

THE ALOHA TOWER COMPLEX

PROJECT AREA RULES

Chapter 26, Title 15
Hawaii Administrative Rules

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Adoption of Subchapters 6-8, Chapter 26, Title 15,
Hawaii Administrative Rules

SUMMARY

Chapter 15-26-51 through 149, Hawaii administrative rules, entitled "The Aloha Tower complex rules for the Aloha Tower project area" is adopted.

HAWAII ADMINISTRATIVE RULES

TITLE 15

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

SUBTITLE 5

ALOHA TOWER DEVELOPMENT CORPORATION

CHAPTER 26

THE ALOHA TOWER COMPLEX RULES

FOR THE ALOHA TOWER PROJECT AREA

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SUBCHAPTER 6

GENERAL PROVISIONS

§15-26-51 General purposes. (a) The legislature of the State of Hawaii, by chapter 206J, HRS, established the Aloha Tower complex area. In so doing, the legislature found the following respecting the Aloha Tower complex:

- (1) The area in downtown Honolulu on the waterfront, including the Hale Awa Ku Moku Building and Irwin Memorial Park, is one of the most valuable properties in downtown Honolulu and certain portions of this area should be redeveloped, renovated, or improved to better serve the economic, maritime, and recreational needs of the people of Hawaii; and
- (2) The Aloha Tower complex still serves a vital maritime function that must be maintained to insure adequacy and viability for existing and future maritime activities.
 - (b) The legislature authorized and empowered the Aloha Tower development corporation to undertake the redevelopment of the Aloha Tower complex to strengthen the international economic base of the community in trade activities, to enhance the beautification of the waterfront, and in conjunction with the department of transportation, to better serve modern maritime uses, and to provide for public access and use of the waterfront property.
 - (c) The legislature further authorized and empowered the authority to establish and adopt development rules under chapter 91, HRS, on health, safety, building, planning, zoning, and land use which shall supersede all other inconsistent ordinances and rules relating to the use, zoning, planning, and development of land and construction thereon.
 - (d) With the support of the legislature, the Governor's office of state planning prepared the Honolulu waterfront master plan which reconfirmed that the Aloha Tower complex should further serve as a stimulant to the commercial activities of the downtown business community and help transform the waterfront into a "people place".
 - (e) In accordance with its rules of practice and procedure, the corporation selected a developer for the Aloha Tower project area and entered into lease negotiations with said developer.
 - (f) In accordance with the declarations of the legislature, the corporation has caused to be prepared a development plan for the Aloha Tower project area. As an integral part of implementing this plan, and in compliance with the mandate of the legislature, the authority has developed these development rules for the Aloha Tower project area.
 - (g) It is the intent of the authority that these rules shall be established and adopted to implement the purposes and intent of the legislature as set forth in chapter 206J, HRS. It is the further intent of the authority that these rules shall implement the policies and programs relating to the Aloha Tower project area as set forth in the provisions of the plan.
 - (h) So that the Aloha Tower project area can be developed as an attractive and desirable urban waterfront project, the corporation shall interpret these rules to encourage flexibility of design. [Eff FEB 21 1992] (Auth: HRS §§206J-1, 206J-7, 206J-4) (Imp: HRS §§206J-2, 206J-7)

§15-26-52 Development guidelines. The development guidelines governing the corporation's actions in the Aloha Tower complex area have been

set forth in subchapter 4 of the corporation's rules of practice and procedure and the findings and recommendations of the Honolulu waterfront master plan. [Eff FEB 21 1992] (Auth: HRS §§206J-7) (Imp: HRS §§206J-5)

§15-26-53 Title. These rules shall be known and may be cited as the Aloha Tower complex rules for the Aloha Tower project area. [Eff FEB 21 1992] (Auth: HRS §§ 206J-7) (Imp: HRS §§206J-7)

§15-26-54 Plan incorporated by reference. The Aloha Tower project area plan, is hereby incorporated by reference and made a part of this chapter. [Eff FEB 21 1992] (Auth: HRS §§206J-7) (Imp: HRS §§206J-5)

§15-26-55 Definitions. Except as otherwise stated in this chapter, all of the definitions contained in the land use ordinance of the city and county of Honolulu are by reference incorporated herein and made a part hereof. As used in this chapter, the following words and terms shall have the following meanings unless the context shall indicate another or different meaning or intent:

"Aloha Tower complex" means the entire area under the jurisdiction of the Aloha Tower development corporation as designated by the Legislature under section 206J-3, HRS;

"Aloha Tower project area" means that portion of the Aloha Tower complex covered by the development plan and these rules;

"Building height" means the vertical distance measured from the existing grade of the nearest public street to the top of the roof slab, parapet wall or ridge line of the subject building except as provided in Section 15-26-112 of these rules.

"Corporation" or "development corporation" means the Aloha Tower development corporation established by section 206.1-4, HRS;

"Development" means the construction of a new building or other structure on a development lot, the relocation of an existing building on another development lot, or the use of a tract of land for a new use, or the enlargement of an existing building or use, or the renovation or restoration of an existing building or use;

"Development lot" means any lot or a combination of lots developed in accordance with the provisions of these rules;

"Development plan" means the development plan for the Aloha Tower project area;

"Executive officer" means the executive officer of the corporation;

"Floor area" means the total area of all floors of a building measured from the exterior faces of the exterior walls or from the center line of party walls separating portions of a building excluding unroofed areas, interior elevator and mechanical shafts and stairways. The floor area of a building, or portion thereof, not provided with surrounding exterior walls shall be the usable area under the horizontal projection of the roof or floor above, excluding arcades, cantilevered floors and non-structural overhangs. Also excluded from the floor area are parking facilities and loading spaces, including their driveways and access ways, lanais or

balconies of dwelling or lodging units which do not exceed 15 per cent of the total floor area of the unit to which they are appurtenant, non-habitable attic areas, and rooftop machinery equipment rooms and elevator housings on the top of buildings;

"Floor area ratio" or "(FAR)" means the ratio of floor area to land area expressed as a per cent or decimal which shall be determined by dividing the total floor area on a development lot by the lot area of that development lot;

"Hawaii capital district" means a special district established by Article 7 of the land use ordinance;

"Land use ordinance" or "LUO" means the Land Use Ordinance adopted by Ordinance No. 8696 of the city and county of Honolulu;

"Land use zone" means any zone delineated on the land use plan maps of the Aloha Tower project area and described in subchapter 7 of these rules;

"Lot" means a parcel of land which can be used, developed or built upon;

"Nonconforming use" means an activity using land, buildings, signs, or structures for purposes which were legally established within the area prior to adoption of the development plan but would not be permitted as a new use in any of the land use zones established by this chapter;

"Preservation" means keeping a particular facility in its present condition. The facility may already be in a restored or rehabilitated condition;

"Project" means an undertaking of work or improvement of public or private real or personal property or any interest therein, developed, acquired, constructed, reconstructed, rehabilitated, improved, altered, or repaired by the development corporation, by itself or in conjunction with qualified persons, and including public facilities and, any law to the contrary notwithstanding, facilities for and functionally related and subordinate to maritime purposes.

"Project area" means the Aloha Tower project area as defined in section 15-26-57(b) of these rules;

"Protection" means undertaking actions or applying measures which will prevent the facility from deterioration or loss or which will keep it from being destroyed or abused;

"Public improvement" means any improvement, facility, or service, together with customary improvements and appurtenances thereto, necessary to provide public needs as: vehicular and pedestrian circulation systems, storm sewers, flood control improvements, water supply and distribution facilities, sanitary sewage disposal and treatment, public utility and energy services;

"Public project" means any project or activity of any county or agency of the state conducted to fulfill a governmental function for public benefit and in accordance with public policy;

"Reconstruction" means the reproduction by new construction of a building, structure, object or parts thereof as it originally appeared;

"Reflective surface" means any glass or other surface, such as polished metal, specified in the manufacturer's literature having reflectance (designated by such terminology as average daylight reflectance, visible light reflectance, visible outdoor reflectance, and comparable terms) of over thirty per cent;

"Rehabilitation" means returning a facility to a useful state, thus allowing it to be used while preserving those portions or features considered historically, architecturally, or culturally significant;

"Restoration" means recovering accurately the authentic form and details of a facility, or a structure and its setting, usually by renovating a later work, or replacing missing earlier work. [Eff. FEB 21 1992] (Auth: HRS §§206J-2, 206J-3, 206J-5, 206J-7) (Imp: HRS §§206J-2, 206J-3, 206J-5, 206J-7)

§15-26-56 Rules for construction of language. The following rules of construction apply to the text of this chapter.

