, bank, dry cleaner, or pharmacy.

(B) Standards

- (i) Speaker boxes must be set back a minimum of 75 feet from an adjoining Country, Residential, Apartment, or Apartment Mixed Use District.
- (ii) Drive-thru lanes must be set back a minimum of 20 feet from an adjoining Country, Residential, Apartment, or Apartment Mixed Use District.

(3) Retail**(A) Defined**

Retail sales accessory to permitted non-retail commercial use.

(B) Standards

Retailing of products must be limited to those which are manufactured or processed on the premises.

(4) Vacation Cabin**(A) Defined**

A small dwelling unit accessory to a permitted outdoor recreation use.

(B) Standards

- (i) Vacation cabins must not exceed 800 square feet in floor area.
- (ii) The overall density for vacation cabins must not exceed 1 vacation cabin per acre of land area.

Sec. 21-5.80 Industrial Uses

(a) Manufacturing and Processing

Uses for manufacturing and processing. Manufacturing and processing are consolidated into the following groups in Sec. 21-5.30 Use Table.

(1) General Manufacturing and Processing

(A) Defined

The manufacture, processing, assembly, fabrication, refinement, alteration, or packaging by hand or by machinery, from raw materials, component parts, or other products, of finished goods, merchandise, or other end products suitable for sale or trade.

(i) Light

Activities which are non-offensive to adjacent uses; involve no open storage or other types of outdoor accessory uses other than parking and loading; do not involve processes which generate significant levels of heat, noise, odors, or particulates; and do not involve chemicals or other substances which pose a threat to health and safety. Includes, but is not limited to, the production of handcrafted goods, electronics-intensive equipment, components related to instrumentation and measuring devices, bio-medical and telecommunications technologies, computer parts and software, optical and photographic equipment, and other similar types of manufacturing, processing, and packaging uses.

(ii) Heavy

Activities involving significant mechanical and chemical processes, large amounts of metal transfer, or extended shift operations. Includes, but is not limited to: paper and textile milling; wood millwork and production of prefabricated structural wood products; soap and detergent manufacturing; rubber processing and rubber products manufacturing; production of plastics and other synthetic materials; primary metals processes; vehicle, machinery, and fabricated metal products manufacturing; electroplating; cement making and concrete production; gypsum and related products; chemical products, perfumes, and pharmaceuticals production; and paving and roofing materials production. Does not include those activities associated with petroleum processing; the manufacture of explosives and toxic chemicals; waste disposal and processing; or the processing of salvage, scrap, and junk materials.

(B) Standards

(i) Light

Total floor area must not exceed 2,000 square feet.

(ii) Heavy

- a. All structures and activities must be set back a minimum of 100 feet from an adjoining Residential, Apartment, or Apartment Mixed Use District.

- b. The pickup or drop-off of equipment between the hours of 10 p.m. and 6 a.m. must be set back a minimum of 300 feet from an adjoining Residential, Apartment or Apartment Mixed Use District.

(2) Bio-Fuel Processing Facility

(A) Defined

A facility that produces liquid or gaseous fuels from organic sources, such as biomass crops, agricultural residues, oil crops, including palm, canola, soybean, and waste cooking oils; grease; food wastes; and animal residues and wastes; that can be used to generate energy.

(B) Standards

- (i) All structures and activities must be set back a minimum 1,500 feet from an adjoining Country, Residential, Apartment, Apartment Mixed Use or Resort District.
- (ii) When it can be determined by the Director 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 may the distance be less than 500 feet.
- (iii) Transitional height setbacks required based on the underlying zoning district and any adjacent districts apply. See the dimensional tables in Article 3.

(3) Brewery, Distillery, Winery

(A) Defined

A facility where malt beverages, distilled spirits, or wines are produced.

(i) Minor

Producing a maximum of 5,000 barrels a year. Includes sale of alcohol for on-site consumption.

(ii) Major

Producing more than 5,000 barrels a year. Includes guided tours and free tastings of malt beverages, distilled spirits, or wine produced on-site.

(B) Standards

(i) Minor

None.

(ii) Major

None.

(4) Explosive/Toxic Chemical Manufacturing, Storage and Distribution**(A) Defined**

Manufacturing, storing, and distributing poisonous, corrosive, or combustible materials capable of causing death or injury to people or damage to property. Does not include petroleum, liquified petroleum gas, or coal products.

(B) Standards

- (i) All structures and activities must be set back a minimum 1,500 feet from an adjoining Country, Residential, Apartment, Apartment Mixed Use or Resort District.
- (ii) When it can be determined by the Director 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 may the distance be less than 500 feet.
- (iii) Explosives storage must 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 must be of such height that:
 - a. 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.
 - b. 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.
 - c. Artificial barricades must be a mound or revetted wall of the earth a minimum thickness of 3 feet.

