

# **ATTACHMENT F**

## **HAR 15-217 Kakaako Mauka District Rules**

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DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND  
TOURISM

Repeal of Chapter 15-22 and Adoption of Chapter 15-217  
Hawaii Administrative Rules

September 14, 2011

SUMMARY

Chapter 22 of Title 15, Hawaii Administrative Rules, entitled "the Kakaako Community Development District Rules for the Mauka Area" is repealed.

HAWAII ADMINISTRATIVE RULES

TITLE 15

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT

SUBTITLE 4

HAWAII COMMUNITY DEVELOPMENT AUTHORITY

CHAPTER 22

THE MAUKA AREA RULES

Repealed

§§15-22-1 to 15-22-280 Repealed. [ NOV 11 2011 ]

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND  
TOURISM

Repeal of Chapter 15-22 and Adoption of Chapter 15-217  
Hawaii Administrative Rules

September 14, 2011

SUMMARY

Chapter 217 of Title 15, Hawaii Administrative  
Rules, entitled "Mauka Area Rules" is adopted.

HAWAII ADMINISTRATIVE RULES

TITLE 15

DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT

SUBTITLE 4

HAWAII COMMUNITY DEVELOPMENT AUTHORITY

CHAPTER 217

MAUKA AREA RULES

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Historical note: Chapter 15-217 is based upon chapter 15-22. [Eff 9/8/86, 1/28/88, 7/28/88, 12/10/88, 3/9/89, 7/8/89, 10/28/89, 1/29/90, 2/24/90, 7/26/90, 9/15/90, 10/3/94, 12/15/94, 8/14/95, 11/25/96, 1/25/97, 3/27/97, 6/13/97, 8/1/97, 9/19/97, 8/16/99, 1/13/00, 9/15/01, 6/13/05, R NOV 11 2011 ]

## SUBCHAPTER 1

### PURPOSE AND APPLICABILITY

§15-217-1 Title. (a) This chapter 217 of the Hawaii administrative rules shall be known, and may be cited, as the "Mauka Area Rules."

(b) References to "Rules" within this chapter are references to the Mauka Area Rules unless indicated otherwise. References to other regulations or provisions relevant to the Hawaii community development authority, where provided, are for the convenience of the reader. The lack of a cross-reference does not exempt a land, building, structure, or use from other regulations.

(c) The figures, dated September 2011, attached at the end of this chapter and the mauka area plan, dated NOV 11 2011, are hereby incorporated by reference and made a part of this chapter. [Eff NOV 11 2011 ] (Auth: HRS §§206E-5, 206E-7) (Imp: HRS §§206E-5, 206E-7)

§15-217-2 Purpose. (a) The mauka area plan establishes long-term land use policy, consistent with chapter 206E, HRS, that directs the implementation of smart growth principles within a portion of the Kakaako community development district. The mauka

area plan also directs that implementation measures shall be calibrated according to the distinct characteristics of seven neighborhoods.

(b) The rules carry out, through complete, integrated, effective and concise land development regulations, the aforementioned mauka area plan directives by classifying and regulating the types and intensities of development and land uses within the mauka area consistent with, and in furtherance of, the policies and objectives of the mauka area plan and chapter 206E, HRS.

(c) The rules are adopted to protect and promote the public health, safety, and general welfare of the community and to protect and preserve places and areas of historical, cultural, architectural, or environmental importance and significance, as set forth in the mauka area plan and chapter 206E, HRS. More specifically, the purposes of the rules are to ensure:

- (1) For the community:
  - (A) That neighborhoods and transit-oriented development is compact, pedestrian-oriented and mixed-use;
  - (B) That neighborhoods should be the preferred pattern of development;
  - (C) That ordinary activities of daily living occur within walking distance of most dwellings, allowing independence to those who do not drive;
  - (D) That interconnected networks of thoroughfares be designed to disperse traffic and reduce the length of automobile trips;
  - (E) That within neighborhoods, a range of housing types and price levels be provided to accommodate diverse ages and incomes;
  - (F) That reserved housing should be distributed throughout the district to match job opportunities;



- (G) That appropriate building densities and land uses be provided within walking distance of transit stops;
- (H) That civic, institutional, and commercial activity should be embedded in neighborhoods, not isolated in remote single-use complexes;
- (I) That schools be sized and located to enable children to safely walk or bicycle to them;
- (J) That existing and future industrial uses shall be permitted and encouraged in appropriate locations within the district;
- (K) That a range of open space including parks, squares, plazas and playgrounds be distributed within neighborhoods; and
- (L) That the region should include a framework of transit, pedestrian, and bicycle systems that provide alternatives to the use of automobiles;
- (2) For the neighborhood zones:
  - (A) That communities should provide meaningful choices in living arrangements as manifested by distinct physical environments; and
  - (B) That the neighborhood zone descriptions provided in section 15-217-23 (neighborhood zones) shall constitute the intent of these rules with regard to the general character of each of these environments within the mauka area; and
- (3) For the block and the building:
  - (A) That buildings and landscaping contribute to the physical definition of thoroughfares as civic places;
  - (B) That development adequately accommodates automobiles while respecting the pedestrian and the spatial form of public areas;

- (C) That the design of streets and buildings reinforce safe environments, but not at the expense of accessibility;
- (D) That architecture and landscape design grow from local climate, topography, history, and building practice;
- (E) That buildings provide their inhabitants with a clear sense of geography and climate through energy efficient methods;
- (F) That civic buildings and public gathering places be provided as locations that reinforce community identity and support self-government;
- (G) That civic buildings be distinctive and appropriate to a role more important than the other buildings that constitute the fabric of the city; and
- (H) That the preservation and renewal of historic buildings be facilitated to affirm the continuity and evolution of society. [Eff NOV 11 2011 ] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-1, 206E-4, 206E-5, 206E-7)

§15-217-3 Applicability. (a) This chapter, together with the mauka area plan, shall govern all real property located within the mauka area. In case of any discrepancy between the provisions of this chapter and the mauka area plan, this chapter shall control.

(b) No building permit shall be approved by the Hawaii community development authority for any project within the mauka area unless the project conforms to the provisions of the mauka area plan and this chapter.

(c) No public improvement or project within the mauka area shall be initiated or adopted unless it conforms to and implements the mauka area plan and this chapter.

(d) 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. 81-79, as amended by Ordinance No. 85-46 and Ordinance No. 04-14), the provisions of the Kakaako special design district ordinance, and the provisions of the land use ordinance as they all shall relate to properties within the mauka area. The foregoing ordinances are hereby declared to be inconsistent with this chapter, and shall therefore be inapplicable to developments within the mauka area unless otherwise specifically stated.

(e) Except as otherwise specifically stated in this chapter, all other rules, laws, and ordinances shall continue to remain applicable to the developments and properties within the mauka area. [Eff NOV 11 2011 ] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-217-4 Minimum requirements. The provisions of the rules are minimum requirements for the protection and promotion of public health, safety, and welfare. Satisfaction of the minimum requirements does not mean that a decision-maker cannot impose additional requirements where authorized and appropriate and does not guarantee compliance with other rules, ordinance, or laws imposed by other governmental entities. [Eff NOV 11 2011 ] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-217-5 Rules of interpretation. (a) Provisions of the rules are activated by "shall" when required; "should" when recommended; and "may" when optional.

(b) In addition to text-only contents of the rules, section 15-217-5 (rules of interpretation) shall also control related captions, titles, and figures.

(c) Terms not defined in section 15-217-8 (definitions of terms) shall be accorded their commonly accepted meanings. In the event of conflicts between these definitions and those found elsewhere within the Hawaii community development authority's administrative rules, these rules shall take precedence.

(d) The figures located herein are an integral part of the rules. However, Figures 1.11 to 1.16, dated September 2011, made a part of this chapter, and attached at the end of this chapter, are illustrative guidelines.

(e) Where in conflict, numerical metrics shall take precedence over graphic metrics.

(f) Words used in the singular include the plural; words used in the plural include the singular.

(g) Words used in the present tense include the future tense; words used in the future tense include the present tense.

(h) Within the rules, sections are occasionally prefaced with "purpose" or "intent" statements. Each such statement is intended as an official statement of legislative finding or purpose. The "purpose" or "intent" statements are legislatively adopted, together with their accompanying rules text. They are intended as a guide to the administrator and shall be treated in the same manner as other aspects of legislative history. However, they are not binding standards.

(i) In their interpretation and application, the provisions of the rules are considered minimal in nature. Whenever the provisions, standards, or requirements of HCDA's rules of practice and procedure and chapter 218 (reserved housing), Hawaii administrative rules, are higher or more restrictive, the latter shall control.

(j) Whenever the executive director determines that the meaning or applicability of any requirement of the rules is subject to interpretation generally, or as applied to a specific case, the executive director may issue an official interpretation. The executive director may also forward any interpretation

of the meaning or applicability of any provision of the rules directly to the authority for a determination at a public meeting:

- (1) The issuance of an interpretation shall include findings stating the basis for the interpretation. The basis for an interpretation may include but is not limited to technological changes or new industry standards. The issuance of an interpretation shall also include a finding documenting the consistency of the interpretation with the mauka area plan;
- (2) All interpretations shall be:
  - (A) Written and shall quote the provisions of the rules being interpreted, and the applicability in the particular or general circumstances that caused the need for interpretations, and the determination; and
  - (B) Distributed to the authority, executive director, and Hawaii community development authority staff;
- (3) Any interpretation of the rules by the executive director may be appealed to the authority in compliance with section 15-217-88 (appeals); and
- (4) Any provision of the rules that is determined by the executive director to need refinement or revision will be corrected by amending the rules as soon as is practical. Until an amendment can occur, the executive director will maintain a complete record of all interpretations to the rules, indexed by the number of the subchapter, section or subsection that is the subject of the interpretation.
- (k) If there is uncertainty about the location of any zone boundary shown on the regulating plan, the location of the boundary shall be determined by the executive director as follows:
  - (1) Where a zone boundary approximately follows a lot line, alley, or street line, the lot

line, street or alley centerline shall be construed as the zone boundary, as applicable;

- (2) If a zone boundary divides a parcel and the boundary line location is not specified by distances printed on the regulating plan, the location of the boundary will be determined by using the scale appearing on the regulating plan; and
- (3) Where a public thoroughfare or alley is officially vacated or abandoned, the property that was formerly in the street or alley will be included within the zone of the adjoining property on either side of the vacated or abandoned thoroughfare or alley.  
[Eff NOV 11 2011 ] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-217-6 Compliance with other regulations.

(a) Whenever conflicting requirements are discovered in the application of the rules, they shall be resolved as follows:

- (1) Mauka area rules. If a conflict occurs between requirements within the rules, the most restrictive shall apply;
- (2) Mauka area plan. The provisions of the rules, when in conflict with the mauka area plan, shall take precedence;
- (3) Master plan. If conflicts occur between the requirements of the rules and standards adopted as part of any master plan, the requirements of the master plan shall apply; and
- (4) Private agreements. The rules apply to all real property located within the mauka area regardless of whether it imposes a greater or lesser restriction on the development or use of structures or land than a private agreement or restriction (for example, conditions, covenants and restrictions).

(b) The following provisions of the subtitle 4, title 15, apply within the mauka area and may be referenced herein:

- (1) HCDA's rules of practice and procedure; and
- (2) Chapter 218 (Kakaako reserved housing rules). [Eff NOV 11 2011 ] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-217-7 Severability. These rules shall be liberally construed to protect and preserve the health, safety, and general welfare within the mauka area. Should any provision of the rules be held to be unconstitutional or invalid, such holding shall not be construed as affecting the validity of any of the remaining provisions. [Eff NOV 11 2011 ] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-217-8 Definition of terms. This section provides definitions for terms in these rules that are technical in nature or that otherwise may not reflect a common usage of the term. If a term is not defined in this section, then the executive director shall determine the correct definition through the interpretation provisions of section 15-217-5 (rules of interpretation).

"Accessory building" means a building that is located on the same property, but physically separated from the principal building and is subordinate in size to the principal building, which may include swimming pool house, recreational facilities, and gazebos;

"Accessory dwelling" means a self-contained residential unit located on the same property as a front yard house, side yard house, or duplex-triplex-quadplex, which is either attached to the principal building or in a separate structure;

"Administrative" is a use classification for uses pertaining to the affairs of a business, profession,

service, industry, government, or like activity, which may include ancillary services for office workers, such as a restaurant, coffee shop, or newspaper or candy stand;

"Alcohol sales" is a use classification pertaining to the sale of alcoholic beverages, whether for on-site or off-site consumption;

"Allee" means an evenly spaced and aligned double row of trees usually planted along a thoroughfare;

"Alley" means a service lane located to the rear of lots providing access to service areas, parking, and outbuildings and containing utility easements;

"Alternative parking access street" means a street from which parking, driveways, curb cuts and other vehicular intrusions into the pedestrian realm should be allowed only when access to a parking access street is not possible. See Figure 1.10 (parking), dated September 2011, made a part of this chapter, and attached at the end of this chapter;

"Architectural encroachment" means an architectural feature that breaks the plane of a vertical or horizontal regulatory limit, extending into a setback, into the pedestrian zone, or above a height limit;

"Artisan or craft production" is a use classification for the manufacturing and assembling of small products primarily by hand, including but not limited to clothing, furniture, jewelry, pottery and other ceramics, small glass and metal art, taxidermists and craft products;

"Attic" means a portion of a building wholly or partly in the roof, so designated, arranged or built to be used for business, storage, recreation or habitation. Attic areas with a head room of less than seven feet shall not be included as floor area;

"Authority" means the Hawaii community development authority established by section 206E-3, HRS;

"Automobile rentals or sales" is a use classification primarily engaged in the rental, leasing or sales of new and used automobiles, trucks,



trailers, motorcycles, mopeds, and recreation vehicles and supplies, including storage of said vehicles;

"Automobile repair" is a use classification for the repair and maintenance services for motorcycles, passenger vehicles and trucks of all sizes. Typical repair and maintenance activities pertain to the tire, body, auto glass, radiator, transmission, motor tune-up, vehicle upholstery, and mufflers;

"Avenue" means a walkable, low-to-medium (thirty to thirty-five mph) urban arterial or collector thoroughfare, generally shorter in length than boulevards, serving access to abutting land. Avenues serve as primary pedestrian and bicycle routes and may serve local transit routes. Avenues usually provide curb parking;

"Awning" means a canopy that is supported entirely from the exterior wall of a building;

"Block" means the aggregate of lots, passageways, public spaces, and alleys bounded on all sides by thoroughfares;

"Block face" means the aggregate of the building facades on all of the lots on any given block;

"Block size" means the size of a block as measured in linear feet around the edges of the block at the lot line;

"Boulevard" means a means a walkable, low-speed (thirty-five mph or less) divided arterial thoroughfare designed to carry both through and local traffic, pedestrians and bicycles. Boulevards may be high ridership transit corridors. Curb parking may be allowed on boulevards;

"Build to line" means a setback, parallel to the frontage line, which marks the location from which the principle vertical plane of the elevation must be erected. The build to line dimension is the distance from the lot line to the build to line;

"Building" means any permanently anchored structure used or intended for supporting or sheltering any use or occupancy;

"Building face" means the building elevation closest to and facing the abutting thoroughfare;

"Building type" means a form based classification that describes a particular type of building in terms of scale and design. See Figures BT.1 to BT.10, dated September 2011, made a part of this chapter, and attached at the end of this chapter;