- (1) The particular shall control the general;
- (2) In case of any difference of meaning or implication between the text of this chapter and any caption, illustration, map, summary table, or illustrative table, the text shall control;
- (3) The word "shall" is always mandatory and not discretionary. The word " may" is permissive;
- (4) Words used in the present tense shall include the future; and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary;
- (5) A "building" or "structure" includes any part thereof;
- (6) The phrase "used for" includes "arranged for", "designed for", "intended for", "maintained for", or "occupied for";
- (7) The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity;
- (8) Unless the context clearly indicates the contrary, where a rule involves two or more items, conditions, provisions, or events connected by the conjunction "and", "or", or "either...or", the conjunction shall be interpreted as follows:
 - (A) "And" indicates that all the connected items, conditions, provisions, or events shall apply.
 - (B) "Or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.
 - (C) "Either...or" indicates that the connected items, conditions, provisions, or events shall apply singly but not in combination;
- (9) The word "includes" shall not limit a term to the specified examples, but is intended to extend its meaning to all other instances or circumstances of kind or character. [Eff FEB 21 1992] (Auth: HRS §§206J-7) (Imp: HRS §§206J-7)

§15-26-57 Establishment of the Aloha Tower complex and the Aloha Tower project area. (a) The Aloha Tower complex area was established by the legislature in 1981. As originally delineated, the complex included primarily

that area makai of Nimitz Highway between piers 8 and 11. Subsequent legislatures have amended the boundaries to include piers 5 through 23 and portions of Iwilei makai of Iwilei Road as shown on the exhibit entitled "Aloha Tower Complex and Aloha Tower Project Area Boundaries" dated September 1990 at the end of these rules.

(b) The Aloha Tower project area is that portion of the Aloha Tower complex which has been designated for the first phase of redevelopment by the Aloha Tower development corporation. The boundaries of this project area extend from piers 5 through 14 on the makai side of Nimitz Highway excluding TMK parcel 2-1-14:6 (Hawaiian Electric) as shown on the exhibit entitled "Aloha Tower Complex and Aloha Tower Project Area Boundaries" dated September 1990 at the end of these rules. An official survey map of the project area dated July 23, 1990 is on file at the corporation's office. [Eff FEB 21 1992] (Auth: HRS §§206J-7, 206J-5) (Imp: HRS §§206J-2, 206J-3, 206J-5)

§15-26-58 Establishment and scope of controls. (a) In harmony with the purpose and intent of chapter 206J, HRS, these rules are established by the Aloha Tower development corporation for the project area controlling, regulating, and determining the height of buildings; minimum setbacks; required open spaces; the density of buildings; the location and amount of retail, office, hotel, residential, maritime, park, cultural, and other appropriate uses; the location of buildings and other structures; architectural design; urban design; historic and cultural sites; circulation criteria; and other appropriate regulations relating to land use, zoning, and planning for buildings and structures for all properties within the Aloha Tower project area.

- (b) This chapter, together with the development plan for the Aloha Tower project area shall govern all developments and use of properties within the project area. In case of any discrepancy between the provisions of this chapter and the development plan, this chapter shall control. No building permit shall be issued for any development within the project area unless the development conforms to the provisions of the development plan and this chapter.
- (d) No public improvement or project within the project area shall be initiated or adopted unless it conforms to and implements the development plan and this chapter.
- (e) Except as otherwise specifically provided, the provisions of this chapter shall supersede the provisions of the city and county of Honolulu's development plan (Ordinance No. 8179, as amended), the provisions of the Hawaii Capitol District Ordinance (Article 7, land use ordinance), and the provisions of the land use ordinance (Ordinance 86-96, as amended) as they all shall relate to properties within the project area. The foregoing ordinances are hereby declared to be inconsistent with this chapter, and shall therefore be

inapplicable to development within the project area unless otherwise specifically stated.

- (f) All agencies of the city and state governments shall perform their duties, functions, and powers which affect the project area in accordance with the provisions of the development plan and this chapter.
- (g) The development corporation shall not exercise any jurisdiction over any replacement facilities located within the Aloha Tower complex required for necessary maritime purposes and activities. Jurisdiction over such replacement facilities shall remain in the department of transportation, state of Hawaii. The department of transportation shall not be subject to these rules. [Eff FEB 21 1992] (Auth: HRS §§206J-7) (Imp: HRS §§206J-7, 206J-10, 206J-1)

§15-26-59 Project eligibility review. (a) The executive officer may require, at his discretion, prior to receipt of any application for a development permit, a project eligibility review of the development project to consider the project concept and its impact on infrastructure facilities such as streets, pedestrian and bicycle circulation, sanitary sewers, drainage and water, and to improve efficiency and avoid unnecessary delays and expense in processing the formal development application. If the executive officer determines that project eligibility review is required, no development application shall be considered until such review has been completed.

- (b) To conduct project eligibility review, the applicant shall provide such information as the executive officer may request in his discretion, including without limitation, the proposed site plan, basic messing, floor area allocation and location of proposed uses, off. street parking and loading, pedestrian and vehicular circulation, and location of existing and proposed improvements and utilities.
- (c) To the extent possible, project eligibility review shall be completed within thirty days of the executive officer's determination to require the review.
- (d) Development shall not be approved unless adequate infrastructure facilities are or will be made available to service the proposed development prior to occupancy. The executive officer may consult with applicable governmental agencies regarding the adequacy of infrastructure requirements. Any development approval may be subject to such conditions as the corporation may impose under these rules, including without limitation, the requirement that the concerns and requirements of appropriate governmental agencies relative to the adequacy of infrastructure facilities for the proposed development are satisfied.

- (e) Notwithstanding a requirement for a project eligibility review, potential applicants may seek preliminary review of their proposed developments with the executive officer prior to submitting an application for a development permit.
- (f) Approval of construction plans by ATDC shall constitute a determination that the project has met the project eligibility review requirements herein. [Eff FEB 21 1992] (Auth: HRS §§206J-7, 206J-5) (Imp: HRS §§206J-10, 206J-1, 91-2, 206J-5)

§15-26-60 Requirement of development permit. (a) A building permit shall not be issued for any development within the Aloha Tower project area until the developer has obtained from the corporation a development permit certifying that the development complies with this chapter and the development plan.

- (b) An application to the corporation for a development permit shall include complete, detailed information showing that the development complies with all of the provisions of this chapter and the development plan. The corporation may determine the nature and extent of the information required in the application.
- (c) Prior to submission of an application to the development corporation which impacts or affects the operations or maritime facilities of the department of transportation (DOT), State of Hawaii, the executive officer shall require that the applicant show that it has notified the DOT of its request and that it has consulted with the DOT in regard thereto and taken into account the DOT's needs and requirements. [Eff FEB 21 1992] (Auth: HRS §§206J-7, 206J-5) (Imp: HRS §§206J-5)

§15-26-61 Administration. The corporation, through its executive officer, shall administer the provisions of this chapter. [Eff FEB 21 1992] (Auth: HRS §§206J-7) (Imp: HRS §§206J-4, 206J-7)

§15-26-62 Appeals. (a) The corporation shall hear and determine appeals from the actions of the executive officer in the administration of this chapter. An appeal shall be sustained only if the corporation finds that the executive officer's action was based on an erroneous finding of a material fact, or that the executive officer had acted in an arbitrary or capricious manner or had manifestly abused his discretion.

(b) All appeals and appeal procedures shall comply with the provisions of subchapter 7 of chapter 1516, Hawaii Administrative Rules. [Eff FEB 21 1992] (Auth: HRS §§206J-7, 206J-5) (Imp: HRS §§91-2, 206J-5, 206J-7)

§15-26-63 Variations. (a) The corporation shall hear and determine petitions for varying the application of this chapter with respect to a specific

parcel of land and building, and may grant a variance based on unnecessary hardship if the record shows that:

- (1) The applicant would be deprived of the reasonable use of land or building if it were used only for the purpose allowed in that zone;
- (2) The request of the applicant is due to unique circumstances and not the general conditions in the area, so that the reasonableness of the zoning is not drawn into question; and
- (3) The use sought to be authorized by the variance will not alter the essential character of the area nor be contrary to the intent and purpose of this chapter or the development plan.