(5) Food Manufacturing and Processing**(A) Defined**

Processing food and drink products that do not handle dead animals or animal by-products that people do not consume.

(B) Standards

- (i) Total floor area must not exceed 4,000 square feet.
- (ii) The slaughter of animals is not permitted.

(6) Linen Suppliers**(A) Defined**

Providing linen and off-site laundry services, including delivery and pick-up, to businesses such as hospitals and hotels. Linens include uniforms, towels, aprons, tablecloths, napkins, and fabric for cleaning.

(B) Standards

None.

(7) Petrochemical Plant**(A) Defined**

A facility for processing and refining petroleum, liquefied petroleum gas, and coal products.

(B) Standards

- (i) All structures and activities must be set back a minimum 1,500 feet from an adjoining Country, Residential, Apartment, Apartment Mixed Use or Resort District.
- (ii) When it can be determined by the Director 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 may the distance be less than 500 feet.

(8) Production Studio**(A) Defined**

A facility producing movies, videos, and other similar forms of intellectual property. Includes studios and production, distribution, editing, set construction, and special effects facilities. Does not include sites or facilities used temporarily for production purposes.

(B) Standards

None.

(9) Publishing Facility**(A) Defined**

Printing, reproducing, or duplicating material such as newspapers, books, and magazines using a printing press, photographic reproduction, or other similar techniques.

(B) Standards

None.

(b) Marine

Activities and structures supporting marine and other water-related activities. Marine is consolidated into the following groups in Sec. 21-5.30 Use Table.

(1) General Marine**(A) Defined**

Activities and structures used to support recreational marine and other water-related activities, commercial boating, and the storage and transfer of goods and services.

(i) Minor

Land uses on harbor fast lands, lagoons or other inland waters that support recreational marine activities. Includes piers or boathouses, storage and minor repair of boats, clubhouses, sale of boating supplies and fuels, ice and cold storage facilities, hoists, launching ramps, and wash racks.

(ii) Major

Land uses on harbor fast lands support commercial marine activities. Includes construction, vocational training, equipment sales, and repair.

(B) Standards**(i) Minor**

- a. Launching ramps, boat repair facilities, establishments for the sale of boating supplies and fuel, clubhouses and drydock facilities or other areas for storage of boats on land must be set back from an adjoining Residential, Apartment, or Apartment Mixed Use District by:
 1. 300 feet if open between the hours of 10 p.m. and 6 a.m.
 2. 150 feet if not open between the hours of 10 p.m. and 6 a.m.; or where the use is screened by a solid wall at least 6 feet in height.
- b. A master-planned community with an inland waterway designated Preservation District is not subject to these additional zoning district setbacks, provided that the zoning change that created the project occurred as part of a single rezoning action.
- c. Where a general marine use occurs adjacent to a Preservation District applied to inland waters, no district setback is required for uses not common to both districts.
- d. Small engine and minor boat repair are allowed within a fully enclosed, noise-attenuated structure.

(ii) Major

None.

(2) Port**(A) Defined**

A facility for supporting commercial marine activity, such as cargo shipping, that is located on harbor fast lands. Includes wharves, piers and boathouses, cargo handling systems, storage and repair of boats and ships, sale of marine supplies and fuel, cold storage facilities, power stations, hoists, launching ramps, facilities for embarking and disembarking of passengers, and other facilities necessary for maintenance and operation of the port.

(B) Standards

None.

(c) Repair

The commercial restoration, reconstruction, and repair of consumer goods and industrial equipment and machinery. Does not include motor vehicles (see Sec. 21-5.60(l)) or boats (see Sec. 21-5.70(b)). Repair is consolidated into the following groups in Sec. 21-5.30 Use Table.

(1) General Repair**(A) Defined**

Repair of household appliances, furniture, upholstery, small engine repair such as lawnmowers, clock repair, and production and repair of prosthetic devices. See also Personal Services, Sec. 21-5.70(g).

(B) Standards

- (i) Hours of operation are limited to between 6 a.m. and 10 p.m.
- (ii) No small engine repair is allowed.

(2) Heavy Repair**(A) Defined**

Repair of industrial machinery and heavy equipment.

(B) Standards

- (i) All structures and activities must be set back a minimum 100 feet from an adjoining Residential, Apartment, or Apartment Mixed Use District.
- (ii) All activities conducted between the hours of 10 p.m. and 6 a.m. must be set back a minimum of 300 feet from an adjoining Residential, Apartment, or Apartment Mixed Use District.