"Building void" means the negative space that is created between the potential building envelope and the actual building, when upper floors of a building are set back from the maximum possible floor plate size to add depth and articulation. The building void is the difference between one hundred per cent and the floor plate ratio provided for each story as indicated on each of the building type pages. See Figure 1.12-C (illustrative building void and floor plate diagrams), dated September 2011, made a part of this chapter, and attached at the end of this chapter;

"Civic" is a use classification which includes uses that foster community interaction and citizen participation in civic activities such as: meeting halls or clubhouse, conference centers, cultural facilities, public safety facilities, public or government facilities, libraries, religious facilities, and theaters;

"Civic building" means a building primarily used for civic or public uses;

"Civic space" means a form based classification of outdoor areas dedicated for public use. See Figure 1.11 (civic space), dated September 2011, made a part of this chapter, and attached at the end of this chapter;

"Commercial" means the term collectively defining workplace, office, and retail functions;

"Common open space" means a portion of the lot landscaped and utilized for passive or active recreation but excluding permanent buildings, off-street parking areas, drive aisles, above-ground utility cabinet, boxes or structures and required side and rear setback area;

"Conference center" is a use classification for facilities designed to host conferences, exhibitions, large meetings, seminars, and training sessions;

"Cultural facilities" is a use classification for establishments such as museums, art galleries, botanical and zoological gardens, and other facilities of an historic, an educational, or a cultural interest;

"Curb" means the edge of the vehicular pavement that may be raised or flush to a swale and is usually incorporated into the drainage system;

"Dance-nightclub" is a use classification pertaining to establishments primarily engaged in the preparation and sale of alcoholic beverages for consumption on the premises in conjunction with a dance floor accompanied by prerecorded or live music;

"Day-care center" is a use classification pertaining to non-medical care for fifteen or more children or adults in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a twenty-four-hour basis. May include pre-schools, infant centers, and extended day-care facilities;

"Day-care home" is a use classification pertaining to single-family residences that are occupied and used as such in addition to providing non-medical day-care on less than a twenty-four-hour basis to children or adults;

"Decision-maker" means the person or entity charged with reviewing a particular permit or development application;

"Developable area" means the area within the lot lines of a parcel or a series of parcels, excluding setback areas;

"Developer" means a private person or an entity who has legal rights to perform or cause to be performed any man-made change over, upon, under, or across improved or unimproved real property within the mauka area;

"Developer's proposal to develop lands under the authority's control" as used in section 206E-5.6, HRS, shall mean and include any permit application filed by any private person or entity seeking the authority's

approval for (1) a development; or (2) an improvement project on lands owned by the authority;

"Development" means and includes any man-made change over, upon, under, or across improved or unimproved real property performed on a lot greater than 20,000 square feet within the mauka area. Development shall not include a project consisting of a change in use or interior renovations only;

"Development permit" means and includes a permit approved and issued by the authority authorizing any development;

"Disposition" means the placement of a building on its lot;

"Drive-through" means an establishment that permits customers to receive services, to obtain goods, or to be entertained while remaining in their motor vehicles;

"Driveway" means a vehicular lane within a lot, often leading to a garage;

"Dwelling" means one or more rooms providing complete living facilities for one family, including kitchen facilities or equipment for cooking, and including a room or multiple rooms for living, sleeping, bathing, and eating;

"Educational facilities" is a use classification pertaining to instruction or education, such as kindergarten; elementary, middle, or junior high school; high school; college; universities; or vocational schools;

"Eleemosynary organization" means a society, association, or corporation engaged in religious, charitable, educational, scientific, literary, or other benevolent purposes, whose charter or other enabling act contains a provision that, in the event of dissolution, the land owned by such society, association, or corporation shall be distributed to another society, association, or corporation engaged in religious, charitable, educational, scientific, literary or other benevolent purposes;

"Elevation" means an exterior wall of a building not along a frontage line;

"Encroachment" means any structural or architectural element that breaks the plane of a vertical or horizontal regulatory limit, extending into a setback, into the pedestrian zone, or above a height limit;

"Enfront" means to place an element along a frontage;

"Exceptional tree" means a tree that by reason of age, rarity, location, size, aesthetic quality, endemic status or historical and cultural significance is designated by the county arborist committee as worthy of preservation, pursuant to Act 105, SLH 1975, and the city and county of Honolulu exceptional tree ordinance. See the revised ordinances of Honolulu, chapter 41, article 13 - protective regulations for exceptional trees including the register of exceptional trees;

"Executive director" means the executive director of the Hawaii community development authority;

"Facade" means the exterior wall of a building that is set along a frontage line;

"Facade string" means a row of facades along a street that are physically attached to each other;

"FEMA flood maps" means maps that set flood insurance rates, regulate floodplain development, and delineate "100-year" floodplain boundaries. FEMA flood maps contain flood zones that describe different levels of flood risk and elevation;

"Flat" means a dwelling that is confined to a single story;

"Floor area" means the sum of the gross horizontal areas of all floors of a building, including interior balconies and mezzanines, measured from the exterior face of exterior walls or from the centerline of a wall separating two structures. Floor area shall include the area of roofed porches or lanai having more than one wall and of accessory structures on the same lot. Stairwells, elevator shafts parking facilities and loading spaces, including their driveways, shall be excluded;

"Floor area ratio" or "FAR" means the ratio of the total building floor area as expressed in square

feet to the total land area as expressed in square feet. The FAR is determined by dividing the total floor area on a development lot by the lot area of that development lot;

"Floor area ratio transfer credit" means a unit of measurement integral to section 15-217-84 (floor area ratio transfer) and which is established on a one-to-one basis between sending site(s) and a receiving site;

"Frontage" means the area between a building elevation and the vehicular lanes, inclusive of its built and planted components. Frontage is divided into two components: private frontage and public frontage;

"Frontage line" means a lot line bordering the public frontage. See Figure 1.14 (pedestrian zone treatment), dated September 2011, made a part of this chapter, and attached at the end of this chapter;

"Frontage occupancy" means the minimum length of the principal frontage that must contain a building street front element. See Figure 1.13 (building placement and encroachments), dated September 2011, made a part of this chapter, and attached at the end of this chapter;

"Frontage type" means a form based classification that describes a particular type of building face in terms of scale and architectural features. Frontage types facilitate pedestrian access to the principal entrance of a building. See Figures FT.1 to FT.12, dated September 2011, made a part of this chapter, and attached at the end of this chapter;

"Furnishing area" means the transition between the pedestrian thoroughway and the edge of the vehicular pavement. The furnishing area provides space for roadside appurtenances such as street trees, planting strips, street furniture, public art, sidewalk cafes, sign poles, signal and electrical cabinets, fire hydrants, bicycle racks and bus shelters. See Figure 1.14-A (section view illustrative pedestrian zone treatment), dated September 2011, made a part of this chapter, and attached at the end of this chapter;

"Gas station" is a use classification pertaining to the retail sale of motor vehicle fuel and lubricants to the public by direct delivery into the user's vehicle and may include incidental motor vehicular services such as tire repair, battery charging, brake adjustment, motor tune-up and washing. Sale of food, beverages and related items is permitted in conjunction with a gas station;

"Grade" means the slope of a road, street, or other public way specified in percentage terms;

"Ground elevation" means the highest finished grade along the perimeter of the building;

"Group assembly" is a use classification for the gathering of people for activities including a music festival, carnival, show, circus, dance, exhibition, lecture, concert, rally, party, celebration, or similar activity which is open to the public or to which members of the public are invited or admitted either for a charge or free of cost;

"Group home" is a use classification pertaining to the use of any single-family residence or dwelling unit for a group residence where residents pay a fee or other consideration to the group home operator in return for residential accommodations. A group home includes a boarding home, a rooming house, as well as a group residence for the elderly, or mentally or physically disabled or handicapped persons, or other persons in need of care and supervision;

"Guideline" means a development provision that is suggested to further the intent and the mauka area plan and rules, but that is not compulsory;

"Habitable space" means space in a structure for living, sleeping, eating or cooking. Bathrooms, closets, halls, storage areas and utility spaces are not considered habitable spaces;

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

"Hawaii revised statutes" or "HRS" means the Hawaii Revised Statutes;

"Heavy industrial" is a use classification for industrial plants primarily engaged in manufacturing,

compounding, processing, assembling, packaging, treatment, or fabrication of materials and products, primarily from extracted or raw or recycled materials. Uses in this classification generally are characterized by, among other things, truck traffic or outdoor storage of products, materials, equipment or fuel. Typical uses include battery manufacturing, welding, water softening plants, plating, ready-mix concrete plants, trucking terminals, and distribution facilities for commercial package services;

"Historical or culturally significant property" means any property that is:

- (1) Listed on the Hawaii or national register of historic places, pursuant to HRS; or
- (2) Designated in the mauka area plan as being significant in the history or prehistory, architecture, culture, or development of Kakaako or a tangible, historic or cultural linkage between Kakaako of the past and Kakaako of the present;

"Home occupation" is a use classification for work-related activities carried out in a dwelling unit for monetary gain by a resident. Home occupation is considered an accessory use in the resident's dwelling unit;

"Hospital" is a use classification pertaining to institutions providing health services, primarily for inpatients and medical or surgical care of the sick or injured, including related facilities as laboratories, outpatient departments, training facilities, central service facilities, and staff offices;

"Hydraulic lifts" means a parking method wherein mechanized lifts are used to lift one car above the ground so that another car can park underneath. May include robotic parking;

"Improvement permit" means and includes a permit approved and issued by the executive director authorizing any improvement project;

"Improvement project" means and includes any man-made change over, upon, under, or across improved or unimproved real property performed on a lot of 20,000 square feet or less within the mauka area;



"Indoor recreation" is a use classification pertaining to participant sports conducted within an enclosed building. Typical uses include bowling alleys, billiard parlors, pool halls, indoor ice or roller skating rinks, indoor racquetball courts, indoor batting cages, and health or fitness clubs;

"Kakaako community development district plan" means a collective term for the "Mauka Area Plan" and the "Makai Area Plan." Also, referred to as the "Kakaako Community Development Plan" or "Kakaako Plan";

"Kakaako special design district ordinance" means Ordinance No. 80-58 of the city and county of Honolulu, as amended by Ordinance No. 81-8;

"Lanai" means an accessory area to a dwelling, with one or more sides permanently open to the exterior except for a railing or parapet not exceeding four feet in height, with such open side or sides constituting at least twenty-five per cent of the perimeter thereof. Lanai are accessible solely from the dwelling to which it is appurtenant and may either be recessed elements with a roof continuous with the building roof, or they may be protruding elements added on to the face of a building;

"Land use" means a designation of land with approved uses that can legally operate on the parcel;

"Land use ordinance" or "LUO" means the land use ordinance adopted by Ordinance No. 86-96 of the city and county of Honolulu;

"Large lot" means a parcel or collection of parcels (developable area) equal to or greater than 140,000 square feet;

"Leadership in energy and environmental design" or "LEED" means a green building rating system developed by the U.S. Green Building Council that provides a suite of standards for the environmentally sustainable design, construction and operation of buildings and neighborhoods;

"Light industrial" is a use classification pertaining to manufacturing, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly,

treatment, and packaging of such products and incidental storage and distribution of such products or parts, but excluding basic industrial processing classified under the heavy industrial. Typical uses include apparel manufacturing, machine shops, and furniture manufacturing;

"Liner building" means a building which masks or conceals a parking lot or a parking structure from a frontage;

"Live-work" means a mixed-use unit consisting of an office, or retail uses along with residential use. The residential function may be anywhere in the unit and is intended to be occupied by a business operator who lives in the same structure that contains the retail activity;

"Long-term bicycle parking" means a place to secure bicycles for eight to twenty four hours. Long-term bicycle parking can be provided through bicycle lockers, bicycle racks in enclosed areas, or space within a building;

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

"Lot line" means the boundary of a parcel of land, often expressed in metes and bounds;

"Lot width" means the length of the principal frontage line of a lot;

"Makai area" means that portion of the Kakaako community development district, established by section 206E-32, HRS, excluding the mauka area which is bounded by King Street; Piikoi Street from its intersection with King Street to Ala Moana Boulevard; Ala Moana Boulevard, exclusive, from Piikoi Street to its intersection with Punchbowl Street; and Punchbowl Street to its intersection with King Street;

"Makai area plan" means the development plan for the makai area of the Kakaako community development district adopted on September 29, 1998, as amended on November 27, 2002 and October 25, 2005;

"Mauka area" means that portion of the Kakaako community development district, established by section 206E-32, HRS, which is bounded by King Street; Piikoi Street from its intersection with King Street to Ala

Moana Boulevard; Ala Moana Boulevard, exclusive, from Piikoi Street to its intersection with Punchbowl Street; and Punchbowl Street to its intersection with King Street;

"Mauka area plan" means the development plan for the mauka area of the Kakaako community development district originally adopted on February 16, 1982, as amended on January 10, 1983, May 18, 1984, September 6, 1984, April 26, 1985, August 17, 1985, July 15, 1988, June 28, 1989, January 18, 1990, July 16, 1990, September 5, 1997, August 3, 1999, June 1, 2005 and NOV 11 2011;

"Mauka-makai" means the general orientation of mountains (mauka) to the ocean (makai);

"Mauka-makai axis" means the angle or orientation of the nearest of one of the following mauka-makai thoroughfares: Punchbowl, South, Cooke, Ward, or Piikoi. The mauka-makai axis is parallel to the nearest designated mauka-makai thoroughfare. In the case that the tower lies exactly in between two mauka-makai thoroughfares, the relevant mauka-makai axis shall be chosen by measuring from the closest point of that tower to each thoroughfare;

"Mauka-makai zone" means an area that is defined by planes extended from the edges of a tower along its mauka-makai axis (see Figure 1.6B (view preservation), dated September 2011, made a part of this chapter, and attached at the end of this chapter);

"Maximum floor plate ratio" means the proportion of each floor that can occupy the total buildable floor area;

"Media production" is a use classification pertaining to areas for motion pictures, television, video, sound, computer, and other communications media production. These facilities include the following types:

- (1) Back lots or outdoor facilities. Outdoor sets, back lots, and other outdoor facilities, including supporting indoor workshops and craft shops;
- (2) Indoor support facilities. Administrative and technical production support facilities,

including administrative and production offices, post-production facilities (editing and sound recording studios, foley stages, etc.), optical and special effects units, film processing laboratories, etc.; and

- (3) Soundstages. May also include buildings providing space for the construction and use of indoor sets, including supporting workshops and craft shops;

"Medical or dental clinic" is a use classification pertaining to a facility that contains one or more physicians or dentists, their assistants, and a laboratory or an apothecary limited to the sale of pharmaceutical and medical supplies. Shall not include inpatient care or major surgery;

"Mixed-use" means a combination of more than one use within a development project or lot;

"Multi-family" is a use classification pertaining to a building or buildings containing more than one dwelling and which may have joint services or facilities;

"Net site area" means all developable land within a project site including thoroughfares but excluding land allocated as civic zones;

"New building" means and includes the construction of a building including structural supports, walls and a roof;

"Nonconforming structure" means a building or structure that was lawfully erected prior to the effective date of the adoption or amendment of this chapter but no longer complies with all the regulations applicable to the mauka area as a result of adoption or amendment of this chapter or government action associated with eminent domain;