(b) The corporation shall specify the particular evidence which supports the granting of a variance. The corporation may impose reasonable conditions in granting a variance.

(c) Prior to making a determination on a variance application, the corporation shall hold a public hearing. The public hearing shall afford interested persons a reasonable opportunity to be heard.

(d) The application for variance shall be accompanied by a fee of \$200 plus the cost of publication of notice to defray the expenses of holding a hearing. The cost of the hearing notice shall be refunded only if the public hearing notice has not been submitted to the publishing agency.

(e) Any variance granted under the provisions of this section shall automatically terminate if a development permit for a development requiring said variance has not been issued within two years from the date of granting the variance. This time limit may be extended for a period not to exceed two years, on the corporation's approval of the applicant's request and justification in writing for an extension, provided the request and justification are received by the corporation at least one hundred days in advance of the automatic termination date of the variance and there are no material changes in circumstances which may be cause for denial of the extension. Prior to making a determination on a request for extension, the corporation shall hold a public hearing. The request for extension shall be accompanied by a fee of \$200 plus the cost of publication of notice to defray the expenses of holding a hearing. The cost of the hearing notice shall be refunded only if the public hearing notice has not been submitted to the publishing agency. All requests for variances and the applicable requirements and procedures thereto shall comply with subchapter 5 of chapter 15-16, Hawaii Administrative Rules. [Eff FEB 21 1992] (Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§206J-5, 206J-7)

§15-26-64 Nonconformities. (a) Except as otherwise provided, nonconforming uses of land and structures, and nonconforming lots, structures, parking and loading within the project area may be continued subject to the provisions hereinafter specified.

- (b) Nonconforming use of land shall not:
 - (1) Be enlarged, increased or extended to occupy a greater area of land than was occupied on January 1, 1991;

- (2) Continue if it ceases for any reason (except where government action impedes access to the premises) for a period of more than six consecutive months or for twelve months during any three-year period; or
- (3) Be moved in whole or in part to any portion of the lot or parcel other than that occupied by the use on January 1, 1991;
 - (c) The following are rules with respect to nonconforming uses of structure:
 - (1) Nonconforming use of structure shall not extend to any part of the structure which was not manifestly arranged or designed for the use there on January 1, 1991; and a nonconforming use shall not be extended to occupy any land outside the structure. The structure shall not be enlarged, extended, constructed, reconstructed, moved, or structurally altered;
 - (2) Nonconforming use of structure shall not continue if it is discontinued for twelve consecutive months or for eighteen months during any three year period;
 - (3) If structural alterations are not made, any nonconforming use of a structure, or structure and premises in combination, may be changed to another nonconforming use of the same nature, or to a more restricted use, or to a conforming use; provided that change to a more restricted use or to another nonconforming use may be made only if the relation of the structure to the surrounding facility is such that adverse effects on occupants and neighboring facility will not be greater than if the original nonconforming use continued;
 - (4) On any building devoted in whole or in part to any nonconforming use, work may be done in any period of twelve consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing, to an extent not exceeding ten per cent of the current replacement value of the building;
 - (5) Nothing contained in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of that official.
 - (d) The following are rules with respect to nonconforming structures:
 - (1) A nonconforming structure may be continued as long as it remains otherwise lawful.
 - (2) A nonconforming structure may be altered in any way which does not increase its nonconformity.
 - (3) If a nonconforming structure is destroyed by any means to an extent of more than fifty per cent of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of these rules.

- (A) Except as otherwise provided herein, no nonconforming structure that is voluntarily razed or required by law to be razed by the owner thereof may thereafter be restored except in full conformity with the provisions of this chapter.
- (4) If a nonconforming structure is moved for any reason, it shall thereafter conform to the applicable rules of this chapter after it is moved.
- (e) Nonconforming parking and loading may be continued, subject to the following provisions:
 - (1) If there is a change in use which has a greater parking or loading requirement than the former use, additional parking and loading shall be required and shall not be less than the difference between the requirements for the former use and the proposed use.
 - (2) Off-street parking and loading requirements of this chapter shall be satisfied for additional floor area constructed. [Eff FEB 21 1992] (Auth: HRS §§206J.5, 206J-7, 206J-1) (Imp: HRS §§206J-1, 206J-5, 206J-7)

§15-26-65 Application fees. (a) All fees required pursuant to the provisions of this chapter shall be paid upon application. Application fees are not refundable. If a joint hearing is held for more than one permit requiring a public hearing for a single development project, only one public hearing fee shall be charged.

(b) Government agencies shall be exempt from all fees required by this chapter. [Eff FEB 21 1992] (Auth: HRS §§206J-1, 206J-5, 206J-7) (Imp: HRS §§206J-1, 206J-5, 206J-7)

§15-26-66 Violations. The corporation may maintain an action for an injunction to restrain any violation of this chapter or the development plan, and may take any other lawful action to prevent or remedy any violation. [Eff FEB 21 1992] (Auth: HRS §§206J-5, 206J-7, 206J-1) (Imp: HRS §§206J-1, 206J-5, 206J-7)

§15-26-67 Amendments. This chapter may be amended pursuant to chapter 91, HRS, as may be necessary. [Eff FEB 21 1992] (Auth: HRS §§206J-7) (Imp: HRS §§206J-7)

§15-26-68 Severability. (a) If a court of competent jurisdiction finds any provision or provisions of this chapter to be invalid or ineffective in whole or in part, the effect of that decision shall be limited to those provisions which are expressly stated in the decision to be invalid or ineffective, and all other provisions of these rules shall continue to be separately and fully effective.

(b) If a court of competent jurisdiction finds the application of any provision or provisions of this chapter to any zoning lot, building or other

structure, or tract of land to be invalid or ineffective in whole or in part, the effect of that decision shall be limited to the person, facility, or situation immediately involved in the controversy, and the application of any such provision to other persons, facility, or situations shall not be affected. [Eff FEB 21 1992] (Auth: HRS §§206J-7) (Imp: HRS §§206J-7)

§15-26-69 to §15-26-79 (Reserved)

SUBCHAPTER 7

LAND USE ZONE RULES

§15-26-80 Establishment of land use zones. Within the project area, there are hereby established the following land use zones:

- (1) Maritime (M) zone;
- (2) Commercial (C) zone;
- (3) Hotel/Office/Residential (H/O/R) zone;
- (4) Park (P) zone; and
- (5) Residential/Office (R/O) zone.

The boundaries for each zone are set forth in the exhibit entitled "Land Use Zones", dated April 1991, at the end of these rules. [Eff FEB 21 1992] (Auth: HRS §§206J-7, 206J-5) (Imp: HRS §§206J-5)

§15-26-81 M zone: purpose and intent. The maritime zone (M) established by this chapter is designed to promote and protect the public health, safety, and general welfare. These general goals include, among others, the following specific purposes:

- (1) To meet the needs of the state's maritime industry, and in particular, to serve as the primary center for cruise ship operations on Oahu;
- (2) To help meet the need for office space in downtown Honolulu with emphasis on maritime related office uses. [Eff FEB 21 1992] (Auth: HRS §§ 206J-7, 206J-5) (Imp: HRS §§206J-5, 206J-1)

§15-26-82 M zone: use rules. Within the maritime zone (M), the following uses and structures shall be permitted:

- (1) Maritime uses:
 - (A) Piers, wharves and docks;
 - (B) Terminals for passengers arriving or departing by ship, ferry day/dinner cruise boat or water taxi;
 - (C) Transient berthing facilities;
 - (D) Sales offices for commercial maritime operations;
 - (E) Maritime fueling facilities;
 - (F) Short-term cargo and supply storage facilities;
 - (G) Government offices for federal and state maritime related operations;

- (2) Commercial uses:
 - (A) Offices, with emphasis given to users with maritime interests;
 - (B) Eating and drinking establishments;
 - (C) Retail shops catering to cruise ship passengers and office workers within the maritime complex;
 - (D) Car rental and ground tour operations;
 - (E) Financial services, travel agencies, passport photo studios, and other services which cater to traveler needs;
 - (F) Private recreation and athletic clubs;
- (3) Public uses:
 - (A) Mini-parks, plazas, promenades and other public open spaces;
 - (B) Public streets.
- (4) Uses and structures which are customarily accessory and clearly incidental and subordinate to principal uses and structures including parking, security and utility installations. [Eff FEB 21 1992] (Auth: HRS §§ 206J-7, 205J-5) (Imp: HRS §§206J-5, 206J-1)