(d) Research and Development

A facility focused primarily on the research and development of new products. Research and development is consolidated into the following groups in Sec. 21-5.30 Use Table.

(1) General Research and Development**(A) Defined**

Research and development facilities including laboratories, supporting prototype manufacture, pilot plants used to test manufacturing processes planned for use in production elsewhere and supporting administrative offices. Does not include medical research and development (see 21-5.70 (e) Medical).

(B) Standards

None.

(e) Resource Extraction

A site or facility for resource extraction. Resource extraction uses are consolidated into the following groups in Sec. 21-5.30 Use Table.

(1) General Resource Extraction**(A) Defined**

A site or facility for exploration, extracting and processing of natural resources including natural accumulations of minerals, ores, gemstones, sand, rock, soil, gravel, and water.

(B) Standards

- (i) Blasting operations are restricted to Mondays through Fridays between 8 a.m. and 5 p.m.
- (ii) The application for a conditional use permit must include a plan for the development of the property, which includes the exploitation and the reuse.
 - a. The plan for the exploitation phase must show the proposed development as planned in relation to surrounding property within 300 feet and include topographic surveys and other materials indicating existing conditions (including drainage) and the conditions (including topography, drainage, and soils) that will exist at the end of the exploitation phase. Contour intervals for topography must be 5 feet in areas where slope is greater than 10%, 2 feet in areas where the slope is 10% or less.
 - b. The plan for the reuse phase must 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 are not 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 District boundary.

(f) Storage and Distribution

Storage and distribution of commercial goods, industrial materials, and personal items. Storage and distribution is consolidated into the following groups in Sec. 21-5.30 Use Table.

(1) General Storage and Distribution**(A) Defined**

A facility involved in the storage or movement of goods for their business or other firms. Goods are generally delivered to other firms or the final consumer with little on-site customer activity. Includes non-transient storage of automobiles not in operating condition and temporary storage of household goods by a freight mover.

(B) Standards

None.

(2) Self-Storage**(A) Defined**

Providing separate storage areas, units, or lockers for personal or business use designed to allow private access by the tenant for storing or removing personal property. Does not include the outdoor storage of fleet vehicles (Base Yard) or the outdoor storage of junk, scrap metal, or old cars (Salvage, Scrap, and Junk Storage and Processing).

(B) Standards

- (i) No individual storage area may exceed 3,600 cubic feet in size.
- (ii) All buildings must have windows or architectural treatments that appear as windows.
- (iii) No activities other than the dead storage or transfer of non-volatile goods, or leasing of storage space, are permitted, with the exception of the supporting sale of boxes, tape and other packing-related materials.
- (iv) Where storage occurs underground, the zoning applicable to any entrance determines the uses allowed.

(3) Storage Yard**(A) Defined**

The open storage of soil, mulch, stone, lumber, pipe, steel, construction materials, or similar products. Includes contractor's storage. Does not include the outdoor storage of fleet vehicles (see Sec. 21-5.70(g)(3)(B) Base Yard) or the outdoor storage of junk, scrap metal or old cars (see Sec. 21-5.70(h)(3)(A) Salvage, Scrap and Junk Storage and Processing).

(B) Standards

- (i) There must be no sale or processing of scrap, salvage or secondhand material.
- (ii) Yards must be completely enclosed, except for necessary openings for ingress and egress, by a fence or wall not less than 6 feet in height.
- (iii) Within the I-1 District:
 - a. All structures and activities must be set back a minimum 100 feet from an adjoining Residential, Apartment, or Apartment Mixed Use District.
 - b. If the facility is within 300 feet of a parcel in a Residential, Apartment, or Apartment Mixed Use District, equipment startup, including vehicles, are limited to the hours between 6 a.m. and 10 p.m.

(g) Transportation

Activities and structures supporting the movement of people or goods from one place to another. Transportation is consolidated into the following groups in Sec. 21-5.30 Use Table.

(1) Airport**(A) Defined**

Activities and structures for the landing and takeoff of flying vehicles, including loading and unloading areas such as passenger terminals. Aviation facilities may be improved or unimproved. Includes commercial carrier and private aircraft facilities.

(B) Standards

As required during Plan Review (PRU).

(2) Base Yard**(A) Defined**

Outside storage, parking, cleaning, and incidental repair and maintenance of vehicles and associated equipment. Includes supporting dispatching services, administrative offices, kitchens, showers, lounges, and similar personnel supporting activities.