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

"Outdoor recreation" is a use classification for recreational facilities operated for monetary profit

or on a nonprofit basis and which typically include swimming pools, wading pools, tennis courts, badminton courts, basketball courts, baseball and soccer fields, play areas, and clubhouse;

"Park and recreation" means a land use classification under civic uses pertaining to parks and recreational facilities, including gymnasiums, playing fields, playgrounds, fountains, and swimming pools;

"Parking access street" means a street from which access to parking, driveways, curb cuts and other vehicular intrusions into the pedestrian realm should be located. See Figure 1.10-B (parking placement diagram), dated September 2011, made a part of this chapter, and attached at the end of this chapter;

"Parking facility" is a use classification for off-street parking spaces for motor vehicles within or outside of a structure by either a private or public entity;

"Parking structure" means a building containing one or more stories of parking above grade;

"Parking zone" means the area within a block where parking is allowed. See Figure 1.10-B (parking placement diagram), dated September 2011, made a part of this chapter, and attached at the end of this chapter;

"Passageway" means a pedestrian pathway, open or roofed, that serves as an extension of the sidewalk as it passes from the frontage line onto private property, often between or through buildings, to courtyards, parking areas or civic spaces. Passageways shall be no less than fifteen feet wide. If passageways are covered, they require a floor to ceiling height of at least two times their width, but no greater than three times their width;

"Passenger terminal" is a use classification pertaining to the provision of transportation of persons and goods. Typical uses include stations, depots, yards, dispatch centers or other facilities for bus services, train services or taxi services but exclude trucking terminals or moving and storage firms;

"Path" means a pedestrian way traversing a park, with landscape matching the contiguous open space;

"Pedestrian thoroughway" means the clear area for the pedestrian walkway area between the furnishing and private frontage areas. The thoroughway must provide a minimum horizontal and vertical clear zone area in compliance with ADA requirements. No furnishings or obstructions are allowed. See Figure 1.14-A (pedestrian zone treatment), dated September 2011, made a part of this chapter, and attached at the end of this chapter;

"Pedestrian zone" means the zone between the building face and the curb. The elements of a pedestrian zone are: the private frontage area, the pedestrian thoroughway area, and the furnishing area. See Figure 1.14-A (pedestrian zone treatment), dated September 2011, made a part of this chapter, and attached at the end of this chapter;

"Pedestrian zone fixture" means street furniture, paving, and trees within the pedestrian zone, including street trees, planting strips, street lights, pedestrian lights, street furniture, public art, sign poles, fire hydrants, signal and electrical cabinets, bike racks, special pavement, and outdoor seating. See Figure 1.15 (pedestrian zone fixtures), dated September 2011, made a part of this chapter, and attached at the end of this chapter;

"Personal services" is a use classification pertaining to services for the enhancement of personal appearance, cleaning, alteration or reconditioning of garments and accessories, and similar non-business related or nonprofessional services. Typical uses include reducing salons, tanning salons, barber shops, tailors, shoe repair shops, self-service laundries, and dry cleaning shops, but exclude uses classified under the office and vocational school;

"Plane break" means a horizontal or vertical recess or projection of a dimension specified by these rules particular to building elevations, including facades;

"Planting strip" means a planted and landscaped area accommodated within the furnishing area, intended to provide a buffer between pedestrians and vehicles;

"Porte cochere" means a covered parking area and driveway;

"Principal building" means the largest building on a lot, usually located toward the frontage;

"Principal entrance" means the main point of access for pedestrians into a building;

"Principal frontage" means the frontage designated to bear the address and principal entrance to the building, and the measure of minimum lot width as determined by the lot owner;

"Printing and publishing" is a use classification pertaining to printing by computer, letterpress, lithography, gravure, screen, offset, or electrostatic (xerographic) copying; and other establishments serving the printing trade such as bookbinding, typesetting, engraving, photoengraving, and electrotyping. This includes establishments that publish newspapers, books and periodicals; establishments manufacturing business forms and binding devices;

"Private frontage" means the area of the pedestrian thoroughway area that is privately owned. The private frontage contributes to the character of the neighborhood, and includes the front of building, landscaping, and often a segment of the sidewalk;

"Project" means an endeavor undertaken by a landowner or developer to develop a lot or combination of lots;

"Project site" means the gross land area of a lot or a combination of lots for a proposed project;

"Promenade street" means a type of thoroughfare that promotes pedestrian activity by providing amenities such as wide sidewalks, street trees, street furnishings and reduced curb cuts. Promenade streets provide pedestrian connections between public open spaces and destinations;

"Public building" is a use classification pertaining to buildings owned or developed by public entities or developed on state-owned lands;

"Public frontage" means the area of the pedestrian thoroughway area that is publically owned. The public frontage contributes to the character of the neighborhood, and includes the sidewalk, landscaping and furnishings. See Figure 1.14 (pedestrian zone treatment), dated September 2011, made a part of this chapter, and attached at the end of this chapter;

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

"Public realm" means the area of the pedestrian zone that is not contained within private lot lines;

"Public utility project" means any project or activity of any county or state agency conducted to upgrade or construct utilities, including sanitary sewer, drain lines, water, gas, electrical, telephone, cable, pedestrian facilities, and roadway systems;

"Receiving site" means the parcel or combination of parcels where floor area ratio transfer credits can be used to add development rights that have been severed from a sending site;

"Recreation space" means an outdoors or indoors open space within a development that can be located at any level and is available for recreational use;

"Recycling collection facility" means any indoor or outdoor space allocated to collecting and loading recyclable materials to be transported to a recycling center. May include bins, boxes, cans, kiosk type structures, and reverse vending machines;

"Regulating plan" means a zoning map which depicts the neighborhood zones, areas subject to regulation by this chapter and other pertinent portions of the authority's administrative rules;

"Religious facility" is a use classification pertaining to places of worship, including any church, synagogue, temple, mosque, or other building or facility, primarily engaged in religious worship. The term "Religious Facility" does not include uses, such as schools, recreational facilities, day-care or child care facilities, kindergartens, dormitories, or other



facilities, for temporary or permanent residences, which are connected or related to the religious facility or the principal buildings on the site, or are located on the same site, even if the curriculum or services offered as part of such use includes religious services and/or training;

"Reserved housing" means housing as defined in chapter 218, title 15, Hawaii administrative rules;

"Residential" means premises available for human dwelling;

"Restaurant" is a use classification pertaining to of the sale of food and/or beverages in a ready-to-eat state for on-site or off-site consumption.

Typically, there are tables, counters, benches, or other public seating facilities provided. Examples include a sit-down dining facility, fast-food restaurant (no drive-through), donut shop, pizza shop, cafe, bakery, cafeteria, coffee shop, lunchroom, delicatessen, and ice cream parlor. Includes micro-breweries as accessory to the restaurant;

"Retail sales" is a use classification pertaining to the sale of goods and merchandise;

"Right-of-way" means the area of a thoroughfare between private lot lines;

"Robotic parking" means a mechanized parking system which stores and retrieves vehicles in a compact storage facility;

"Secondary frontage" means on corner lots, the frontage that is not the principal frontage;

"Sending site" means the parcel or combination of parcels where floor area ratio transfer credits can be obtained in exchange for severing development rights;

"Service street" means a thoroughfare with two travel lanes and one parking-loading lane intended to provide vehicular access to lots. The pedestrian realm requires no front yard space and no trees;

"Setback" means the dimension between the building elevation and the lot line that must remain clear of any buildings or other structures with the exception of authorized encroachments;

"Shared parking" means a system in which the parking requirements for two or more uses are shared

amongst each other, thereby resulting in reductions in the parking requirements;

"Short-term bicycle parking" means a place to secure bicycles for less than eight hours. Short-term bicycle parking can be provided through bicycle racks, and storage facilities;

"Sidewalk" means the paved section of the pedestrian zone used or intended to be used exclusively for pedestrian activity;

"Single family" is a use classification pertaining to a single dwelling;

"Smart growth" means an urban planning theory that concentrates growth in the center of a city to avoid urban sprawl and advocates compact, transit-oriented, walkable, bicycle-friendly land use, including complete streets, and mixed-use development with a range of housing choices;

"Special flood hazard area" means a designation by the Federal Emergency Management Agency ("FEMA") that may include the V (velocity) zones and coastal A zones where building construction is forbidden, restricted, or contingent upon raising the building to the base flood elevation;

"Standard" means a development regulation that is required, rather than discretionary;

"Stepback" means a building setback of a specified distance that occurs at a prescribed number of stories above the ground;

"Story" means a level within a building that can be used for living, work, storage, or recreation, excluding an attic or raised basement;

"Street" means a walkable, low speed (twenty-five miles per hour) thoroughfare primarily serving abutting property. A street is used to connect neighborhoods within the district. Streets emphasize curb parking;

"Street front element" means the portion of a building that primarily sits along a build to line and creates a street wall that frames the street;

"Street screen" means a freestanding wall built along the frontage line, or coplanar with the facade. It may mask a parking lot from the thoroughfare,

provide privacy to a side yard, or strengthen the spatial definition of the public realm;

"Structure" means anything constructed or erected with a fixed location on the ground, including buildings, walls, swimming pools, and signs;

"Swale" means a low or slightly depressed natural area for drainage;

"Tandem parking" means two cars parked nose to end, one in front of the other;

"Temporary parking" means parking establish for a fixed period of time with the intent to discontinue such parking upon the expiration of such time.

Temporary parking does not involve the construction or alteration an any permanent structure;

"Theater" is a use classification pertaining to performance theaters, movie theaters, and amphitheaters;

"Thoroughfare" means a way or passage used by vehicular, bicycle and pedestrian traffic. Thoroughfares consist of vehicular lanes and the pedestrian zone and provide access to lots and open spaces;

"Thoroughfare plan" means a component of the mauka area rules that shows planned changes to existing thoroughfares and the general location of planned new thoroughfares. See Figure 1.4 (thoroughfare plan), dated September 2011, made a part of this chapter, and attached at the end of this chapter;

"Transit-oriented development" means a mixed-use area intended to maximize access to public transport; often incorporating features to encourage transit ridership;

"Urbanism" means collective term for the condition of a compact, mixed-use settlement, including the physical form of its development and its environmental, functional, economic, and socio-cultural aspects;

"View corridor street" means a thoroughfare identified in the mauka area plan, where special design and development standards are required to protect views to the mountains and to the ocean. See

Figure 1.6A (view corridors), dated September 2011, made a part of this chapter, and attached at the end of this chapter;

"Vocational school" is a use classification pertaining to training in a skill or trade to be pursued as a career;

"Warehousing" is a use classification pertaining to the wholesaling, storage, moving or bulk distribution of goods other than live animals. Typical uses include wholesale distributors, storage warehouses, and moving and storage firms;

"Workforce housing project" means new residential project as defined in chapter 218, title 15, Hawaii administrative rules;

"Zone" means the area or district of the mauka area through which these rules are organized; and

"Zoning map" means the official map or maps that are part of the mauka area rules and delineate the boundaries of individual zones and districts (see regulating plan). [Eff NOV 11 2011 ] (Auth: HRS §§206E-2, 206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-2, 206E-4, 206E-5, 206E-7)

§§15-217-9 to 15-217-20 (Reserved).

## SUBCHAPTER 2

### REGULATING PLAN AND NEIGHBORHOOD ZONES

§15-217-21 Purpose. This subchapter establishes the neighborhood zones within the mauka area, adopts the regulating plan for the mauka area as its zoning map, adopts the parks and open space plan as an overlay to the regulating plan, and establishes standards applicable to neighborhood zones. [Eff NOV 11 2011 ] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-217-22 Regulating plan. The mauka area rules regulating plan (hereafter referred to as the "Regulating Plan"), included as Figure 1.2 (regulating plan), dated September 2011, made a part of this chapter, and attached at the end of this chapter, identifies the neighborhood zones provided in section 15-217-23 (neighborhood zones). [Eff NOV 11 2011 ] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-217-23 Neighborhood zones. (a) The regulating plan is divided into neighborhood zones corresponding to the mauka area plan. These neighborhood zones and their corresponding development and use rules and guidelines are as follows:

- (1) Civic center zone (see Figure NZ.1 (civic center), dated September 2011, made a part of this chapter, and attached at the end of this chapter). The civic center neighborhood zone is located adjacent to the Hawaii capital district. The civic center zone will be characterized by civic buildings in campus-like settings with reduced building heights to respect the scale of existing historic resources both within and adjacent to the zone. Significant landscaping features will be retained and enhanced through new plantings;
- (2) Kapiolani zone (see Figure NZ.2 (Kapiolani), dated September 2011, made a part of this chapter, and attached at the end of this chapter). The Kapiolani zone will be a central corridor providing for mixed-use buildings including ground floor commercial retail and services, and office and residential uses on upper floors;
- (3) Thomas square zone (see Figure NZ.3 (Thomas square), dated September 2011, made a part of this chapter, and attached at the end of this chapter). The Thomas square zone will continue as a civic focal point for the

mauka area through its civic buildings and uses facilitating educational, performance and entertainment endeavors. Buildings will be provide large setbacks and with complementary mature landscaping;

- (4) Sheridan zone (see Figure NZ.4 (Sheridan), dated September 2011, made a part of this chapter, and attached at the end of this chapter). The Sheridan zone will consist predominately of a residential neighborhood with markedly lower scale buildings when compared to the remainder of the mauka area. However, commercial uses will continue along King, Pensacola, and Piikoi Streets; preferably within mixed-use building with upper floors of residential or office uses;
- (5) Central Kakaako zone (see Figure NZ.5 (central Kakaako), dated September 2011, made a part of this chapter, and attached at the end of this chapter). The central Kakaako zone will support the continued operation of service businesses including those which are industrial such as repair shops and manufacturing or distribution, as well as residential mixed-use projects within its zone. Inadequate infrastructure will be repaired or upgraded to adequately support existing and planned development and uses;
- (6) Pauahi zone (see Figure NZ.6 (Pauahi), dated September 2011, made a part of this chapter, and attached at the end of this chapter). The Pauahi zone will transition into a mixed-use urban village of significantly increased building heights and density. The Pauahi neighborhood will also continue to provide important link from the makai area of Kakaako's waterfront up toward mauka. Walkability will be improved through the insertion of new thoroughfares or passageways; and

- (7) Auahi zone (see Figure NZ.7 (Auahi), dated September 2011, made a part of this chapter, and attached at the end of this chapter). The Auahi zone will function as Kakaako's main retail, restaurant and entertainment area. Changes to existing building forms will better accommodate pedestrians by relegating vehicles to less prominent positions. Additionally, new thoroughfares or passageways will reduce block sizes and, consequently, further increase pedestrian orientation.

(b) Standards applicable to neighborhood zones. All development, use, and construction within the neighborhood zones shall conform to the standards set forth in Figure 1.3 (development standards summary), dated September 2011, made a part of this chapter, and attached at the end of this chapter, and Figures NZ.1 to NZ.7, dated September 2011, made a part of this chapter, and attached at the end of this chapter, which allocate building type, frontage type, building placement, building form, land use, allowed height, build to line, and parking access.

(c) Standards applicable to entire mauka area. The standards applicable to each neighborhood zone, building type or frontage type may be further modified by subchapter 4 (area wide standards).

[Eff NOV 11 2011 ] (Auth: HRS §§206E-4, 206E-5, 206E-7, 206E-33) (Imp: HRS §§206E-4, 206E-5, 206E-7, 206E-33)

§15-217-24 Building types. All buildings shall conform with the building standards set forth in Figures BT.1 to BT.10, dated September 2011, made a part of this chapter, and attached at the end of this chapter, which specify lot and facade width, access, parking, open space, landscaping, frontage types, and building massing standards to each building type.