§15-26-83 M zone: development requirements. Within the maritime zone (M), the following development requirements shall apply:

- (1) Floor areas:
 - (A) Maritime terminal facilities: 155,000 gross square feet, or such lesser area as the Department of Transportation, State of Hawaii, shall require, of facilities for maritime uses located on the first two levels of the terminal structure.
 - (B) Office uses: A maximum of 385,000 gross square feet for both government and private offices located above the maritime terminal facilities;
 - (C) Retail uses: A maximum of 30,000 gross square feet located on the first two levels of the terminal structure;
- (2) Parking:
 - (A) A minimum of 600 parking spaces (including 189 reserved for state office users);
- (3) Building heights:
 - (A) Buildings within 200 feet of the makai boundary of Ala Moana Boulevard shall not exceed 120 feet, and buildings within the remaining area shall not exceed 100 feet. [Eff FEB 21 1992] (Auth: HRS §§206J-7, 206J-5) (Imp: HRS §§206J-1, 206J-5, 206J-6)

§15-26-84 C zone: purpose and intent. The commercial zone (C) established by this chapter is designed to promote and protect the public health, safety, and general welfare. These general goals include, among others, the following specific purposes:

- (1) To promote an environment where retail commercial uses will coexist compatibly alongside maritime uses;
- (2) To create a vibrant, attractive retail commercial "people place" which will attract downtown workers, local residents and island visitors during daytime and evening hours;
- (3) To protect, enhance and restore the historic Aloha Tower structure as the dominant feature in the zone. [Eff FEB 21 1992] (Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§206J-1, 206J-5)

§15-26-85 C zone: use rules. Within commercial zone (C), the following uses and structures shall be permitted:

- (1) Commercial uses:
 - (A) Food markets, stores, delicatessens, bakeries;
 - (B) Drug stores;
 - (C) Liquor stores;
 - (D) General merchandise and variety stores;
 - (E) Apparel and accessories;
 - (F) Eating and drinking establishments;
 - (G) Specialty retail establishments including those on movable carts;
 - (H) Banks and financial institutions, insurance and real estate offices;
 - (I) Personal and professional service establishments;
 - (J) Theaters, museums, art galleries, libraries, and historical sites;
 - (K) Commercial entertainment and recreation facilities (indoor and outdoor);
 - (L) Offices, professional offices, travel agencies, and other office uses;
 - (M) Private recreation and athletic clubs.
- (2) Maritime uses:
 - (A) Piers, wharves and docks;
 - (B) Terminals for passengers arriving or departing by ship, ferry, day/dinner cruise boat or water taxi;
 - (C) Transient berthing facilities;
 - (D) Sales offices for commercial maritime operations;
- (3) Public uses:
 - (A) Plazas, promenades and other public open spaces;
 - (B) Public streets;
- (4) Uses and structures which are customarily accessory and clearly incidental and subordinate to the principal uses and structures, including parking, security and utility installations. [Eff FEB 21 1992] (Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§206J-1, 206J-5)

§15-26-86 C zone: development requirements. Within the commercial zone (C), the following development requirements shall apply.

- (1) Floor areas:
 - (A) Retail uses: A maximum of 300,000 gross square feet located on the lower three floors of a commercial "marketplace" structure;
 - (B) Office uses: A maximum of 160,000 gross square feet located on the third and fourth floors of the "marketplace" structure;
- (2) Parking:
 - (A) A portion of the not less than 2,000 total parking spaces located above and/or below grade in the C and H/O/R zones and below grade in the P zones;
- (3) Building heights:
 - (A) Buildings in the C zone shall not exceed 90 feet. [Eff FEB 2 1 1992] (Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§206J-1, 206J-5, 206J-6)

§15-26-87 H/O/R zone: purpose and intent. The hotel/office/residential zone (H/O/R) established by this chapter is designed to promote and protect the public health, safety, and general welfare. These general goals include, among others, the following specific purposes:

- (1) To meet the needs of the state's maritime industry, and in particular, to serve the terminal needs for large international cruise ships;
- (2) To provide overnight accommodations and services for neighbor island and out-of-state visitors in close proximity to the downtown business and civic center activities;
- (3) To help meet the need for high quality office space in downtown Honolulu;
- (4) To provide housing in close proximity to the downtown workplace, thus reducing the residents' dependency on vehicular transportation; and/or
- (5) To provide revenues in excess of those required to develop the uses in this zone in order to provide the maritime and public uses within the Aloha Tower project at no financial cost to the general public. [Eff FEB 21 1992] (Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§206J-1, 206J-5)

§15-26-88 H/O/R zone: use rules. Within the hotel/office/residential zone (H/O/R), the following uses and structures shall be permitted:

- (1) Maritime uses:
 - (A) Piers, wharves and docks;
 - (B) Terminals for passengers arriving or departing by ship, ferry, day/dinner cruise boat or water taxi;

- (C) Transient berthing facilities;
 - (D) Sales offices for commercial maritime operations;
 - (E) Maritime fueling facilities;
 - (F) Short-term cargo and supply storage facilities;
 - (G) Government offices for federal and state maritime related operations.
- (2) Commercial uses:
- (A) Hotels, including condominium hotels, and related services including food and beverage, retail, recreational and business service facilities; conversion to residential or office condominium units will be permitted after five years of hotel operations;
 - (B) Offices;
 - (C) Financial institutions and services;
 - (D) Eating and drinking establishments;
 - (E) Professional and personal service establishments;
 - (F) Specialty retail establishments catering to cruise ship passengers and office workers within the complex;
 - (G) Car rental and ground tour operations;
 - (H) Fairs, markets, exhibitions and social functions when not conflicting with maritime operations.
- (3) Residential uses:
- (A) Apartments, including condominium apartments;
 - (B) Private recreational facilities, common lounges and residential manager's office/apartment;
 - (C) Commercial support facilities including restaurants, personal service establishments, etc.
- (4) Public uses:
- (A) Plazas, promenades and other public open spaces;
 - (B) Public streets.
- (5) Uses and structures which are customarily accessory and clearly incidental and subordinate to the principal use and structures, including parking, security and utility installations. [Eff FEB 21 1992] (Auth: HRS §§ 206J-5, 206J-7) (Imp: HRS §§206J-1, 206J-5)

§15-26-89 H/O/R zone: development requirements. Within the hotel/office/residential zone (H/O/R), the following development requirements shall apply:

- (1) Floor areas/units:
 - (A) Maritime terminal facilities: 101,000 gross square feet, or such lesser area as the Department of Transportation, State of Hawaii, shall require, located on the first two levels of the complex at piers 10 and 11;
 - (B) Hotel uses: A minimum of 109 hotel suites to a maximum of 350 guest rooms located above and/or adjacent to the

maritime terminal facilities; conversion to residential or office condominium units will be permitted after five years of hotel operations;

- (C) Retail uses: A maximum of 40,000 gross square feet excluding hotel or office related shops and services;
 - (D) Office/residential uses: A cumulative maximum of 550,000 gross square feet (excluding future hotel conversion units).
- (2) Parking:
- (A) A portion of the not less than 2,000 total parking spaces located above and/or below grade in the C and H/O/R zones and below grade in the P zones.
- (3) Building heights (areas shown on exhibit entitled Aloha Tower Project Area/Land Use Zones at the end of these rules):
- (A) Makai areas: Structures within 120 feet of the pier face shall not exceed 120 feet, and structures within the remaining area shall not exceed 105 feet.
 - (B) Mauka areas: A single tower structure shall be permitted, not to exceed 400 feet. [Eff FEB 21 1992] (Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§ 206J-1, 206J-5, 206J-6)

§15-26-90 P zone: purpose and intent. The park zone (P) established by this chapter is designed to promote and protect the public health, safety and general welfare. These goals include, among others, the following specific purposes:

- (1) To provide much needed improved public open space for passive recreational activities in the downtown and waterfront areas;
- (2) To protect, enhance and restore the historically significant features in the zone which are important links to past eras in the waterfront area. [Eff FEB 21 1992] (Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§206J-1, 206J-5, 206J-6)