(B) Standards

- (i) Yards must be completely enclosed, except for necessary openings for ingress and egress, by a fence or wall not less than 6 feet in height.
- (ii) Within the I-1 District:
 - a. All structures and activities must be set back a minimum 100 feet from an adjoining Residential, Apartment, or Apartment Mixed Use District.
 - b. If the facility is within 300 feet of a parcel in a Residential, Apartment, or Apartment Mixed Use District, equipment startup, including vehicles, are limited to the hours between 6 a.m. and 10 p.m.

(3) Heliport**(A) Defined**

A facility for landing and take-off of rotorcraft that includes supporting fueling, maintenance, repair, and storage activities.

(B) Standards

None.

(4) Multi-Modal Facility**(A) Defined**

A facility for trains, buses, taxis, or car-share services. Includes facilities for the following: bus transfer facility or bus station, car-share facility, limousine or taxi service, light rail station, or rail station.

(B) Standards

As required by conditional use permit.

(5) Truck Terminal**(A) Defined**

A facility used as an origin or destination point for the loading, unloading, assembling, or transferring of goods transported by truck.

(B) Standards

None.

(h) Waste-Related

Storing, processing, or selling waste. Waste-related is consolidated into the following groups in Sec. 21-5.30 Use Table.

(1) Salvage, Scrap, and Junk Storage or Processing**(A) Defined**

A facility for the storage, sale, dismantling, or other processing of used or waste materials that are not intended for re-use in their original forms. Includes automotive wrecking yards, junkyards, and salvage yards.

(B) Standards

- (i) All structures and activities must be set back a minimum of 1,500 feet from an adjoining Country, Residential, Apartment, Apartment Mixed Use or Resort District.
- (ii) When it can be determined by the Director 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 may the distance be less than 500 feet.

(2) Waste Disposal and Processing**(A) Defined**

A facility for disposing and processing solid waste. Includes refuse dumps, sanitary landfills, incinerators, and resource recovery plants.

(B) Standards

No person, including the State or any county, may construct, modify, or expand a waste or disposal facility, including a municipal solid waste landfill unit, any component of a municipal solid waste landfill unit, a construction and demolition landfill unit, or any component of a construction and demolition landfill unit without meeting the following standard:

- (i) A buffer zone of no less than ½ mile around the waste or disposal facility is required from any residential, school, or hospital property line.
- (ii) This subsection does not apply to the continued operation of an existing waste or disposal facility that is properly permitted, provided that continued operation

does not require vertical or horizontal physical expansion of the facility requiring additional permitting review and a permit modification.

(iii) This subsection does not apply to any individual, state-certified, non-industrial redemption centers.

(iv)

(v)

(i) Accessory Industrial Uses

Uses accessory to a permitted industrial use on the same zoning lot. Accessory industrial is consolidated into the following groups in Sec. 21-5.30 Use Table.

(1) Helistop

(A) Defined

An accessory facility for landing and take-off of rotorcraft that does not include supporting fueling, maintenance, or repair facilities. Includes commercial use of a drone.

(B) Standards

(i) No structures for rotorcraft storage are allowed.

(ii) May include overnight parking of one rotorcraft.

Sec. 21-5.90 Miscellaneous Uses

(a) Historic Structure Re-Use

Uses that incentivize the owner of a historic structure to maintain the structure when the use is not otherwise permitted in the underlying district.

- (1) Any structure on the State or National Register of Historic Places may be occupied by a use not otherwise permitted in the underlying district, provided that any proposed alteration, repair, or renovation beyond its original design and the proposed use are both approved by the appropriate historic preservation entity, and does not result in the destruction or demolition of the structure.
- (2) The Director may deny any request which is judged to have adverse impacts on the neighborhood that cannot be mitigated.

(b) Joint Development

The development of 2 or more adjacent subdivision lots under a single, unified project concept.

(1) Adjacent Lots

- (A) Whenever 2 or more adjacent subdivision lots are developed jointly in accordance with the provisions of this section, they will be considered and treated as 1 zoning lot.
- (B) Owners must be applicants and execute the conditional use permit and joint development agreement.
- (C) When applying for a conditional use permit for joint development under this section, the applicants must submit to the Director an agreement which binds themselves and their successors in title or lease, individually and collectively, to maintain the pattern of joint development proposed in such a way that there will be conformity with applicable zoning regulations. The development standards listed in Section 21-2.90-2(C) may not be modified through a conditional use permit for joint development unless allowed through another discretionary approval. The right to enforce the agreement must also be granted to the City. The agreement is subject to the approval of the Corporation Counsel of the City.
- (D) If the Director finds that the proposed agreement assures future protection of the public interest and meets the requirements for issuance of a conditional use permit, the Director may issue the conditional use permit. Upon issuance of the permit, the agreement, which must be one of the conditions of the permit, must be filed as a covenant running with the land with the Bureau of Conveyances or the Registrar of the Land Court. Proof of such filing in the form of a copy of the covenant certified by the appropriate agency must be filed with the Director prior to the issuance of any building permit.