[Eff NOV 11 2011 ] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-217-25 Frontage types. All buildings shall conform with the frontage standards set forth in Figures FT.1 to FT.12, dated September 2011, made a part of this chapter, and attached at the end of this chapter, which specify dimension and element standards for each frontage type. [Eff NOV 11 2011 ] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-217-26 Land uses. (a) Buildings and lots in each neighborhood zone shall conform to the land uses specified in Figure 1.9 (land use), dated September 2011, made a part of this chapter, and attached at the end of this chapter.

(b) Any one or more allowed land uses may be established on any lot, subject to Figure 1.9 (land use), dated September 2011, made a part of this chapter, and attached at the end of this chapter.

(c) Where a single lot is proposed for development with two or more land uses listed in Figure 1.9 (land use), dated September 2011, made a part of this chapter, and attached at the end of this chapter, the project shall be subject to the permit with the highest level of discretionary review. [Eff NOV 11 2011 ] (Auth: HRS §206E-7) (Imp: HRS §206E-7)

§15-217-27 Parks and open space plan. (a) The mauka area rules parks and open space plan (hereafter referred to as the "Parks and Open Space Plan"), modifies or maintains the underlying standards of any applicable neighborhood zone, building type, frontage type or land use, as provided for in this section.

(b) Each park and open space shall be designed as described in Figure 1.11 (civic space), dated September 2011, made a part of this chapter, and attached at the end of this chapter.

(c) Any improvement project performed on any park or open space shall require the executive director's approval of a rules clearance pursuant to



section 15-217-79 (rules clearance), without public hearing, when in compliance with all standards of this chapter.

(d) Overlay provisions. The following standards apply to the parks and open space plan:

- (1) Neighborhood zone standards. Parks and open space areas are indicated on Figure 1.5 (parks and open space plan), dated September 2011, made a part of this chapter, and attached at the end of this chapter. These areas shall be retained as open space or parks as indicated. Any building in these areas shall be located according to the building placement indicated on Figures NZ.1 to NZ.7, dated September 2011, made a part of this chapter, and attached at the end of this chapter;
- (2) Building type standards. A lot or portion of a lot designated parks and open space on the parks and open space plan shall only accommodate civic, institutional, or community-related buildings that are subordinate to and serve the open space or parks areas only;
- (3) Frontage type standards. A lot or portion of a lot designated parks and open space on the parks and open space plan is not required to include any of the permitted frontage types indicated in the rules, however, these areas may include any of the permitted frontage types on buildings that are subordinate to and serve the open space or parks areas;
- (4) Land use:
  - (A) Permissible land uses within a lot or portion of a lot designated parks and open space on the parks and open space plan shall be limited to the following classifications:
    - (i) Assembly;
    - (ii) Cultural facilities;
    - (iii) Park and recreation;

- (iv) Government facilities;
  - (v) Educational facilities;
  - (vi) Outdoor recreation;
  - (vii) Indoor recreation; and
  - (viii) Theater; and
- (B) Permissible land uses within a lot or portion of a lot designated parks and open space on Figure 1.5 (parks and open space plan), dated September 2011, made a part of this chapter, and attached at the end of this chapter, shall be limited to the following classifications:
- (i) Continuance of a legal conforming land use, if present at the time of the rules effective date;
  - (ii) Any land use classification provided for the applicable neighborhood zone; or
  - (iii) When acquired by the authority and redeveloped into a civic space consistent with Figure 1.11 (civic space), dated September 2011, made a part of this chapter, and attached at the end of this chapter, or prior to such redevelopment, any of those uses provided by section 15-217-27(d)(4)(A) (parks and open space plan); and
- (5) Subchapter 4 (area wide standards). All provisions of subchapter 4 shall apply to parks and open space on Figure 1.5 (parks and open space plan), dated September 2011, made a part of this chapter, and attached at the end of this chapter. [Eff NOV 11 2011]  
(Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§§15-217-28 to 15-217-37 (Reserved).

## SUBCHAPTER 3

## THOROUGHFARE PLAN AND STANDARDS

§15-217-38 Purpose. (a) To translate the urban road classifications defined in the mauka area plan into standards for the pedestrian zone.

(b) To prioritize the pedestrian over vehicular transportation modes in thoroughfare planning and design, through the provision of ample sidewalk amenities and a hierarchy of sidewalk sizes.

(c) To provide standards for promenade streets and view corridors. [Eff NOV 11 2011 ] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-217-39 Thoroughfare plan and standards. (a) The mauka area rules thoroughfare plan (hereafter referred to as the "Thoroughfare Plan"), shall consist of: Figure 1.4 (thoroughfare plan), dated September 2011, made a part of this chapter, and attached at the end of this chapter; Figures 1.7A and 1.7B (street tree plan and charts), dated September 2011, made a part of this chapter, and attached at the end of this chapter; Figure 1.14 (pedestrian zone treatment), dated September 2011, made a part of this chapter, and attached at the end of this chapter; Figure 1.15 (pedestrian zone fixtures), dated September 2011, made a part of this chapter, and attached at the end of this chapter; and Figures PZ.1 to PZ.7 (pedestrian zone treatment), dated September 2011, made a part of this chapter, and attached at the end of this chapter.

(b) Applicability:

- (1) The standards provided in the thoroughfare plan shall be applicable to all existing and proposed thoroughfares within the mauka area plan, except for that portion of the right-of-way that falls within the curb to curb area. The authority will rely upon the

- mauka area plan to determine the curb to curb attributes of thoroughfares;
- (2) Design conflicts between vehicular and pedestrian movement in new thoroughfares shall be generally decided in favor of the pedestrian, unless there is overriding public interest which dictates that the conflict be resolved in favor of vehicular movement; and
  - (3) Developments and improvement projects shall be required to comply with the thoroughfare plan, if applicable to their frontage type. Development or improvement projects as well as additions to existing buildings shall be required to comply with the thoroughfare plan if the value of the changes or renovations to the property are greater than or equal to fifty per cent of the replacement value of the existing improvements.
- (c) General to all thoroughfares:
- (1) With the exception of service streets, alleys and streets with a right-of-way measuring forty feet or less, every thoroughfare shall have street trees planted along their length within the public frontage area. Service streets and alleys may include street trees, subject to the executive director's determination of size, location and species; and
  - (2) Requirements presented in the rules for promenade streets shall take precedence over other requirements presented for the thoroughfare type.
- (d) Pedestrian zone:
- (1) The pedestrian zone is distinguished and organized according to three functional categories: furnishing area, pedestrian throughway area, and private frontage area. Portions of this zone may be publically-owned or privately-owned. Pedestrian zone standards shall apply to all thoroughfares

as shown in Figure 1.4 (thoroughfare plan), dated September 2011, made a part of this chapter, and attached at the end of this chapter, unless otherwise noted in the rules;

- (2) Pedestrian zones in each neighborhood shall comply with the requirements set forth in Figures PZ.1 to PZ.7, dated September 2011, made a part of this chapter, and attached at the end of this chapter;
- (3) Special paving (differentiated by texture, color, patterned brick, or stone) may be used in the pedestrian zone, especially along promenade thoroughfares, but must be reviewed and approved by the executive director;
- (4) All thoroughfares except service streets and alleys should have pedestrian zone fixtures within the furnishing zone, as indicated in Figures 1.14 (pedestrian zone treatment) and 1.15 (pedestrian zone fixtures), dated September 2011, made a part of this chapter, and attached at the end of this chapter;
- (5) Pedestrian zone fixtures shall be placed within the furnishing area as shown in Figures PZ.1 to PZ.7, dated September 2011, made a part of this chapter, and attached at the end of this chapter;
- (6) All pedestrian zone fixtures shall be at least two feet from the curb edge; and
- (7) Waste receptacles should be located in close proximity to seating areas provided.
- (e) Street trees and landscaping:
  - (1) Street trees shall be planted in a regularly-spaced pattern of a single species with shade canopies of a height that at maturity, clears at least one story as per Figures 1.7A and 1.7B (street trees), dated September 2011, made a part of this chapter, and attached at the end of this chapter;
  - (2) Where the terrace front frontage type is used, trees shall be included within the lot

- lines that are aligned with trees in the public pedestrian zone to form a double row of trees (i.e., an allee pattern) along the sidewalk;
- (3) When the shopfront frontage type is used, street trees shall be maintained to avoid visually obscuring the shopfronts and their accompanying signage; and
  - (4) Landscaping adjacent to sidewalks shall be free from spiky plants, rapidly growing vines, and other landscaping that may cause harm to pedestrians.
- (f) Street lighting:
- (1) On promenade streets, a pedestrian tier lamp on the sidewalk side, such as the decorative street light fixture ensemble 'A' in Figure 1.15-B (pedestrian zone fixtures), dated September 2011, made a part of this chapter, and attached at the end of this chapter, shall be used; provided, however, that the executive director may approve an alternative light fixture of similar height, design and lighting characteristics;
  - (2) On boulevards, avenues and streets, other than promenade streets, a light fixture such as the special design fixture ensemble 'B' in Figure 1.15-C (pedestrian zone fixtures), dated September 2011, made a part of this chapter, and attached at the end of this chapter, shall be used; provided, however, that the executive director may approve an alternative light fixture of similar height, design and lighting characteristics; and
  - (3) Street lighting shall illuminate both the sidewalk and vehicular lanes, especially along promenade streets.
- (g) Planting strip:
- (1) Planting strips may be accommodated within the furnishing zone, as indicated in Figures PZ.1 to PZ.7, dated September 2011, made a part of this chapter, and attached at the end of this chapter;

- (2) Planting strips may be designed to have a variety of materials such as cobbles, river pebbles, planting, permeable pavers, or compacted stonedust, for a permeable surface;
- (3) Planting strips designed to incorporate bioswales or water retention areas to mitigate stormwater runoff are encouraged;
- (4) Planting strips may project beyond the curb edge to create breaks in the street parking. These projections are encouraged to be designed as a pattern along the entire street length; and
- (5) Vegetation within planting strips should be native, disease resistant, and appropriate to the climate.

(h) Promenade streets. In addition to the criteria relating to promenade streets presented in the rules, thoroughfares designated as promenade streets shall be constructed as indicated in Figures PZ.1 to PZ.7, dated September 2011, made a part of this chapter, and attached at the end of this chapter. [Eff NOV 11 2011 ] (Auth: HRS §§206E-4, 206E-5, 206E-7, 206E-33) (Imp: HRS §§206E-4, 206E-5, 206E-7, 206E-33)

§§15-217-40 to 15-217-50 (Reserved).

#### SUBCHAPTER 4

##### AREA-WIDE STANDARDS

§15-217-51 Purpose. (a) This subchapter provides standards that:

- (1) Apply throughout the mauka area; and
- (2) Either supplement or modify other standards provided elsewhere in the rules.

(b) This subchapter concisely organizes standards by topic in order to ease the understanding

and application of its provisions. [Eff NOV 11 2011 ]  
(Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS  
§§206E-4, 206E-5, 206E-7)

§15-217-52 Applicability. This subchapter applies to all permit applications and use classifications, except where a section provides otherwise. [Eff NOV 11 2011 ] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-217-53 Building placement. (a) Facades shall be built parallel to a build to line with a minimum frontage occupancy as per Figure 1.13-C (building placement and encroachments), dated September 2011, made a part of this chapter, and attached at the end of this chapter.

(b) Wherever a build to line is equal to or greater than fifteen feet, a terrace front frontage type (see Figure FT.8 (terrace front), dated September 2011, made a part of this chapter, and attached at the end of this chapter) shall be used.

(c) For frontage occupancy calculations, single buildings that form a courtyard of fifteen feet in width or less by recessing a portion of the building from the build to line shall be measured as the full width of the building parallel to the build to line. [Eff NOV 11 2011 ] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-217-54 Building form. (a) The height of any building or structure or portion thereof shall be measured from ground elevation.

(b) Height limits for attics or raised basements, masts, belfries, clock towers, chimney flues, elevator bulkheads, church spires, cupolas, domes, ventilators, skylights, parapet walls, cornices, solar energy systems, or necessary mechanical appurtenances on the roof level shall be limited to the height necessary for their proper



functioning. The executive director shall make the final determination on the height necessary for their proper functioning. Attics shall not exceed fourteen feet in height.

(c) Where the floor plate ratio identified in Figures BT.1 to BT.10, dated September 2011, made a part of this chapter, and attached at the end of this chapter, indicate a value of less than one hundred per cent, the remainder value of setback area is considered the building void (see Figure 1.12-C (illustrative building void and floor plate diagrams), dated September 2011, made a part of this chapter, and attached at the end of this chapter). At least twenty-five per cent of the building void shall be located along the facade and have a minimum depth of ten feet, as measured from the facade toward the rear lot line; provided, however, that this minimum depth from the facade shall be increased by three feet for every ten feet of building height.

(d) Any part of a building which is taller than sixty-five feet and fronting a view corridor street (see Figure 1.6A (view corridors), dated September 2011, made a part of this chapter, and attached at the end of this chapter) shall be setback from the lot line abutting the view corridor by fifty feet.

(e) Except in the Sheridan neighborhood zone, all ground floors shall be at least twelve feet tall along all thoroughfares.

(f) All new principal buildings shall be designed with a street front element conforming to Figure 1.3-D (development standards summary - building form), dated September 2011, made a part of this chapter, and attached at the end of this chapter. See Figure 1.12-A (illustrative building form diagram), dated September 2011, made a part of this chapter, and attached at the end of this chapter, for an illustrative example of a street front element.