§15-26-91 P zone: use rules. Within park zone (P), the following uses and structures shall be permitted:

- (1) Public uses;
 - (A) Parks, plazas, promenades and other public open spaces;
 - (B) Historic structures, museums and interpretive displays;
 - (C) Pavilions, bandstands, gazebos and other open-air structures for performing and entertaining;
 - (D) Underground parking facilities and access ways thereto;
 - (E) Public restrooms;
 - (F) Piers and landings for use by small boats and water taxis.
- (2) Uses and structures which are customarily accessory and clearly incidental and subordinate to the principal uses and structures including parking, security and utility installations. [Eff FEB 21

1992] (Auth: HRS §§ 206J-5, 206J-7) (Imp: HRS §§206J-1, 206J-5, 206J-6)

§15-26-92 P zone: development requirements. Within the park zone (P), the following development requirements shall apply:

- (1) Parking:
 - (A) A portion of the not less than 2,000 total parking spaces located above and/or below grade in the C and H/O/R zones and below grade in the P zones;
- (2) Building heights:
 - (A) No structure within the P zone shall exceed 30 feet. [Eff FEB 21 1992] (Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§206J-1, 206J-5, 206J-6)

§15-26-93 R/O zone: purpose and intent. The residential/office zone (R/O) established by this chapter is designed to promote and protect the public health, safety and general welfare. These goals include, among others, the following specific purposes:

- (1) To provide housing in close proximity to the downtown workplace, thus reducing the residents' dependency on vehicular transportation;
- (2) To help meet the need for high quality office space in downtown Honolulu;
- (3) To provide revenues in excess of those required to develop the uses in this zone in order to provide the maritime and public uses within the Aloha Tower project at no financial cost to the general public; and/or
- (4) To maintain the use of Honolulu's limited harbor space for maritime operations. [Eff FEB 21 1992] (Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§ 2061-1, 206J-5, 206J-6)

§15-26-94 R/O zone: use rules. Within the residential/office zone (R/O), the following uses and structures shall be permitted:

- (1) Maritime uses:
 - (A) Piers, wharfs and docks;
 - (B) Ferry and water taxi berthing, servicing, light maintenance and administrative operations;
 - (C) Transient berthing facilities.
- (2) Commercial uses:
 - (A) Offices;
 - (B) Financial institutions and service;
 - (C) Eating and drinking establishments;
 - (D) Professional and personal service establishments;
- (3) Residential uses:
 - (A) Condominium apartments;

- (B) Private recreational facilities, common lounges and residential manager's office/apartment;
- (C) Commercial support facilities including restaurants, personal service establishments, etc.
- (4) Public uses:
 - (A) Pedestrian promenades.
- (5) Uses and structures which are customarily accessory and clearly incidental and subordinate to the principal uses and structures including parking, security and utility installations. [Eff FEB 21 1992] (Auth: HRS §§ 206J-5, 206J-7) (Imp: HRS §§206J-1, 206J-5, 206J-6)

§15-26-95 R/O zone: development requirements. Within the residential/office zone (R/O), the following development requirements shall apply:

- (1) Floor areas/units:
 - (A) The cumulative floor area for all residential and/or commercial uses shall not exceed 1,353,000 square feet in the towers and 47,000 square feet in the base;
 - (B) The maximum floor area of any floor of any tower shall not exceed 16,500 square feet;
 - (C) A maximum of 350 condominium apartment units shall be permitted;
- (2) Parking:
 - (A) Commercial uses: A minimum of one stall per 600 square feet of floor area;
 - (B) Residential uses: A minimum of 1.4 stalls per unit;
 - (C) At least 50 percent of all parking shall be located on-site and any remainder will be provided within 750 feet of the zone boundaries;
 - (D) Any parking to be located above grade shall be screened from landside and waterside viewing in a manner which is architecturally consistent with the overall project design.
- (3) Building heights:
 - (A) Two tower structures shall be permitted, not to exceed 400 feet. [Eff FEB 21 1992] (Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§206J-1, 206J-5, 206J-6)

§15-26-96 Subdivision and consolidation. The subdivision or consolidation of land within any land use zone shall be processed and approved by the city and county of Honolulu. [Eff FEB 21 1992] (Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§206J-5)

§15-26-97 to §15-26-109 (Reserved)

§15-26-110 Additional development requirements. In addition to the requirements of the respective land use zones specified in this subchapter, the development requirements of subchapter 8 relating to any development, irrespective of the land use zone in which it is located, shall be applicable unless specifically provided otherwise. [Eff FEB 21 1992] (Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§206J-1, 206J-5, 206J- 6)

SUBCHAPTER 8

GENERAL DEVELOPMENT REQUIREMENTS

§15-26-111 Purpose and intent. The purpose of this subchapter is to set forth standards relating to development which are generally applicable to any use or site, irrespective of the land use zone in which it is located. [Eff FEB 21 1992] (Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§206J-1, 206J-5, 206J-6)

§15-26-112 Heights. The following building elements or features may exceed the height limits prescribed in subchapter 7:

- (1) Structures housing or screening necessary mechanical appurtenances of the building on which they are erected;
- (2) Necessary utilitarian features including stairwell enclosures, safety railings, ventilators, and skylights;
- (3) Decorative or recreational features, including cornices, rooftop gardens, planter boxes, flag poles, spires, cupolas, or ornamental towers;
- (4) Roof-mounted radio or television mast antennae and roof-mounted dish antennae; and
- (5) Energy-saving devices, including heat pumps and solar collectors. [Eff FEB 21 1992] (Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§206J-1, 206J-5, 206J- 6)

§15-26-113 Yards. (a) The minimum front yard requirements shall be as follows:

- (1) A front yard of ten feet in depth measured perpendicularly from the street boundary line shall be provided for each development parcel.
- (2) Every yard bounded by a public street shall be a front yard.
- (b) There shall be no minimum side and rear yard requirements.
- (c) Permitted uses within all front yards include:
 - (1) Buildings, or portions thereof, provided there is a minimum of 15 feet of public sidewalk between the structure and the curb of the adjacent street;
 - (2) Outdoor dining areas which are covered with umbrellas, awnings or trellises but remain open on the sides during business hours;
 - (3) Porte cocheres;
 - (4) Customary yard accessories;
 - (5) Dispensers for newspaper sales and distribution;

- (6) Fences and retaining walls as provided in subsection (d) below,
- (7) Public utility facilities not exceeding six feet in height from existing grade and screened with landscaping;
- (8) Bus stop shelters;
- (9) Upper-level pedestrian-ways approved by the corporation; and
- (10) Other structures under thirty inches.
- (d) Retaining walls within required front yards shall not exceed a height of thirty inches. A safety railing or fence may be erected on top of the retaining wall. The safety railing shall not be capable of retaining earth or exceed forty-two inches above the finish grade of the fill on the inside of the retaining wall.
- (e) Except as specifically provided otherwise, roof overhangs, caves, sunshades, sills, frames, beam ends, projecting courses, planters, awnings, and other architectural embellishments or appendages with less than a thirty-inch vertical thickness may project no more than four feet into the required distance of a yard or setback. Exterior balconies, lanais, arcades, or covered passageways are not permitted within required front yards.
- (f) Parking and loading including any related maneuvering area or aisle shall not be allowed in any front yard or area except for short-term parking and loading in conjunction with porte cochere activities. [Eff FEB 21 1992] (Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§206J-1, 206J-5, 206J-6)

§15-26-114 Off-street parking. (a) The minimum number of required off-street parking spaces for the Aloha Tower project area shall be as specified in subchapter 7.