(c) Transfer of Development

Under a transfer of development, floor area or dwelling units normally attributable to a donor lot is allocated to, and may be used on, a receiving lot.

(1) Applicability

Transfer of development is intended to provide an incentive for the preservation of certain historic or environmentally sensitive properties by permitting qualified property owners to freely sell, trade, broker or otherwise transfer the floor area or dwellings that would normally be permitted under the applicable district regulations on the donor lot. The following transfers may be permitted:

- (A)** The transfer of development from a zoning lot with a historic site, building, or structure to a lot or lots without historic significance and with sufficient access to infrastructure to support the additional density; or
- (B)** The transfer of development from a zoning lot that is in the Special Management Area to a lot or lots that are:
 - (i)** Not located within the Special Management Area;
 - (ii)** Not located within the P-2 General Preservation District; and
 - (iii)** Not expected to be impacted by 3.2 feet of sea-level rise by the year 2100.
 - (iv)** Not located in a flood hazard area subject to Chapter 21A, ROH.

(2) Historic Property, Transfer Standards

- (A)** The historic site, building, or structure must be suitable for preservation or rehabilitation, or both, and any proposed alterations of the site must have no adverse effect on the historic value of the historic site, building, or structure, as determined by the appropriate historic preservation authority.
- (B)** The floor area eligible to be transferred must 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 the preservation of the historic site, building, or structure, and subtracting from the sum of:
 - (i)** The floor area of all historic buildings or structures to be retained on the donor lot; and
 - (ii)** The floor area of all historic buildings or structures designated in an approved plan for development or redevelopment of the donor lot.
- (C)** The unused floor area from the donor lot with the historic site, building or structure may be transferred to receiving lots, provided that the donor lot and each receiving lot may not be located in a Residential or Preservation District. In no case may the maximum floor area on a receiving lot under transfer of development from a historic property be more than 15% more than 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 are not affected.
- (D)** The owner, owners, or duly authorized agents of the owners, of zoning lots may apply for a conditional use permit to undertake the transfer of development.
- (E)** 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 transfer of development must 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.

(3) Special Management Area, Transfer Standards

- (A)** The floor area or dwellings eligible to be transferred must be calculated by determining the maximum allowable floor areas or dwellings for the donor lot, including any applicable density bonuses. All floor area or dwellings eligible to be transferred must be transferred in their entirety, such that the donor site is left undeveloped and vacant, prior to the issuance of a building permit on the receiving lot.
- (B)** The added floor area permitted on receiving lots under transfer of development must not be used in a way that will diminish or destroy the value of the Special Management Area.
- (C)** In Residential Districts, receiving lots may not exceed the maximum FAR of 0.8. All other Residential District development standards apply and may not be modified.

(4) Application Requirements

When applying for the required conditional use permit, applicants must submit the following:

- (A)** Zoning lot area calculations for all donor and receiving lots.
- (B)** 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, or is located within a Special Management Area.
- (C)** Where the donor site contains a historic site, a plan approved by the appropriate historic preservation entity 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 nonhistorical buildings or structures on the donor lots. The plan for restoration may be phased.
- (D)** Where the donor site is located within a Special Management Area, a plan to maintain and preserve the donor site from the agency or organization that has agreed to manage the donor site.
- (E)** 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, or the Special Management Area on or near the receiving lots.
- (F)** 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 approved plans and permits submitted

with the application for a minimum of 30 years. The proposed agreement must be in recordable form enforceable by the City. The proposed agreement must state the consideration to be given for the proposed transfer of density.

(5) Approval

- (A)** The Director will grant approval of the application if the Director determines that:
 - (i)** The proposed agreement provides adequate protection for the historic site, building or structure, or the Special Management Area.
 - (ii)** All proposed donor and receiving lots meet the requirements of this Section.
 - (iii)** 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 this Section.
 - (iv)** The plan for development or redevelopment of the receiving lots will not adversely impact the Special Management Area or diminish or destroy the value of any historic site, building or structure or of any site, building, or structure that is on, or 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.
 - (v)** The proposed plans and agreements submitted with the application will adequately ensure the preservation of the historic site, building, or structure on the donor lot or within the Special Management Area.
- (B)** Until the applicants have recorded with the Bureau of Conveyances and the Land Court of the State of Hawaii, as appropriate, the agreement specified in subdivision E above, for all donor and receiving lots, no building permit or construction permit may 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.