[Eff NOV 11 2011 ] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-217-55 Architectural design. (a) Awnings, trellises and canopies:

- (1) The use of vinyl or plastic awnings, trellises and canopies is prohibited along promenade streets and view corridor streets;
  - (2) Awnings, trellises, and canopies shall comply with Figure 1.13 (building placement and encroachments), dated September 2011, made a part of this chapter, and attached at the end of this chapter;
  - (3) Awnings, trellises, and canopies shall not obstruct views of pedestrian-oriented signage (e.g., blade sign) for shops and businesses; and
  - (4) The location of awnings on a facade shall be of a consistent height. Similarly, the location of awning on a facade shall generally align with those on adjacent buildings, to the extent practicable.
- (b) Balconies:
- (1) Balconies shall be accessible from inside the building;
  - (2) Balconies shall not be completely enclosed;
  - (3) Balconies shall comply with Figure 1.13 (building placement and encroachments), dated September 2011, made a part of this chapter, and attached at the end of this chapter; and
  - (4) For floors one through five, balconies adjoining dwellings within multi-family buildings shall have a minimum depth of at least five feet.
- (c) Buildings with auto rental or sales uses:
- (1) Applicability. This subsection shall apply to all existing and new principal buildings used or intended to accommodate auto rental or sales and/or auto repair land use classifications;
  - (2) Showrooms shall be located at the frontage line and include a fenestration value of seventy-five per cent at the first floor of the facade;

- (3) Vehicle repairs shall occur within a separate building located behind the principal building or portion of a principal building located behind the showroom; provided, however, that vehicle repairs may be located within floor area at a frontage line abutting a primary parking street;
  - (4) Service bays shall not be visible from an abutting alternative parking access street or promenade street;
  - (5) Pedestrian pathways shall lead pedestrians from the public sidewalk and customer parking areas to the vehicle showroom and service areas;
  - (6) Service bays, vehicle displays or storage areas shall be screened from view from abutting thoroughfares through building placement, landscaping, fencing, and/or decorative walls; and
  - (7) Water efficient landscaping and low accent walls between two to three feet in height shall be installed along all outdoor displays and parking lot perimeters.
- (d) Storm water drainage. Rainwater shall be diverted away from sidewalks through downspouts visible on the rear building elevation, internal drain pipes, or through awnings or canopies.
- (e) Fences, walls, and hedges:
- (1) Fences, walls, and hedges may be constructed or installed to a height of six feet in any side yard or rear yard and to a height of four feet in any portion of a front yard or a side yard that faces a thoroughfare, except where the rear yard or side yard abuts a parking lot or industrial use, a maximum six-foot tall fence, hedge or wall is permitted;
  - (2) Retaining walls shall be constructed out of masonry or stone or another equally durable material;
  - (3) Fences shall be constructed out of ornamental iron, steel, wood pickets and/or

- a synthetic wood product (such as wood-filled Recycled plastic lumber) and may have stucco or masonry piers;
- (4) Chain link, barbed wire, vinyl, plastic or exposed cinder block walls are prohibited within front yards abutting any boulevard, avenue, or promenade street; and
  - (5) Fences in front yards or side yards facing a thoroughfare shall be painted or constructed out of a decorative material compatible with the materials of the principal building.
- (f) Lighting:
- (1) Entrances, arcades and passageways shall be illuminated;
  - (2) Courtyards, passageways, roof gardens, corner plazas, and other landscaped areas shall provide pedestrian-scaled, tamper-proof lights;
  - (3) Lighting sources shall be constructed or installed so that light is aimed downwards and does not spill over to abutting properties;
  - (4) Lighting that is visible from adjacent properties or thoroughfares shall be indirect or incorporate full shield cut-offs;
  - (5) Incandescent exterior lights and high-pressure sodium lights are prohibited; and
  - (6) Architectural details may be accented through lighting.
- (g) Building facade and elevation materials. A change of exterior texture and material shall be accompanied by a change in plane. However, glazing and spandrel glass is exempt from this provision.
- (h) Roofs:
- (1) Roofs may be accessible and used as roof decks, gardens, balconies or terraces;
  - (2) Roofs shall be finished with light colors for reflectivity or incorporate landscaping; and
  - (3) Roof top mechanical equipment shall be clustered away from the edge of the building

and either painted to match the roof top or located behind a parapet wall or in a roof top mechanical equipment enclosure so that it is not visible from a thoroughfare, historic or public buildings.

- (i) Service functions:
- (1) Utilities, service elements, recycling and trash elements shall be located off alleys (where present), or in structured parking garages where they exist. Alternatively, they may be located at least ten feet behind the facade of a principal building or screened from view from a thoroughfare other than an alley or service street, with a hedge, landscaping, low wall, or fence;
- (2) Prohibited materials for constructing recycling or trash enclosures include: chain link, fencing with slats mesh screen, cinderblocks, or unpainted wood;
- (3) Utilities and service elements that are visible from thoroughfares shall be incorporated in the building structure in a manner accessible to the trash collection service provider, but shall not be visually intrusive through use of the following strategies:
  - (A) Burying underground (utility wires, meters, transformers);
  - (B) Incorporation into the building or parking garage as a utility room (meters, transformers);
  - (C) Screening behind building (meters, terminal boxes); and
  - (D) Clustering on roof within a mechanical enclosure (HVAC); and
- (4) Recycling or trash enclosures shall be of a similar material and color with the principal building.
- (j) Signage. All signs shall be in compliance with the applicable rules and regulations administered by the city and county of Honolulu, as provided for in

the city and county of Honolulu's land use ordinance, as it may be amended from time to time.

(k) Windows:

- (1) Highly-reflective, mirrored, and opaque window glazing are prohibited;
  - (2) Window glazing shall be transparent with clear or limited UV tint so as to provide views out of and into the building. Visible light transmission level of windows on the ground floor shall be seventy per cent or greater and on all other floors the visible light transmission level shall be fifty per cent or greater;
  - (3) For floors one through ten, all principal building windows shall be operable;
  - (4) Vinyl window frames are prohibited, except for Figures BT.1 to BT.3, dated September 2011, made a part of this chapter, and attached at the end of this chapter;
  - (5) Pop-in muntins are prohibited below the third floor; and
  - (6) Window grilles are prohibited except at window openings to podium parking or on building elevations facing alleys.
- (l) View preservation:
- (1) Mauka and makai views to the mountains and the waterfront shall be preserved through orientation of towers with the long side of the tower parallel to the mauka-makai axis (see definitions section and Figure 1.6B (view preservation), dated September 2011, made a part of this chapter, and attached at the end of this chapter);
  - (2) The orientation of the tower may deviate from its designated mauka-makai axis by a maximum of twenty degrees. The authority may consider, pursuant to section 15-217-82 of this rule, a deviation of the tower orientation of more than twenty degrees from the designated mauka-makai axis provided that the applicant demonstrates to the satisfaction of the authority that based on

- building massing, tower floor plate size, tower configuration, tower orientation, energy efficiencies, and other pertinent factors that the proposed tower orientation will not have a greater impact on mauka-makai view than would result from a twenty degree mauka-makai orientation;
- (3) The tower floor plate shall not exceed a horizontal plan projection dimension of one hundred and fifty feet on one direction and a maximum length of two hundred and ten feet between two farthest points of the tower floor plate. The plan projection dimension measured perpendicular to the horizontal projection may exceed one hundred and fifty feet provided that the maximum dimension between two farthest points on the tower foot print do not exceed two hundred and ten feet in length;
  - (4) A proposed tower shall be located a minimum of three hundred feet from an existing tower, when any portion of the proposed tower falls within the existing tower's mauka-makai zone (see definitions section and Figure 1.6B (view preservation), dated September 2011, made a part of this chapter, and attached at the end of this chapter);
  - (5) No tower shall be less than eighty feet from another tower; and
  - (6) The areas of buildings above sixty-five feet on view corridor streets shall be setback by fifty feet behind the lot line.
- (m) Storefronts and windows for retail:
- (1) Applicability. This subsection applies to existing or newly proposed principal buildings used or intended to accommodate the retail land use classification;
  - (2) Stores that occupy greater than sixty feet of frontage shall incorporate multiple entrances along the street;
  - (3) Street front elements shall have a depth of forty to eighty feet of usable commercial

- space with potential for dividing walls at least every thirty feet;
- (4) At least seventy per cent of a retail thoroughfare front element shall be transparent glazing, with at least seventy per cent of the glazing to allow views into the store rather than being shallow window box displays;
  - (5) No more than thirty per cent of the window area at facades may be obstructed by signage or interior displays;
  - (6) All principal entrances shall be located along the thoroughfare or a thoroughfare-facing courtyard, rather than from a parking area, alley, or another point within the interior of a block;
  - (7) Display windows shall be used on the ground floor and on upper floors of retail space; and
  - (8) Buildings facades and side elevations shall accommodate signage for ground floor retail tenants. [Eff NOV 11 2011 ] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-217-56 Landscape and recreation space. (a) All yards shall be landscaped with native or adapted plant species and/or hardscaped with permeable material.

(b) Historic landscapes and exceptional trees as designated by the city and county of Honolulu shall be protected and preserved. In the case where historic landscapes and exceptional trees conflict with prescribed standards in the rules, the historic landscape or exceptional tree takes precedence.

(c) Landscaping shall have an automatic irrigation system with a rain or moisture sensor.

(d) Residential projects requiring a development permit shall provide fifty-five square feet of recreation space per dwelling unit. The required on-site recreation space, if provided outdoors, may be



used to satisfy the open space requirement.

[Eff NOV 11 2011 ] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-217-57 Adequate infrastructure. (a) This section intends to limit development within portions of the mauka area with known infrastructure deficiencies until such time as the availability of infrastructure is sufficient to accommodate the maximum level of development provided for by the mauka area rules.

(b) This section shall be applicable to the central Kakaako neighborhood zone only.

(c) A maximum FAR of 1.5 shall apply until the executive director determines the infrastructure within the central Kakaako neighborhood zone has been sufficiently upgraded pursuant to an improvement district or other public facilities project. After sufficient infrastructure improvements are made, the FAR shall be increased to 3.5, consistent with the mauka area rules.

(d) Where the executive director finds that the public infrastructure is adequate to support a project within the central Kakaako neighborhood zone or where a project would construct improvements to said infrastructure sufficient to accommodate the subject project and future developments, the executive director may elect to waive the FAR limitations of this section. [Eff NOV 11 2011 ] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-217-58 Large lots. (a) Purpose. This section establishes the standards for developing large lots, dividing them into smaller pedestrian-oriented blocks, and achieving an interconnected block network with walkable block lengths. The standards for large lot projects ensure that these projects promote walkability, pedestrian-orientation, and sustainability of urban and built form. Buildings

should include massing and articulation that reflects a human scale, rather than large, monolithic, and repetitive building fabric.

(b) Applicability. Each building within a large lot project shall comply with the applicable requirements in the development standards by zone and all other relevant standards in the rules. The following standards shall apply to large lot projects (i.e., larger than 140,000 square feet).

(c) Thoroughfare network:

- (1) Large lots shall be divided to create pedestrian-oriented blocks;
- (2) New thoroughfares shall connect with existing thoroughfares;
- (3) New passageways that are introduced shall be a minimum of fifteen feet wide between building elevations;
- (4) New passageways that are introduced shall be un-gated and shall be publically-accessible;
- (5) Architectural encroachments into passageways are allowed two feet from the building face, subject to Figure 1.13-C (encroachments), dated September 2011, made a part of this chapter, and attached at the end of this chapter;
- (6) Each new block shall have an alley for service and parking access; and
- (7) Cul-de-sacs and dead-end streets are not permitted, unless they allow for future connections.

(d) New buildings:

- (1) New buildings are permitted as indicated by the building types allocated to each zone;
- (2) New buildings shall have their principle entrance off of a new or existing thoroughfare or passageway;
- (3) New buildings with civic or institutional uses shall be located in central locations, and be recognizable and accessible to the public;
- (4) Buildings that occupy a large lot shall incorporate mid-block pedestrian passageways

and courtyards at least every three hundred feet. Where passageways are utilized, they shall connect through the block, across existing alleys if necessary, to other passageways, to mid-block crossings, or thoroughfares for greater street grid connectivity;

- (5) When a building includes a courtyard, the courtyard shall have a minimum dimension of forty feet deep and thirty-five feet wide along the street side;
  - (6) The required mid-block pedestrian passageway or courtyard shall not abut an alley; and
  - (7) For large lots that abut other parcels not subject to a permit application, an alley of at least twenty-six feet in width must be provided at the edge of the lot that is adjacent to the other parcels to ensure access by vehicles and access to light and air of the other parcels. An alternative proposal may be considered as long as it meets the intent of providing light, room, and air to neighboring parcels.
- [Eff NOV 11 2011 ] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-217-59 Green building. (a) Purpose. This section provides standards intended to result in a responsible development pattern that conserves natural resources and provides a healthy environment for inhabitants of the mauka area.

(b) Applicability. This section applies to all new buildings and additions and renovations of existing buildings that increase the existing floor area by twenty-five per cent or more, except that Figures BT.1 to BT.4, dated September 2011, made a part of this chapter, and attached at the end of this chapter, are not required to follow this standard.

(c) Green building standards:

- (1) A project shall qualify for the applicable base LEED rating system at the appropriate certification level (e.g., new construction projects shall qualify for LEED for new construction);
- (2) The applicable base rating system shall be chosen by the applicant based on the construction type, size, and use of the proposed project;
- (3) The project shall document the achievement of at least one LEED point in either sustainable sites, stormwater design, quantity control; or stormwater design, quality control;
- (4) The project shall document the achievement of at least one LEED point in either sustainable sites, heat island effect, non-roof, or roof;
- (5) The project must document the achievement of at least one point in water efficiency, (WE) credit I: water efficient landscaping;
- (6) The applicant shall submit documentation and sustainability calculations showing that the proposed development meets the applicable base LEED rating system at the appropriate certification level. Based on these materials, the authority shall determine compliance with this section in conjunction with the accompanying development approval;
- (7) If the U.S. Green Building Council changes the LEED rating system, the executive director shall identify the new points and rating systems that are relevant to this section; and
- (8) Applicant may use a green building evaluation system, other than the LEED rating system, as appropriate and as approved by the executive director.  
[Eff NOV 11 2011 ] (Auth: HRS §§206E-4, 206E-5, 206E-7, 206E-33) (Imp: HRS §§206E-4, 206E-5, 206E-7, 206E-33)

§15-217-60 Encroaching elements. Architectural features may encroach beyond a required build to line, as designated in Figure 1.13-C (encroachments), dated September 2011, made a part of this chapter, and attached at the end of this chapter.

[Eff NOV 11 2011 ] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-217-61 Flood zone. (a) Purpose. These standards provide building and urban design strategies that supplement the regulations presented in article 9 of the city and county of Honolulu land use ordinance, which do and shall apply in the mauka area. These standards help assure that flood measures implemented are seamless with existing fabric in terms of scale, frontage, and fenestration. The standards help ensure that measures implemented do not impede pedestrian access from abutting thoroughfares.

(b) Applicability. The following standards apply to all new buildings within an identified Honolulu or FEMA flood zone that are required by code to have raised ground floors.

(1) Design and location standards for ADA compliant wheelchair access ramps within flood zones:

- (A) A wheelchair ramp may only occupy up to fifteen per cent of building face;
- (B) Wheelchair ramps and ramp handrails on all ramps greater than twenty feet in length must be placed behind street walls or landscaping features such as hedges;
- (C) Except for those used for residential purposes, all buildings occupying less than one hundred twenty feet of frontage, shall use internal wheelchair ramps (see Figure 1.16-A (flood zone design, internal wheelchair ramp), dated September 2011, made a part of this chapter, and attached at the end of this chapter);

- (D) Except for those used for residential purposes, all buildings occupying more than or equal to one hundred twenty feet of frontage may use external wheelchair ramps (see Figures 1.16-B and 1.16-C (flood zone design), dated September 2011, made a part of this chapter, and attached at the end of this chapter); and
  - (E) For all buildings, except for those used for residential use, no wheelchair ramps are allowed in the public right-of-way or front setback, except in the following circumstances:
    - (i) When the ramp fronts the side of a building near a corner;
    - (ii) When the ramp is shielded from the thoroughfare or covered under an element such as an arcade (see Figure 1.16-D, dated September 2011, made a part of this chapter, and attached at the end of this chapter); or
    - (iii) If the length of the ramp within the public right-of-way or front setback is less than or equal to twenty-five per cent of the width of the sidewalk. In this case, handrails are not permitted in the public right-of-way or front setback; and
  - (F) For residential buildings, wheelchair ramps may not be located in the public right-of-way or in the front setback; and
- (2) Other design standards for flood zones:
- (A) Measures undertaken to avoid floods shall not result in large blank walls along the building face. At least seventy-five per cent of a building's

- frontage shall be activated with steps, landscaping, or street furniture; and
- (B) There shall be breaks in any flood control intervention such as raised sidewalks every thirty feet, stairways, entrances, and planting features.
- [Eff ~~NOV 11 2011~~ ] (Auth: HRS  
 §§206E-4, 206E-5, 206E-7) (Imp: HRS  
 §§206E-4, 206E-5, 206E-7)

§15-217-62 Historical and cultural sites. (a) Purpose. The purpose of this section is to preserve, protect, reconstruct, rehabilitate and restore properties in the mauka area that are determined to be historic and culturally significant.