- (b) At least sixty per cent of required parking shall be standard sized parking spaces and forty per cent may be compact spaces, except that residential dwelling and hotel units may have fifty per cent compact spaces.
- (c) The following are general standards for parking lots or areas:
 - (1) All parking and drive areas shall be provided and maintained with an all-weather surface;
 - (2) All parking areas shall be illuminated in such a manner that all light sources are shielded from the direct view of adjacent developments;
 - (3) Ingress and egress aisles shall be provided to a street and between parking bays. In addition, minimum aisle widths for parking bays, except mechanical parking areas, shall be provided in accordance with the following table:

Parking Angle (in degrees)	Aisle Width (in feet)
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0-44	12
45-59	13.5
60-69	18.5
70-79	19.5
80-89	21
90	22

- (4) All parking areas shall be designed or arranged in a manner that no maneuvering into any street, alley or walkway is necessary in order for a vehicle to enter or leave the parking space, and which allows all vehicles to enter the street in a forward manner;
- (5) All developments shall provide parking areas located within a structure. Parking structures shall contain a roof and walls on all sides, and said walls shall screen parked vehicles.
- (d) The following are general standards for parking spaces:
 - (1) All spaces shall be individually marked if more than four spaces are required. Compact spaces shall be labeled 'compact only';
 - (2) All spaces shall be unobstructed, provided a building column may extend a maximum total of six inches into the sides of the parking space. A wall is not considered a building column;
 - (3) Standard-sized parking spaces shall be nineteen feet in length and eight and one-half feet in width;
 - (4) Compact spaces shall be sixteen feet in length and seven and one-half feet in width;
 - (5) All spaces shall be so arranged that any automobile may be moved without moving another, except that tandem parking shall be permissible in instances where the parking spaces are used for employee parking, where all parking is performed by an attendant at all times, or for public assembly facilities and temporary events, including activities where user arrivals and departures are simultaneous and parking is attendant directed;
 - (6) Clearance height in all garages shall be a minimum of 6'-6'.
 - (e) Off-site parking facilities or spaces may be permitted in the corporation's sole discretion, provided that:
 - (1) The corporation finds that:
 - (A) Such off-site parking would provide flexibility and result in a development that is practically and aesthetically superior to that which could be accomplished with the rigid enforcement of this chapter;
 - (B) The resulting development would not adversely affect adjacent developments or uses; and
 - (C) The resulting development will be consistent with the intent of the project plan;

- (2) The parking facility is located within or adjacent to the project area; and
- (3) A written agreement satisfactory to the corporation is executed stipulating that the required number of off-site parking spaces shall be available to the proposed use. Said agreement shall provide that of the amount of parking spaces is not maintained, or space acceptable to the executive officer substituted, the use, or such portion of the use as is deficient in number of parking spaces, shall be discontinued. No change in use or new construction shall be permitted which increases the requirements for off-street parking unless such additional space is provided. [Eff FEB 21 1992] (Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§206J- 1, 206J-5, 206J-6)

§15-26-115 Off-street loading. (a) Buildings shall provide off-street loading spaces for the area proposed to be constructed as follows:

- (1) Maritime (M) zone: A minimum of five spaces;
 - (2) Commercial (c) and Hotel/Office/Residential (H/O/R) zones: A cumulative minimum of six spaces;
 - (3) Park (P) zone: No spaces required; and
 - (4) Residential/Office (R/O) zone: A minimum of three spaces.
- (b) Loading space required under this section shall not be in any street or alley, but shall be provided within the building or on the lot. The following standards shall also apply to loading spaces:
- (1) The minimum horizontal dimensions of at least half of the required spaces shall be 12 x 35 feet and have a vertical clearance of at least fourteen feet. The balance of the required spaces in any zone shall have horizontal dimensions of at least 19 x 8-1/2 feet and vertical clearance of at least ten feet;
 - (2) Each loading space shall be unobstructed and shall be arranged so that any vehicle may be moved without moving the other;
 - (3) Adequate maneuvering areas and access to a street shall be provided and shall have a vertical clearance not less than the applicable height for the loading space;
 - (4) All loading spaces and maneuvering areas shall be paved with an all- weather surface;
 - (5) Where loading areas are illuminated, all sources of illumination shall be shielded to prevent any direct reflection toward adjacent premises;
 - (6) Loading spaces for three or more vehicles shall be arranged so that no maneuvering to enter or leave a loading space shall be on any public street, alley or walkway;
 - (7) Each required loading space shall be identified as such and shall be reserved for loading purposes;

- (8) No loading space shall occupy required off-street parking spaces or restrict access; and
- (9) No loading space of maneuvering area shall be located within a required yard. [Eff FEB 21 1992] (Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§ 206J- 1, 206J-5, 206J-6)

§15-26-116 Signs. Except as otherwise provided, signs shall conform to the "B2 Community Business District" sign regulations of the land use ordinance of the city and county of Honolulu. The corporation shall be responsible for enforcement of the ordinance's provisions, and shall also administer appeals and variances relating to signs. [Eff FEB 21 1992] (Auth: HRS §§ 206J-5, 206J-7) (Imp: HRS §§206J-1, 206J-5, 206J-6)

§15-26-117 Architectural criteria. (a) All rooftop mechanical appurtenances, stairwells and elevator enclosures, ventilators, and air-conditioning equipment shall be screened from view by architectural or landscape treatments.

(b) Parking structures shall not be visible from adjacent streets. [Eff FEB 21 1992] (Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§206J-1, 206J-5, 206J- 6)

§15-26-118 Circulation. The approval of the executive officer or corporation shall be required on any addition, deletion, modification or alteration of existing streets shown on the project area plan. The executive officer or corporation may consult with other appropriate governmental agencies prior to said approval. [Eff FEB 2 1992] (Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§206J- 1, 206J-5, 206J-6)

§15-26-119 Utilities required to be underground. Public utility companies (including HEC_o, HTC_o and CATV companies) shall place utility lines underground within the project area. The location of all utility structures placed on pads shall be subject to the executive officer's approval. [Eff FEB 21 1992] (Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§206J-1, 206J-5, 206J-6)

§15-26-120 Performance standards. (a) Where a building wall contains a reflective surface for more than thirty per cent of the surface area of the wall, diagrams, charts and other documents shall be submitted to the executive officer which clearly indicate the impact of the reflection from the wall on any street within 1, 000 feet of the reflective wall during the two daily periods of 6:30 a.m. to 8:00 a.m., and 3:30 p.m. to 6:00 p.m. throughout the year. Denial or modification of the project may be made where adverse reflection can be shown.

(b) Every use shall be so operated that it does not emit a dangerous degree of odor or fumes.

(c) Any provision in this chapter to the contrary notwithstanding, the rules of the state department of health shall continue to apply to all activities and properties within the project area. These rules shall include, but not be limited to,

department of health, chapter 11-43 relating to community noise control for Oahu, chapter 11-11 relating to sanitation, chapter 11-14 relating to housing, chapter 11-34 relating to poisons, chapter 11-39 relating to air conditioning and ventilation, chapter 11-42 relating to vehicular noise control, chapter 11-55 relating to water pollution, chapter 11-58 relating to solid waste management control, chapter 11-59 relating to ambient air quality standards, and chapter 11-60 relating to air pollution. [Eff FEB 21 1992] (Auth: §§206J-5, 206J-7) (Imp: HRS §§206J-1, 206J-5, 206J-6)

§15-26-121 Temporary uses. Temporary structures, such as tents and booths, may be permitted in any zone for periods not exceeding fourteen days, provided that for good reasons, the executive officer, in his sole discretion, may grant extensions for an additional fourteen day. [Eff FEB 21 1992] (Auth: HRS §§ 206J-5, 206J-7) (Imp: HRS §§206J-1, 206J-5, 206J-6)

§15-26-122 Conditional use of vacant land. The executive officer, in his sole discretion, may allow a conditional use of vacant land, provided:

- (1) The proposed use is any use permitted within the land use zone except:
 - (A) That open or uncovered temporary parking at grade may be permitted in all land use zones, and
 - (B) Construction sites, special trade construction and storage yards, and non-extensive yard uses may be permitted in all land use zones where a six-foot screening wall or fence is erected along all public rights-of-way.
- (2) The duration of the use is for a two-year period, provided that the executive officer may issue additional extensions of up to two years each if the development status of the area has not changed appreciably since the use was initially allowed;
- (3) The floor area of any proposed temporary structure does not exceed 0.5 floor area ratio;
- (4) The development conforms to the setback and landscape requirements of this chapter, except for development lots where a screening wall or fence not exceeding six feet in height is erected along all public fights-of-way;
- (5) The development conforms to the performance standards of this chapter;
- (6) In addition to the design controls listed in this section, the executive officer may include additional conditions in the permit to ensure that the development does not adversely affect adjacent facility and the appearance of the district. Conditional use of vacant land permits issued under this rule may be modified by the executive officer at any time in response to valid public concern/complaint, to contain additional conditions for mitigation; and

- (7) The proposed uses in no way prevents or delays the future development of the facility. [Eff FEB 21 1992] (Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§ 206J-1, 206J-5, 206J-6)

§15-26-123 Flood hazard district. The applicable provisions of Article 7 of the land use ordinance relating to flood hazard districts shall apply to all affected activities and properties within the Aloha Tower complex area. [Eff FEB 21 1992] (Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§206J-1, 206J-5, 206J-6)

§15-26-124 Applications. (a) Prior to submitting an application for a development permit, applicants shall be required to have complied with section 15-26-59 of this chapter.