(b) Applicability. This section applies to all historical or culturally significant properties.

(c) Preservation and consultation. Properties situated in the mauka area that are deemed to be historically or culturally significant shall be preserved, protected, reconstructed, rehabilitated and restored by the landowners in accordance with the implementing regulations of section 106 of the National Historic Preservation Act and chapter 6E, HRS:

- (1) Developers of new projects or projects with significant alterations on historic or culturally significant properties shall consult with the department of land and natural resources, state historic preservation division ("SHPD"), department of land and natural resources to allow an opportunity for review of the effect of the proposed project on any historic properties or burial sites, pursuant to section 6E-43, HRS;
- (2) A written letter of concurrence from SHPD or adequate documentation that the applicant has complied with the requirements of chapter 6E-10, HRS, shall be included with the permit application to the authority; and

- (3) All SHPD requirements shall be completed by the developer prior to submittal of a permit application to the authority.

(d) Uses classifications. A property designated historic or culturally significant may be put to any use permitted in the neighborhood zone in which the property is situated, subject to the requirements of this section. [Eff NOV 11 2011 ] (Auth: HRS §§206E-7, 206E-33) (Imp: HRS §§206E-7, 206E-33)

§15-217-63 Parking and loading. (a) Applicability. This section applies to all new principal buildings in the mauka area or additions to buildings on properties that exceed twenty-five per cent of the existing floor area on said property.

- (b) Access:

- (1) Parking shall be accessed from an alley;
- (2) When there is no alley present, parking shall be accessed from a parking access street as indicated in Figure 1.10 (parking), dated September 2011, made a part of this chapter, and attached at the end of this chapter;
- (3) When access from a parking access street is not possible, parking shall be accessed from an alternative parking access street as indicated in Figure 1.10 (parking), dated September 2011, made a part of this chapter, and attached at the end of this chapter;
- (4) When access from an alternative parking access street is not possible, an alternative parking plan may be submitted; and
- (5) Driveway access for parking shall be a minimum of fifty-five feet from an intersection measured from the right-of-way.

- (c) Curb cuts:

- (1) The number of curb cuts shall be minimized, especially along alternative parking access streets, to the maximum practicable extent. Shared alleys, access drives and parking



arrangements are encouraged to reduce the need for new curb cuts;

- (2) Maximum width of new curb cuts shall be twenty-five feet for a two-way driveway and twelve feet for a one-way driveway, except that driveways for front yard houses and all other detached dwellings shall be no more than ten feet in width; and
- (3) Curb cuts shall be setback a minimum of twenty-two feet from adjacent properties. Lots with less than one hundred linear feet of frontage are exempt from this provision.
- (d) Placement:
  - (1) Parking shall be a minimum of forty feet behind any lot line, unless indicated otherwise in Figure 1.10 (parking), dated September 2011, made a part of this chapter, and attached at the end of this chapter;
  - (2) Parking lots and structures shall not front a civic space; and
  - (3) Parking is prohibited within any building front setback or front yard, except in the CK neighborhood zone.
- (e) Quantity:
  - (1) Required number of off-street parking spaces is as follows:

#### Off-Street Parking

Uses	Requirements
Detached dwellings, live-work, and duplexes:	two per unit plus one per one thousand square feet of floor area over 2,500 square feet;
Multi-family dwelling six hundred square feet or less:	0.9 per unit;

Multi-family dwelling greater than six hundred square feet:	1.25 per unit;
Group homes, care, convalescent and nursing home:	0.9 per four patient beds, dwelling units, or lodging units;
Commercial, clinics, administrative and all other uses:	one per four hundred fifty square feet of floor area;
Restaurants and bars, and dance-nightclubs:	0.9 per three hundred square feet of eating or drinking area, plus 0.9 per twenty-five square feet of dance floor area, plus one per four hundred fifty square feet of kitchen or accessory area;
Group assembly:	0.9 per three hundred square feet of assembly area or 0.9 per ten fixed seats, whichever is greater;
Religious facilities and theaters:	0.9 per every five fixed seats or fifty square feet of general assembly area, whichever is greater;
Day-care facilities:	0.9 per ten enrolled capacity;

Educational facilities that are at the elementary and intermediate level:	0.9 for each twenty students of design capacity, plus one per four hundred fifty square feet of office floor area;
Educational facilities that are at the high school level, language, vocational, business, technical, trade, college, or universities:	0.9 for each ten students of design capacity, plus one per four hundred fifty square feet of office floor area;
Industrial, media production, printing and publishing and warehousing:	one per nine hundred square feet of floor area; and

- (2) There shall be no off-street parking requirement for the central Kakaako neighborhood zone;
- (3) When there is uncertainty as to requirements for a proposed use, the executive director will review the proposed use and determine its equivalent and applicable off-street parking requirements;
- (4) When computation of required parking spaces results in a fractional number, the number of spaces required shall be rounded to the nearest whole number;
- (5) Every twenty-four inches of pew or bench area provided in a religious facility or other place of assembly shall be counted as seats for the purpose of determining requirement for off-street parking;
- (6) At least fifty per cent of required parking spaces shall be standard sized parking spaces; and

- (7) When a building includes uses incidental or accessory to a principal use, the executive director shall determine the total number of required spaces on the basis of the parking requirements for the use that creates a larger parking demand.
- (f) Shared parking:
  - (1) Because of the mixed-use nature of the mauka area and the differing peaks associated with different uses, the same parking facility may be utilized by a variety of users throughout the day. This can reduce the total number of parking spaces needed to serve the peak parking demand of the mauka area. The executive director may authorize shared parking based upon a finding that adequate parking or loading spaces will be provided;
  - (2) Required parking may be adjusted downward, without the need for a variance, according to the shared parking factor of Figure 1.10-A (parking), dated September 2011, made a part of this chapter, and attached at the end of this chapter; and
  - (3) Parking required by the rules for an individual project shall be located within 1,200 feet of the project site, within the mauka area, or outside the boundary by covenant, lease, license or other arrangement to the satisfaction of the executive director.
- (g) On street. Marked on-street parking shall count towards required parking when the on-street parking is adjacent to the parcel or within two hundred feet of the parcel.
- (h) Aisle and space dimensions:
  - (1) Each standard parking space shall be no less than 8.5 feet wide and eighteen feet long;
  - (2) Each compact parking space shall be no less than 7.5 feet wide and sixteen feet long and shall be marked as a compact space; and

- (3) Ingress and egress aisles shall be provided to a thoroughfare and between parking bays. Minimum aisle widths for parking bays shall be:
  - (A) Parking at 0 - 44 degrees: 12 feet;
  - (B) Parking at 45 - 59 degrees: 13.5 feet;
  - (C) Parking at 60 - 69 degrees: 18.5 feet;
  - (D) Parking at 70 - 79 degrees: 19.5 feet;
  - (E) Parking at 80 - 89 degrees: 21 feet;
  - and
  - (F) Parking at 90 degrees: 22 feet;
 Notwithstanding the foregoing, for a parking angle of ninety degrees, the minimum aisle width may be reduced by one foot for every six inches of additional parking space width above the minimum width, to a minimum aisle width of nineteen feet.
- (i) Design:
  - (1) Tandem parking and hydraulic lifts are permitted in parking facilities used for residential purposes, when both spaces are utilized by a single dwelling;
  - (2) Tandem parking and hydraulic lifts are permitted in any attended parking facility;
  - (3) Storage is permitted above all parking spaces constructed in parking garages or in parking structures;
  - (4) Robotic parking is permitted;
  - (5) Any mechanical equipment for providing parking shall be visually screened from view at abutting thoroughfares by architectural or landscape treatments;
  - (6) High albedo concrete shall be used instead of asphalt in surface parking lots; and
  - (7) All sources of illumination shall be shielded to prevent any direct reflection toward adjacent premises.
- (j) Landscaping for surface lots:
  - (1) Parking lot landscape requirements are one tree per twenty spaces with a minimum of one landscaped island for every ten spaces;

- (2) Every other row of parking shall include a landscaped median for the entire length of a bay. The entire length shall be planted with large shade trees at least every forty-five feet. Where a tree planting island occurs the entire length of a bay, there shall be a minimum of one planting island every fifteen spaces and a minimum of one large shade tree every fifteen spaces in a tree planting island; and
- (3) Permeable surfaces for parking and maneuvering areas are permitted.
- (k) Structures. Priority placement near entries, doors, elevators, or stairs within parking structures shall be given to parking for bicycles, car-shares, and plug-in electric vehicles.
- (l) Loading:
  - (1) The following loading space requirements shall apply:

#### Loading Space Requirements

<u>Uses</u>	<u>Loading Requirements</u>	<u>Floor Area (in square feet)</u>
Goods and services and industrial:	one	2,000 - 10,000
	two	10,001 - 20,000
	three	20,001 - 40,000
	four	40,001 - 60,000
	one	Each additional 50,000 over 60,000
Civil support, educational, and civic:	one	5,000 - 10,000
	two	10,001 - 50,000
	three	50,001 - 100,000
	one	Each additional 100,000 over 100,000

Office:	one	20,000 - 50,000
	two	50,001 - 100,000
	one	Each additional 100,000 over 100,000
Multiple-family dwellings:	one	20,000 - 150,000
	two	150,001 - 300,000
	one	Each additional 200,000 over 300,000

- (2) Loading space requirements shall be provided within a building, lot, or alley. Loading spaces are prohibited in thoroughfares;
- (3) Access to a loading space shall not be from a promenade street;
- (4) When only one loading space is required and total floor area is less than 5,000 square feet, the minimum horizontal dimensions of the space shall be 19 x 8-1/2 feet, and the space shall have a vertical clearance of at least ten feet;
- (5) When more than one loading space is required, 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 shall have horizontal dimensions of at least 19 x 8-1/2 feet and vertical clearance of at least ten feet;
- (6) Each loading space shall be unobstructed and shall be arranged so that any vehicle may be moved without moving the other;
- (7) 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;
- (8) All loading spaces and maneuvering areas shall be paved with an all-weather surface;

- (9) Where loading areas are illuminated, all sources of illumination shall be shielded to prevent any direct reflection toward adjacent premises;
- (10) 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;
- (11) Each required loading space shall be identified as such and shall be reserved for loading purposes;
- (12) No loading space shall occupy required off-street parking spaces or restrict access; and
- (13) An adjustment of up to fifty per cent of the required number of loading spaces may be allowed when such spaces are assigned to serve two or more uses of a single project jointly, provided that:
  - (A) Each use has access to the loading zone without crossing any street or public sidewalk; and
  - (B) The amount of loading spaces which may be credited against the requirements for the use or uses involved shall not exceed the number of spaces reasonably expected to be available during differing periods of peak demand.
- (m) Bicycle parking:
  - (1) Both short-term bicycle parking and long-term bicycle parking shall be provided;
  - (2) Bicycle parking shall be provided within four hundred feet of the principal entrance of the building;
  - (3) Instructional signs shall be used to explain how to use the bicycle parking device and directional signage shall be installed when bicycle parking locations are not readily visible from entrances; and
  - (4) For use classifications not specifically mentioned, requirements will be determined by the executive director based on the most



similar use listed, except that Figures BT.1 to BT.3, dated September 2011, made a part of this chapter, and attached at the end of this chapter, are exempt from bicycle parking requirements. [Eff NOV 11 2011 ]  
 (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-217-64 Conditional use of vacant land. (a)  
 The executive director may issue a conditional use of vacant land permit, provided that the following standards are met:

- (1) The proposed use is permitted within the applicable zone except:
  - (A) Open or uncovered parking at grade may be permitted in all zones, whether paved or unpaved; and
  - (B) Construction sites, special trade construction, and non-extensive yard uses may be permitted in all zones where a six-foot screening wall, hedge, or fence is erected along all street rights of way;
- (2) The maximum duration of the use is for a two-year period, provided that the executive director may issue extensions of up to two additional years if the development status of the area has not changed appreciably since the use was initially permitted;
- (3) The floor area ratio of any proposed temporary structure shall not exceed 0.5 and the project shall conform to the built form and landscaping standards of the rules; and
- (4) The proposed use shall in no way prevent or delay the future development or improvements to the property.

(b) In addition to these standards, the executive director may include additional requirements in the permit to ensure that the conditional use does not adversely affect adjacent property and the appearance of the mauka area. [Eff NOV 11 2011 ]

(Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-217-65 Public facilities dedication fee.

(a) Applicability. This section shall apply to any new development or improvement project, or existing development or improvement project within the mauka area that increases the existing floor area by more than twenty-five per cent as compared to the floor area existing on February 27, 1982 or at the time the development permit or improvement permit was issued, excluding proposed demolitions, whichever is less; provided, however, that this section shall not apply to any development or improvement project undertaken by an eleemosynary organization, development or improvement project for public uses, public project, workforce housing projects, floor area related to reserved housing, single-family dwellings and duplex units, or new buildings or structures with a floor area of less than 200 square feet.

(b) Dedication requirement. As a condition precedent to the issuance of an improvement permit or development permit, the developer shall dedicate land for public facilities. The dedication of land for public facilities shall be subject to the maximum ceiling in land or money in lieu thereof calculated in accordance with the formula designated in subsections (d) to (f) herein.

(c) In-lieu fee payments. As an alternative to the land dedication requirement of section 15-217-65(b), an in-lieu fee payment may be authorized as follows:

- (1) For improvement permit applications, the executive director may authorize a developer to pay an in-lieu fee equal to the value of land which would otherwise have had to be dedicated, or combine the payment of fee with land to be dedicated. The total value of such combination shall be not less than the value of land which would otherwise have had to be dedicated; and

- (2) For development permit applications, the authority may authorize a developer to pay a fee equal to the value of land which would otherwise have had to be dedicated, or combine the payment of fee with land to be dedicated. The total value of such combination shall be not less than the value of land which would otherwise have had to be dedicated.
- (d) Minimum dedication requirements. Land dedication requirements are:
  - (1) Three per cent of the total commercial floor area;
  - (2) Four per cent of the total residential floor area exclusive of floor area devoted to reserved housing units and their associated common areas in proportion with the floor area of other uses; and
  - (3) If the area of land approved for dedication is less than the land area required under subsection (d)(1) and (2) above, the developer shall be required to pay a fee equal to the fair market value of the land area which is the difference between the land area dedicated and the land area required under subsection (d)(1) and (2) above.
- (e) Payment timing and use of funds:
  - (1) Authorized in-lieu fees shall be payable prior to the issuance of the initial certificate of occupancy and secured by the applicant with a financial guaranty bond from a surety company authorized to do business in Hawaii, an acceptable construction set-aside letter, or other acceptable means prior to the issuance of the initial building permit; and
  - (2) Payment of fees shall be made to the authority for deposit in the authority's revolving fund established under section 206E-16, HRS.

(f) Valuation methodology. Valuation of land when fees are to be paid shall be determined as follows:

- (1) Valuation shall be based upon the fair market value of the land as though vacant and unimproved on the date the developer's application for an improvement permit or development permit is deemed complete pursuant to section 15-217-85 (completeness review), as agreed to by the developer and the executive director if an improvement permit or the developer and authority if a development permit; and
- (2) In the event that a fair market value cannot be agreed on, the fair market value of the land as though vacant and unimproved shall be fixed and established by majority vote of three real estate appraisers whose decision shall be final, conclusive, and binding; one shall be appointed by the developer, one appointed by the executive director in the case of improvement permits or the authority in the case of development permits, and the third appointed by the first two appraisers. In the event a party shall fail to appoint an appraiser within ten days following the appointment of the first appraiser, the party who appointed the first appraiser may apply to the person sitting as the administrative judge of the circuit court of the first circuit of Hawaii, if any, or if none, to any judge in service of said court, for the appointment of the second appraiser; provided, however, that if the developer is the party who has failed to appoint an appraiser within ten days following the executive director's or authority's appointment of the first appraiser, the executive director or authority, as the case may be, may deny the developer's request to pay a monetary fee in lieu of dedicating land. The two appraisers shall appoint a

third appraiser, and in case of their failure to do so within ten days after appointment of the second appraiser, either party may apply to the person sitting as the administrative judge of the circuit court of the first circuit of Hawaii, if any, or if none, to any judge in service of said court, for the appointment of the third appraiser. The appraisers shall determine the fair market value of the land as though vacant and unimproved on the date the developer's application for an improvement permit or development permit is deemed complete pursuant to section 15-217-85 (completeness review). All appraisers shall have had a minimum of five years of training and experience in real estate appraisal work in the state of Hawaii. The appraisers shall be governed in their determination by the provisions of chapter 658A, HRS. The fees and costs of each appraiser and all other appraisal costs shall, with exception of each party's attorneys' fees and costs and witnesses' fees, shall be borne equally by both parties.

(g) Dedication instrument. For land dedication pursuant to this section, the developer shall record the necessary conveyance instrument, free and clear of all encumbrances, in the bureau of conveyances, state of Hawaii, and shall file copies of the recorded conveyance instrument with the authority. The authority may require the developer to maintain the dedicated area until such time that notice is given by the authority to accept ownership and control of the area.

(h) Relationship to existing or future improvement districts. Nothing contained in this section shall preclude the creation of any improvement district for public facilities, or the imposition of assessments against properties specially benefited within the district. [Eff NOV 11 2011 ] (Auth: HRS §§206E-7, 206E-12) (Imp: HRS §§206E-7, 206E-12)

§§15-217-66 to 15-217-78 (Reserved).

## SUBCHAPTER 5

### PROCEDURES

§15-217-79 Rules clearance. (a) Applicability. Any uses, structures, and activities identified by section 15-217-79(b) below on a lot size of 20,000 square feet or less shall be issued a rules clearance from the rules when they are in compliance with the setback requirements, height limits, and all other applicable standards of subchapter 2 (regulating plan and neighborhood zones), subchapter 3 (thoroughfare plan and standards), subchapter 4 (area-wide standards) and, where applicable, those relating to section 15-217-91 (nonconformities);

(b) Qualifying land uses, structures and activities. The following are eligible for issuance of a rules clearance when in compliance with section 15-217-79(a) above:

- (1) Decks, paths and driveways. Decks, platforms, on-site paths, and driveways that are not required to have a building permit or grading permit;
- (2) Fences and walls in compliance with height and location requirements in section 15-217-55(e) (architectural design);
- (3) Interior alterations or change in use. Interior alterations or change in use that do not increase the gross floor area of the structure;
- (4) Repairs and maintenance:
  - (A) Single-family dwellings. Ordinary nonstructural repairs to, and maintenance of, single-family dwellings; or
  - (B) Multi-family residential and non-residential structures. Ordinary non-structural repairs to, and maintenance

of multi-family residential and non-residential structures, if:

- (i) The work does not change the approved land use of the site or structure, or add to, enlarge or expand the land use and/or structure; and
  - (ii) Any exterior repairs employing the same materials and design as the original construction;
- (5) Small, portable residential accessory structures. A single portable structure of one hundred twenty square feet or less per lot or unit, including pre-manufactured storage sheds and other small structures that are exempt from having to obtain a building permit from the city and county of Honolulu and in compliance with the applicable building code. Additional structures may be approved in compliance with subchapter 4 (area-wide standards), dated September 2011, made a part of this chapter, and attached at the end of this chapter, where allowed by the applicable zone;
- (6) Spas, hot tubs, and fish ponds. Portable spas, hot tubs, and constructed fish ponds, and similar equipment and structures that do not: exceed one hundred twenty square feet in total area including related equipment; contain more than 2,000 gallons of water; or exceed two feet in depth;
- (7) Open space and parks. Any improvement project over, upon, under or across any open space or park pursuant to Figure 1.11 (civic space), dated September 2011, made a part of this chapter, and attached at the end of this chapter; and
- (8) Any public utility project.
- (c) Action. In accordance with Figure 1.1 (approval requirements matrix), dated September 2011, made a part of this chapter, and attached at the end

of this chapter, the executive director shall approve all rules clearance applications consistent with this section after receipt of a complete application and payment of the requisite fee. [Eff NOV 11 2011 ]  
(Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-217-80 Improvement and development permits.

(a) Applicability. All new improvement projects and developments shall require a permit unless waived in accordance with section 15-217-90 (minor changes) or eligible for a rules clearance under section 15-217-79.

(b) Initiation. A developer may apply for an improvement permit or development permit by filing an application with the executive director.

(c) Types. There shall be two types of permits—improvement and development. Each type shall be subject to the decision-maker review and action pursuant to Figure 1.1 (approval requirements matrix), dated September 2011, made a part of this chapter, and attached at the end of this chapter:

- (1) Improvement permits shall apply to improvement projects and are subject to executive director review and action; and
- (2) Development permits shall apply to developments and are subject to authority review and action.

(d) Required findings. Approval of an improvement or development permit shall require all the following findings of fact:

- (1) Mauka area plan consistency. That the proposal complies with and advances the goals, policies and objectives of the mauka area plan;
- (2) Mauka area rules consistency. That the proposal will protect, preserve, or enhance desirable neighborhood characteristics through compliance with the standards and guidelines of the mauka area rules; and



- (3) Compatibility. That the proposal will not have a substantial adverse effect on surrounding land uses and will be compatible with the existing and planned land use character of the surrounding area.

(e) Conditions. In approving an improvement or development permit, the decision-maker may impose any reasonable conditions to ensure that the approval complies with the findings required above. Any conditions attached to an improvement or development permit issued by the executive director or authority, as the case may be, under any previously enacted zoning regulations, subdivision, or other administrative rules shall continue to apply to the proposed use and shall be enforceable as provided in section 15-217-92 (violations and enforcement). Such conditions may be waived if an improvement or development permit application is approved by the decision-maker which originally imposed such condition(s) and where the applicant agrees to waive and abandon all rights secured under the regulations formerly in effect.

(f) Design advisory board ("DAB"). The executive director may convene a DAB prior to acting on an improvement permit application. Where an application has been referred to the authority for review and action under section 15-217-80(g) or when reviewing a development permit application, the authority may convene a DAB whether or not the executive director has done so previously:

- (1) Composition. The DAB shall be comprised of the HCDA's director of planning and development or his/her designee, one member of the authority, and one or more technical consultants (e.g., architect, landscape architect, engineer) chosen by the executive director;
- (2) Fee. The applicant shall compensate the authority for all costs relating to the participation of technical consultants in the DAB. Prior to retaining technical consultants, the executive director shall

consult with the applicant on their fees and work scope; provided, however, that the executive director may accept or reject the applicant's recommendations and/or comments on the technical consultant to be retained at the executive director's sole discretion; and

- (3) Purpose. The DAB shall provide only non-binding recommendations to the executive director or, in the case of referral under section 15-217-80(g), to the authority.

(g) Authority referral. The executive director may refer an improvement permit application to the authority for review and action. Where a DAB has been or will be convened, the DAB shall review the application and provide its non-binding recommendations to the authority. [Eff NOV 11 2011 ]  
(Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-217-81 Conditional use permit. (a)

Purpose. This section provides for certain uses that, because of unique characteristics or potential impacts on adjacent land uses, may be authorized only under appropriate standards and factors set forth in the rules. No inherent right exists to receive a conditional use permit. Such authorization must be approved under a specific set of circumstances and conditions. Each application and situation is unique. Every conditional use permit application or amendment shall at a minimum be required to comply with every requirement contained in each subchapter of the rules. Mere compliance with the generally applicable requirements however may not be sufficient, and additional measures and conditions may be necessary to mitigate the impact of the proposed development.

(b) Applicability. All uses identified by "CU" in Figure 1.9 (land use), dated September 2011, made a part of this chapter, and attached at the end of this chapter, shall require conditional use permit approval.

(c) Decision-maker. Conditional use permits shall be subject to the authority review and action pursuant to Figure 1.1 (approval requirements matrix), dated September 2011, made a part of this chapter, and attached at the end of this chapter.

(d) Findings. Approval of a conditional use permit shall require all the following findings of fact:

- (1) The use is allowed within the applicable zone and complies with all other applicable provisions of the rules;
- (2) The use will conform to the mauka area plan;
- (3) The design, location, size and operating characteristics of the proposed use are compatible with the existing and future uses in the vicinity;
- (4) The site is physically suitable for the type, density and intensity of use being proposed, including access, utilities, and the absence of physical constraints; and
- (5) Granting the permit would not be detrimental to the public health, safety, or welfare, or materially injurious to persons, property, or improvements in the vicinity and Zone in which the property is located.

(e) Conditions. In approving any conditional use permit, the authority may impose such reasonable standards, conditions, or requirements, in addition to or that supersede any standard specified in the rules, as it may deem necessary to protect the public welfare and in order to ensure the approval will comply with the findings of section 15-217-81(d) (conditional use permit). Such additional standards, conditions or requirements may include, but need not be limited to:

- (1) Financing and availability of adequate public facilities or services;
- (2) Dedication of land;
- (3) Reservation of land;
- (4) Payment of exactions;
- (5) Impact fees;
- (6) Creation of special assessment districts;

- (7) Creation of restrictive covenants or easements;
- (8) Special setbacks;
- (9) Yard requirements;
- (10) Increased screening or landscaping requirements;
- (11) Area requirements;
- (12) Development phasing;
- (13) Standards pertaining to traffic, circulation, noise, lighting, hours of operation, protection of environmentally sensitive areas, and similar characteristics;
- (14) Provision of sustainable features, solar or other renewable energy source, rain water capture, storage and treatment or other sustainability requirement in section 15-217-59 (green building); or
- (15) Require that a performance guarantee - acceptable in form, content, and amount to the authority be posted by the applicant to ensure continued compliance with all conditions and requirements as may be specified. [Eff NOV 11 2011 ] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-217-82 Variances. (a) Purpose. This section is intended to provide a mechanism for relief from the strict application of the rules where the strict application will deprive the property owner of privileges enjoyed by similar properties because of the subject property's unique and special conditions. Economic or financial hardship alone is not sufficient justification for granting a variance.

(b) Applicability. All requirements of the rules are mandatory unless approval of variance is obtained, except as limited by section 15-217-82(f) (variances).

(c) Types. There shall be two types of variances - minor and major. Each type shall be

subject to the decision-maker review and action of Figure 1.1 (approval requirements matrix), dated September 2011, made a part of this chapter, and attached at the end of this chapter:

- (1) Minor variances shall apply to projects on parcels 20,000 square feet or less and are subject to executive director review and action; and
- (2) Major variances shall apply to projects on parcels over 20,000 square feet and are subject to authority review and action.
- (d) Findings. Approval of a variance shall require all the following findings of fact:
  - (1) Uniqueness. That there are unique physical conditions, including irregularity, narrowness or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to and inherent in the particular lot; and that, as a result of such unique physical conditions, practical difficulties or unusual hardship arise in complying strictly with the standards of the rules;
  - (2) Self-created hardship. That the practical difficulties or unusual hardship claimed as the basis for a variance has not been created by the owner or by a predecessor in title;
  - (3) Minimal deviation. That the variance, if granted, is the minimum deviation necessary to afford relief; and to this end, the decision-maker may permit a lesser variance than that applied for;
  - (4) Neighborhood character. That the variance, if granted, will not alter the existing or planned character of the neighborhood or neighborhood zone in which the lot is located; will not substantially impair the appropriate use or development of adjacent property; and will not be detrimental to the public welfare; and

- (5) No adverse impact. The variance would result in development that is not detrimental to or that would adversely impact adjacent properties.

(e) Variances for buildings for civic uses. In addition to the findings required by section 15-217-82(d) above, a community identity finding shall also be required to grant approval for a variance involving a new building or substantial modification to an existing building providing for a civic land use classification of Figure 1.9 (land use), dated September 2011, made a part of this chapter, and attached at the end of this chapter. The community identity finding establishes that the building and use provides a public service dedicated to arts, culture, education, recreation, government, transit or public parking and is uniquely designed to feature as a prominent, architecturally significant contribution to the built environment such that deviation from the provisions of the rules is warranted.

(f) Limitations. The following shall not be eligible for variance approval:

- (1) Change of zone;
- (2) Deletion of any thoroughfare identified in the thoroughfare plan;
- (3) Figure 1.5 (parks and open space plan), dated September 2011, made a part of this chapter, and attached at the end of this chapter;
- (4) Figure 1.6 (view corridors), dated September 2011, made a part of this chapter, and attached at the end of this chapter, and associated setback requirements;
- (5) Land use classifications as allocated to neighborhood zones - Figure 1.9 (land use), dated September 2011, made a part of this chapter, and attached at the end of this chapter;
- (6) Any buildings types and frontages types not allocated to neighborhood zones; and
- (7) Any maximum floor area ratio standard.

(g) Submittal requirements. Each variance application shall include, at a minimum, the following:

- (1) A statement of the standard or standards that are the subject of the proposed variance;
- (2) A textual description of the manner in which the applicant proposes to deviate from such evaluation standard or standards;
- (3) Plans drawn to scale, showing the nature, location, dimensions, and elevation of the structure, area or part thereof that is the subject of the proposed variance; including the development projects relationship to the surrounding context;
- (4) A justification for the proposed variance in light of the requirements set forth above; and
- (5) Other information as may be required by the decision-maker. [Eff NOV 11 2011 ] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-217-83 Master plan. (a) Purpose. The provisions of this section is intended to provide for a flexible approach to development, encourage investment in new development and commitment to the master planning of large land holdings. A further purpose of this section is to derive public benefits, such as reserved housing, public parking, off-site infrastructure and other public facilities from master plan developers, in exchange for greater development flexibility for a specified period.

(b) Applicability. Developers of project sites over five acres are eligible to apply for a master plan permit.