(b) A developer shall submit to the corporation four copies of a project plan as a part of the application for the development permit. The project plan shall satisfy the stated purposes of the permit applied for.

(c) The project plan shall clearly indicate how the proposed development would satisfy the standards and purposes of this subchapter and the Aloha Tower project area plan. In addition to any other information which the applicant may deem necessary to support the application, it shall include the following:

- (1) Location map showing the project in relation to the surrounding area;
- (2) Site plan showing:
 - (A) Property lines and easements with dimensions and area;
 - (B) The proposed building location, elevations, dimensions, sections, and floor plan and site sections to clearly define the character of the project;
 - (C) Location of existing buildings, site features and conditions; and
 - (D) Location and dimensions of existing and proposed easements, utilities, and rights-of-way;
- (3) A land use plan showing:
 - (A) The locations and uses of all buildings and structures, the general bulk and height of all buildings and their relationship to each other and to adjacent areas, the gross floor areas of buildings by type of uses, the ground coverage of all buildings, and the FAR of the project;
 - (B) The locations and size of vehicular and pedestrian circulation systems (both exterior and interior), identification of public and private areas and their dimensions, the location and dimensions of off-street loading areas and the location of points of access to the site and to public transportation facilities;
 - (C) The locations and dimensions of parking areas, with calculations of the number of parking spaces;

- (D) The location of land to be dedicated for public facilities;
- (E) The location of land which is intended for common quasi-public, or amenity use but not proposed to be in public ownership, and proposed restrictions, agreements or other documents indicating the manner in which it will be held, owned, and maintained in perpetuity for the indicated purposes;
- (F) Landscaping plan; and
- (G) Location and amount of all open space and recreation areas;
- (4) A detailed statement describing the manner in which the development would conform to the Aloha Tower project area plan and the purposes and standards of this chapter;
- (5) A development program stating the sequence in which all structures, open and amenity spaces, vehicular and pedestrian circulation systems, and community recreational facilities are to be developed;
- (6) The relationship, if any, of the development program to the city and county of Honolulu's capital improvements program;
- (7) Analyses of traffic, wind, sun, and noise impacts;
- (8) An analysis of the shadows to be cast by all buildings;
- (9) A three dimensional study model; and
- (10) Any additional information which the executive officer may request.

(d) The completed application shall be filed with the corporation. For a development not requiring a variance, the corporation shall (1) approve the application as submitted, (2) approve subject to such modifications or conditions as the corporation may establish at its sole discretion, (3) or deny with reasons for denial within sixty days of receipt of the completed application. For a proposed development requiring a variance, the decision on the development permit application shall be rendered within sixty days of the order approving or disapproving the variance. Such decision shall be made in writing and sent to the applicant.

(e) If a permit required by this chapter requires a public hearing, no request for postponement of the hearing shall be allowed after notice has been published; however, the applicant may withdraw the permit application. [Eff FEB 21 1992] (Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§206J-5)

§15-26-125 Determination by the corporation. In reaching its determination on an application for a development permit, the corporation shall consider the following:

- (1) Conformance of the proposed development with the Aloha Tower project area plan and in particular, the proposed use, density, height, arrangement and design of structures;
- (2) Whether the maritime facilities meet the requirements and specifications established by the corporation;

- (3) Whether the setbacks, yards, pedestrianways, and related open spaces are so located and of sufficient dimensions to provide for adequate light, air and audio/visual separation;
- (4) Whether the vehicular circulation system, including access and off-street parking and loading, is so designed as to provide an efficient, safe, and convenient transportation system;
- (5) Whether the pedestrian circulation system:
 - (A) Is so located, designed and of sufficient size as to conveniently handle pedestrian traffic efficiently and without congestion;
 - (B) Is separated, if necessary, from vehicular roadways so as to be safe, pleasing and efficient for movement of pedestrians; and
 - (C) Provides efficient, convenient and adequate linkages between the water's edge and public activity, on-site residential areas, commercial and employment areas, and adjacent downtown developments at all hours of the day and night;
- (6) The adequacy of landscaping and screening of parking, loading and service areas as well as lighting and signs in relation to adjacent uses and public byways;
- (7) The staging program and schedule of development;
- (8) Relationship of new structures to the historically significant structures remaining within the project area;
- (9) Surface treatments and overall quality of materials;
- (10) Design continuity and overall appearance of the development from the street, the water and adjacent developments;
- (11) Whether structures have an appropriate orientation to take advantage of winds, reduce direct sun exposure, and minimize shadow effect on adjacent buildings;
- (12) Preservation of internal and adjacent view corridors;
- (13) Whether the facades of buildings are properly articulated, colored, and, where appropriate, landscaped;
- (14) Any other matter relating to the development or its impact on affected properties or public facilities. [Eff FEB 21 1992] (Auth: HRS §§ 206J-5, 206J-7) (Imp: HRS §§206J-5)

§15-26-126 Lapse of development permit. (a) Any planned development permit granted under the provisions of this subchapter shall automatically lapse if the initial building permit authorizing the construction of the foundation or superstructure of the project shall not have been issued within two years from the date of the permit.

(b) Should a development permit provide for phased construction, the phases shall be constructed in accordance with the time periods set forth therein; however, if no time is specified, the development permit shall lapse if the building

permit for the subsequent phase shall not have been issued within one year of the issuance of the occupancy permit for the previous phase.

(c) The corporation may grant up to two extensions to the effective period of a development permit, not to exceed two years each, upon the applicant's request and justification in writing for an extension, provided the request and justification are received by the corporation at least one hundred days in advance of the automatic termination date of the development permit and there are no material changes in circumstances which may be cause for denial of the extension. The corporation shall hold a public hearing on an extension request if a public hearing had been held on the development permit or any variance or modification granted as part of the development permit process. The request for extension shall be accompanied by a fee of \$200 plus the cost of publication of notice to defray the expenses of holding a hearing. The cost of the hearing notice shall be refunded only if the public hearing notice has not been submitted to the publishing agency. [Eff FEB 21 1992] (Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§206J-1, 206J-5)

§15-26-127 Modification of specific provisions. As a part of the development permit review process, the corporation may modify plan and rule requirements provided a public hearing is held. Except as otherwise specifically provided, modifications may be granted only to the following:

- (1) Building envelope requirements;
- (2) Yards;
- (3) Loading space;
- (4) Parking; and Uses. [Eff FEB 21 1992] (Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§206J-1, 206J -5)

§15-26-128 Conditions for modification. (a) In order for the corporation to consider modification of the zoning requirements listed in section 15-26-127, the applicant must demonstrate that:

- (1) The modification would provide flexibility and result in a development that is practically and aesthetically superior to that which could be accomplished with the rigid enforcement of this chapter;
- (2) The modification would not adversely affect adjacent developments or uses; and
- (3) The resulting development will be consistent with the intent of the Aloha Tower project area plan.

(b) The corporation shall specify the particular evidence which supports the granting of a modification and may impose reasonable conditions in granting a modification.

(c) The application for modification shall be accompanied by a fee of \$200 plus the cost of publication of notice to defray the expenses of holding a hearing. The cost of the hearing notice shall be refunded only if the public hearing notice has not been submitted to the publishing agency. [Eff FEB 21 1992] (Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§206J-1, 206J-5)

§15-26-129 to §15-26-148 (Reserved)

§15-26-149 Rules review and amendment. The development plan for the Aloha Tower project area is subject to amendment as provided therein. These Aloha Tower project area rules may be modified or amended in the same manner as they were promulgated, or through such other procedure as may be authorized by the corporation's rules of practice and procedure or by applicable law. All such changes shall be subject to approval by the corporation's board. [Eff FEB 21 1992] (Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§206J-1, 206J-5)

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ALOHA TOWER DEVELOPMENT CORP.

ALOHA TOWER COMPLEX & ALOHA TOWER PROJECT AREA
BOUNDARIES

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ALOHA TOWER
PROJECT AREA
LAND USE ZONES
ALOHA TOWER DEVELOPMENT CORPORATION

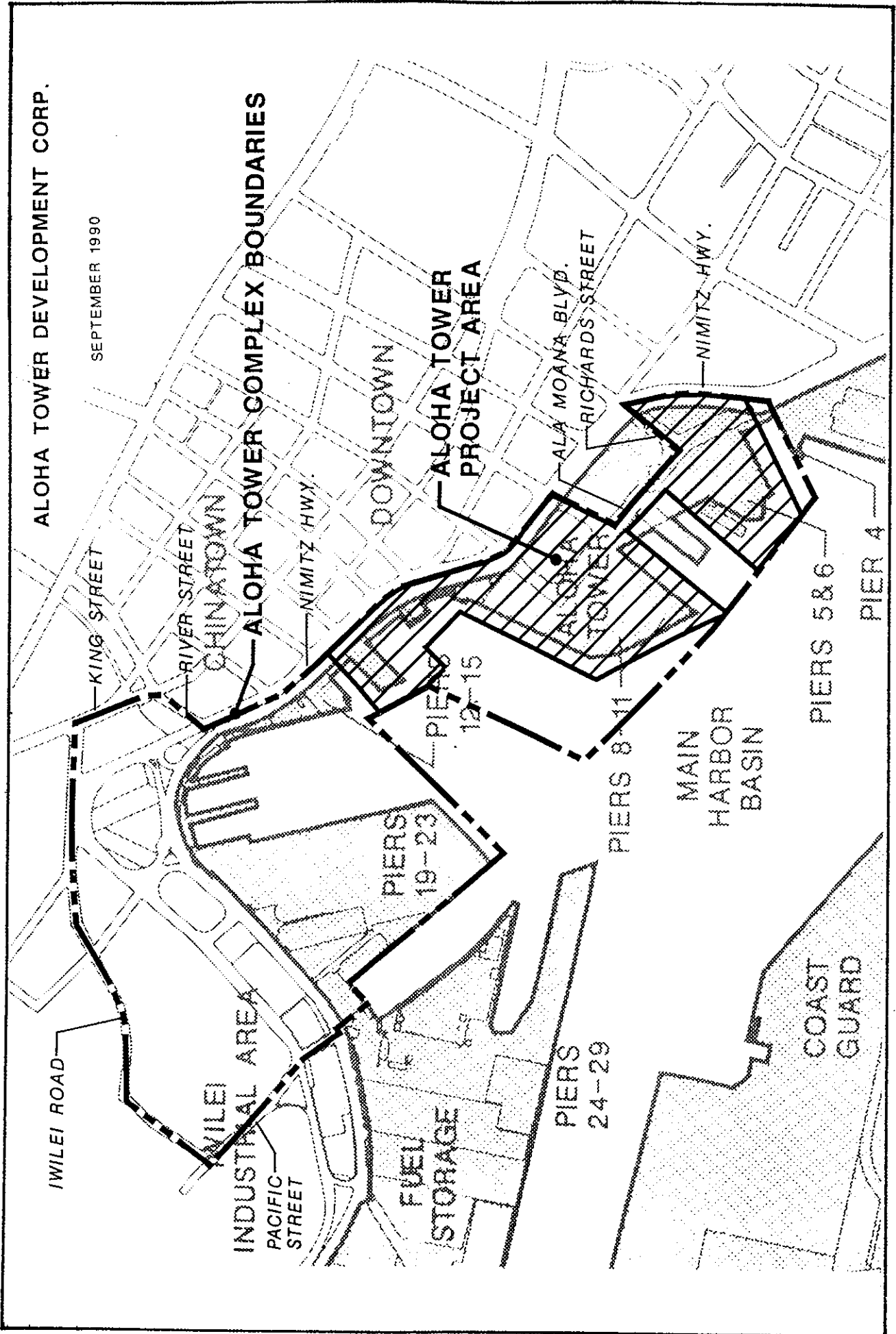
ALOHA TOWER PROJECT AREA PLAN

ALOHA TOWER COMPLEX

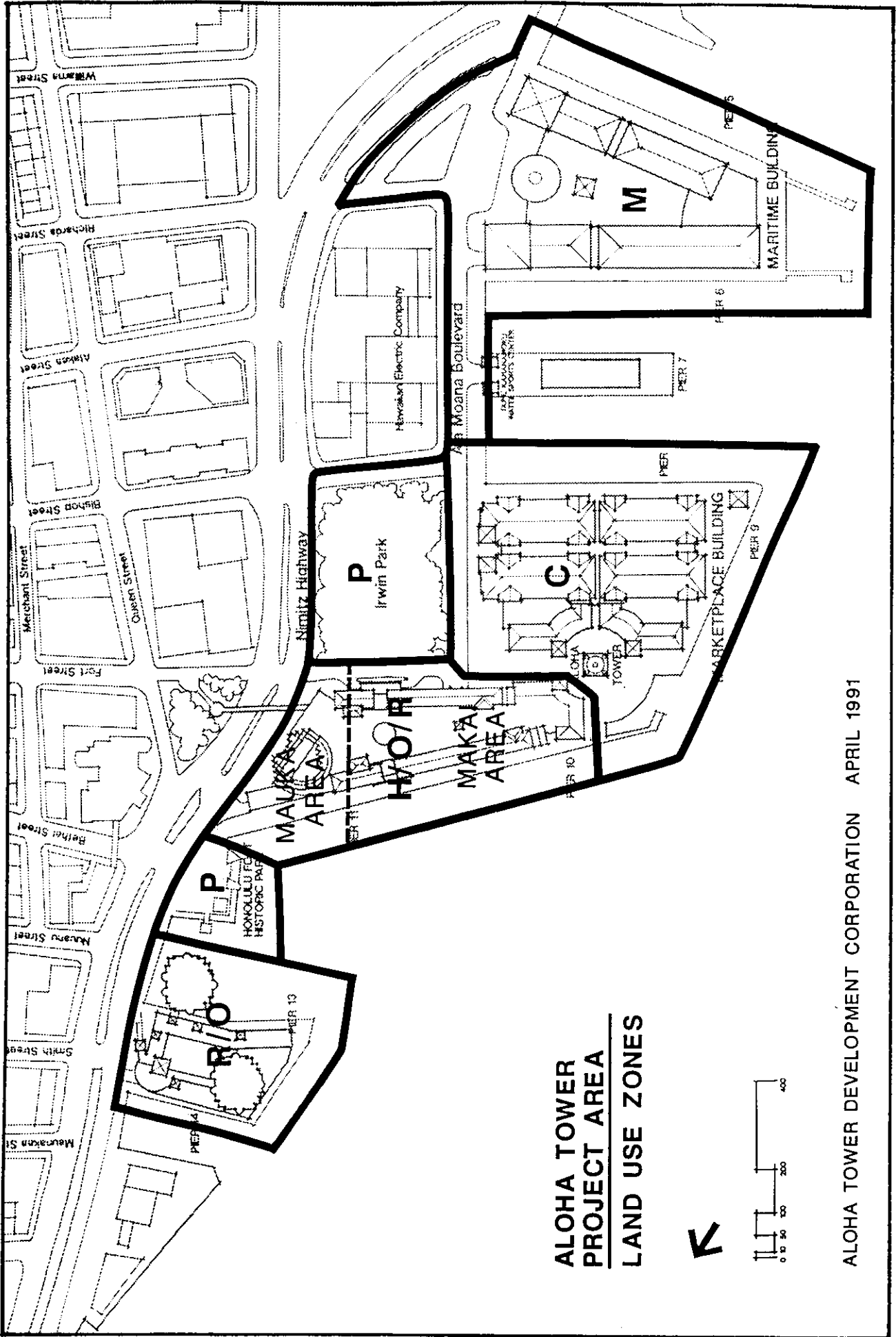
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ALOHA TOWER DEVELOPMENT CORP.

SEPTEMBER 1990



ALOHA TOWER COMPLEX & ALOHA TOWER PROJECT AREA BOUNDARIES



**ALOHA TOWER
PROJECT AREA
LAND USE ZONES**