(c) Contents. A master plan permit may authorize only the following:

- (1) A development approval period up to ten years;

- (2) The provision of reserved housing outside of the mauka area; and
- (3) Public facilities, beyond that required by the mauka area plan or the mauka area rules, including, but not limited to, parks and open space, public infrastructure, and public art.
- (d) Findings. The authority shall make the following findings of fact in order to approve a master plan permit:
  - (1) That the master plan implements and is consistent with the mauka area plan and mauka area rules; and
  - (2) That the master plan will either enhance or provide necessary public facilities, as provided for in section 15-217-83(f) (master plan).
- (e) Submittal requirements. Each master plan permit application shall include, at a minimum, the following:
  - (1) Plans and supporting information sufficient to clearly indicate the pattern and implications of development within the master plan area;
  - (2) Proposed development approval timeframe;
  - (3) Proposed number, location, type and size of reserved housing;
  - (4) Proposed public facility improvements; and
  - (5) Such other information as may be required by the executive director or authority.
- (f) Public facilities. All public facilities above those required by these rules and other administrative rules of the Hawaii community development authority may be voluntarily offered by the master plan applicant.
- (g) Time extension. The authority may authorize a master plan approval time extension for up to a five-year time period. A maximum of two time extensions may be authorized. [Eff NOV 11 2011 ]  
(Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-7, 206E-33)



§15-217-84 Floor area ratio transfer. (a)

Purpose. The purpose of this section is to offer a discretionary review process for the transfer of floor area within the mauka area from a sending site to a receiving site. More specifically, the purposes are to encourage the transfer of floor area to properties with lot dimensions that allow for additional floor while complying with the building envelope requirements set forth in Figures BT.1 to BT.10, dated September 2011, made a part of this chapter, and attached at the end of this chapter, and building height requirements set forth in Figures NZ.1 to NZ.7, dated September 2011, made a part of this chapter, and attached at the end of this chapter.

(b) Generally. The proposed creation and redemption of floor area ratio transfers will take place solely on a voluntary basis between consenting parties. Landowners are not required to create or convey floor area ratio transfers. However, floor area ratio transfers must be created, conveyed, or redeemed in accordance with this section to be recognized by the authority.

(c) Land not eligible. Floor area ratio transfers shall not involve an existing public park or open space.

(d) Mandatory conjoined application. All requests to create, convey and redeem floor area ratio transfer credits shall be accompanied by and occur in conjunction with the following:

- (1) A project agreement including any accompanying permit approval request including, but not limited to, an improvement permit, a development permit, conditional use permit, variance, and master plan permit; and
- (2) A proposal to create, convey and redeem floor area ratio transfer credits shall be accompanied on forms promulgated by the executive director, and which contains the following information:
  - (A) Particular to sending site(s):

- (i) A cover letter identifying the landowner's name, mailing address, and contact information and briefly explaining what the landowner seeks to accomplish;
  - (ii) A certificate of title demonstrating ownership of the proposed sending site(s) and receiving site;
  - (iii) A draft covenant that provides the protections and restrictions on the proposed property consistent with section 15-217-84 (h);
  - (iv) A baseline documentation report that establishes the current condition of the proposed sending site(s) and which contains, at a minimum: (1) general location map; (2) a legal description and sketch of parcel boundaries; and (3) documentation (such as maps, written summaries, and photographs) of existing conditions that relate to the proposed easement restrictions as well as the proposed rights to be retained by the landowner; and
  - (v) An affidavit, signed by the landowner and preparer of the submittal, attesting to the accuracy of the information contained in the baseline documentation report; and
- (B) Particular to a receiving site. Plans, diagrams and supporting text which clearly identifies and illustrates the location and extent of proposed floor area transfer credit.

(e) Decision-maker. The authority shall review and act upon all applications for floor area ratio transfers to create, convey and redeem floor area ratio transfer credits after receiving a recommendation from the executive director.

(f) Findings. The authority must make the following findings of fact in order to approve an application to create, convey and redeem floor area ratio transfer credits:

- (1) That the receiving site allows for additional floor area while complying with the building envelope requirements set forth in Figures BT.1 to BT.10, dated September 2011, made a part of this chapter, and attached at the end of this chapter, and building height requirements set forth in Figures NZ.1 to NZ.7, dated September 2011, made a part of this chapter, and attached at the end of this chapter; and
- (2) That the creation, conveyance and redemption of floor area ratio transfer credits, as proposed or as modified by the authority, enables the subject lots to fulfill the development objectives of the mauka area plan and mauka area rules.

(g) Limitations. The creation, conveyance and redemption of floor area ratio transfer credits shall be limited by the following parameters:

- (1) Floor area ratio transfer credits shall not be created or redeemed in conjunction with a variance approval to exceed any maximum building height, building footprint or reduce any setback related to Figure 1.6 (view corridors), dated September 2011, made a part of this chapter, and attached at the end of this chapter;
- (2) No more than fifty per cent of the mauka area plan and mauka area rules maximum permitted floor area ratio shall be transferred from any sending site; provided, however, that contiguous lots may transfer

one hundred per cent of the maximum permitted floor area ratio; and

- (3) Floor area ratio transfer credits shall be created and redeemed concurrently. No floor area ratio transfer credit may be reserved for future conveyance to a sending site.

(h) Covenant running with the land required. In order to establish floor area ratio transfer credits, the sending site landowner must record a covenant running with the land over the sending site(s) consistent with this section. The covenant must meet the following criteria:

- (1) The covenant shall run with the land on the sending site(s);
- (2) The covenant shall restrict the floor area ratio of the sending site(s) to the ratio established by the transfer; and
- (3) The covenant shall name the authority as an intended beneficiary with the right to enforce such covenant.

(i) Record keeping. The executive director will maintain a register of all floor area ratio transfer credits both created and redeemed pursuant to this section. On an annual basis, the executive director will update this register to reflect all known transfers and redemptions of floor area ratio transfer credits. [Eff NOV 11 2011 ] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-217-85 Completeness review. (a) Purpose. The purpose of the completeness review is to determine whether all required information is provided in a permit application. A completeness review shall not constitute a decision as to whether an application complies with the provisions of the rules.

(b) Applicability. This section applies to all applications for permits provided for in the rules.

(c) Application materials. No application may be deemed complete unless all of the information required by forms published by the HCDA is included and all filing fees have been paid. The executive

director shall ensure that application materials are made available in hardcopy format at the HCDA office and electronically via the internet.

(d) Jurisdiction. All applications shall be reviewed by the executive director for completeness. At the time of proposed filing and fee payment, the executive director may reject any application that omits information required by forms published by the HCDA. Once accepted for filing, the executive director's final determination on completeness of an application is appealable to the authority pursuant to section 15-217-88 (appeals).

(e) Commencement of time limit for application decision. Whenever the rules establish a time period for processing an application, such time period does not commence until the executive director has issued a certificate of completeness.

(f) Multiple permit approvals. When a proposed project requires more than one permit approval, the applicant shall apply for all such permit approvals concurrently.

(g) Completeness review process:

(1) The executive director shall provide a written determination on the completeness review within forty-five working days of receipt of the permit application. If a permit is deemed complete, the executive director shall issue a certificate of completeness. If the application is determined not to be complete, the executive director's determination shall specify those parts of the application that are incomplete and shall indicate the manner in which they can be made complete, including a list and thorough description of the specific information needed to complete the application;

(2) If the application requires review by any other local, state, or federal agency or entity, the executive director may require the written comments from such agency or entity prior deeming the application

complete and until such time that the executive director receives all such comments, the forty-five day period shall be tolled;

- (3) Upon receipt of any application that has been resubmitted, a new forty-five day period shall begin, during which period the executive director shall determine the completeness of the application;
- (4) If the applicant contests the executive director's determination of an incomplete application, the applicant may appeal the executive director's determination to the authority pursuant to section 15-217-88, (appeals). If the authority does not render a decision on the appeal within thirty working days after submittal of the requisite appeal form and filing fee, the application with the submitted materials shall be deemed complete for the purposes of this section; and
- (5) Nothing in this section precludes an applicant and the executive director from mutually agreeing to an extension of any time limit provided by this section.

(h) Time limits. A certificate of completeness is deemed issued if the executive director fails to act within the time period required for completeness review. In computing time periods of this section, the day upon which the application was submitted is not to be included. Further, the last day is to be included unless it is not a working day, in which event the period runs until the next working day.

(i) Information requests. After the executive director issues a certificate of completeness or deemed as complete per section 15-217-85(c) (completeness review), the executive director or authority may, in the course of processing the application, request the applicant to clarify, amplify, correct, or otherwise supplement the information required for the application, if such would be required by the decision-maker to render a

final determination on the merits. [Eff NOV 11 2011 ]  
 (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS  
 §§206E-4, 206E-5, 206E-7)

§15-217-86 Automatic approvals. (a) The following permits shall be deemed approved and require no public hearing if a certificate of completeness has been issued and no decision is rendered within the following review periods:

- (1) Rules clearance (sixty calendar days);
- (2) Improvement Permit (ninety calendar days);
- (3) Development permit (one hundred eighty calendar days);
- (4) Conditional use of vacant land permit (ninety days);
- (5) Conditional use permit (one hundred eighty calendar days);
- (6) Variance (one hundred eighty calendar days); and
- (7) Master plan (two hundred calendar days).

(b) Whenever a proposed project requires more than one permit, the longest review period of section 15-22-86(a) shall apply for determining the deemed approved date. [Eff NOV 11 2011 ] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-217-87 Approval period. (a) Rules clearance approvals shall have an effective approval period of one year.

(b) Improvement permits, development permits, conditional use of vacant land, conditional use permits and variance approvals shall have an effective approval period of two years, unless extended under these rules.

(c) Master plan permits shall have an effective approval of ten years, unless extended pursuant to section 15-217-83(g).

(d) Prior to expiration and upon submittal of a written request and payment of the applicable filing

fee, an improvement permit may be extended by the executive director for a period of up to one year. The executive director may issue up to two extensions. Development permits may be extended by the authority for a period of up to one year. The authority may issue up to two extensions for development permits.

(e) In computing the approval period, the day upon which the approval was granted is not to be included. Further, the last day is to be included unless it is not a working day, in which event the period runs until the next working day.

[Eff NOV 11 2011 ] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-217-88 Appeals. (a) Decisions of the executive director rendered in the administration of the rules are appealable, as provided herein, to the authority (see Figure 1.1 (approval requirements matrix), dated September 2011, made a part of this chapter, and attached at the end of this chapter).

(b) An appeal of an executive director decision shall be sustained by the authority only if it finds:

- (1) The executive director's decision was based on an erroneous finding of material fact; or
- (2) The executive director acted in an arbitrary or capricious manner or had manifestly abused his or her discretion.

(c) All appeals of a decision by the executive director shall be filed and processed in accordance with HCDA's rules of practice and procedure, Hawaii administrative rules. [Eff NOV 11 2011 ] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-217-89 Subsequent applications. If an improvement permit, development permit, conditional use of vacant land permit, conditional use permit, variance, or master plan permit is denied, a new application proposing substantially the same development for the same property shall not be filed



within six months after the final decision.

[Eff NOV 11 2011 ] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-217-90 Minor changes. (a) After final approval of a rules clearance, improvement permit, development permit, conditional use of vacant land permit, conditional use permit, master plan permit or variance, the executive director may allow minor amendments to the application without submittal of a new or amended application when the requested amendment(s) does not:

- (1) Increase the number of dwelling units, floor area, height, or any additional land-use disturbance;
- (2) Introduce different land uses;
- (3) Request larger land area;
- (4) Request greater variance;
- (5) Allow any diminution in buffer or transition areas, reduction in landscaping, reduction of required yards, or any change in the design characteristics or materials used in construction of the structures; or
- (6) Reduce or eliminate conditions attached to the subject development approval.

(b) Any other change requests which do not qualify under section 15-22-90(a) (minor changes) shall require the filing of a new application to be processed in accordance with this subchapter.

[Eff NOV 11 2011 ] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-217-91 Nonconformities. (a) Applicability. This section applies to nonconformities, including their continuation, enlargement, or expansion. There are two categories of nonconformities - uses, and structures.

(b) Continuation. A nonconformity that was lawfully operated, established, or commenced in accordance with the provisions of all authority

statutes or regulations in effect at that time may continue subject to this section.

(c) Violation of rules. The violation of this section shall immediately disallow a nonconformity.

(d) Nonconforming uses:

(1) Continuance of nonconforming uses. The lawful use of any structure existing as of the effective date of the rules may be continued, although such use does not conform to the provisions of the rules. Such use may be extended throughout the structure, provided that no structural alterations or additions to the structure occur, except those made in conformance with the rules. A conforming structure in which a nonconforming use is operated shall not be enlarged or extended except as may be required by the rules; and

(2) Changes of use:

(A) Any nonconforming use may be changed to a use conforming with the rules established for the neighborhood zone in which the nonconforming use is located; provided, however, that a nonconforming use so changed shall not in the future be changed back to a nonconforming use;

(B) A nonconforming use may only be expanded under the provisions of section 15-217-91(f) (nonconformities); and

(C) If a nonconforming use is abandoned for twelve consecutive months, any future use of such premises shall be in conformity with the provisions of the rules. Abandonment of a nonconforming use shall terminate the right to continue the nonconformity.

(e) Nonconforming structures:

(1) Continuance of nonconforming structures. Subject to the provisions of section 15-217-91(b), any nonconforming structure

may be occupied, operated, and maintained in a state of good repair;

- (2) Enlargement, conforming use. A nonconforming structure in which only permitted uses are operated may be enlarged or extended if the enlargement or extension can be made in compliance with all regulations established in subchapter 2 (regulating plan and neighborhood zones), subchapter 3 (thoroughfare plan and standards) and subchapter 4 (area wide standards); and
- (3) Enlargement, nonconforming use. A nonconforming structure in which only nonconforming uses are operated may be enlarged or extended if:
  - (A) The enlargement or extension can be made in compliance with all provisions of subchapter 2 (regulating plan and neighborhood zones), subchapter 3 (thoroughfare plan and standards) and subchapter 4 (area wide standards); and
  - (B) The requirements of section 15-217-91(f) (nonconformities) are met;
- (4) Enlargement, limited up to twenty-five per cent of the floor area. A nonconforming structure may be altered or enlarged without compliance with all provisions of subchapter 2 (regulating plan and neighborhood zones), subchapter 3 (thoroughfare plan and standards) and subchapter 4 (area wide standards), provided that:
  - (A) The floor area of the proposed construction does not exceed twenty-five per cent of the floor area of the structure as it legally existed on February 27, 1982, excluding proposed demolitions;
  - (B) The proposed construction does not encroach into a frontage area;
  - (C) The proposed construction does not exceed forty-five feet in height;

- (D) The proposed construction does not affect neighboring properties;
  - (E) The parking requirements of this chapter are satisfied for the area proposed to be constructed; and
  - (F) The area created by the proposed construction is a permitted use;
- (5) Damage to structures. The right to operate and maintain any nonconforming structure shall terminate and shall cease to exist whenever the nonconforming structure is damaged in any manner and from any cause whatsoever, and the cost of repairing such damage exceeds fifty per cent of the replacement cost of such structure on the date of such damage. In determining the replacement cost of any nonconforming structure, the cost of land or any factors other than the nonconforming structure itself shall not be included. The executive director shall require the submission of sufficient evidence to verify the cost of repairing such structure, with the final determination of replacement cost made by the executive director. A nonconforming single-family dwelling unit that is destroyed or damaged more than fifty per cent of the replacement cost may be rebuilt, provided that a development permit is issued within one year of the date of such damage or destruction. The executive director shall require the submission of sufficient evidence to verify the date of damage or destruction; and
- (6) Exception for repairs pursuant to public order. Nothing in this subsection shall be deemed to prevent the strengthening or restoration to a safe condition of a building or structure in accordance with an order of a public official who is charged with protecting the public safety and who declares such structure to be unsafe and

orders it to restoration to a safe condition, provided that such restoration is not otherwise in violation of the various provisions of this subsection prohibiting the repair or restoration of partially damaged or destroyed buildings or structures.

- (f) Expansion of nonconformities:
- (1) Applicability. No nonconforming use or structure shall expand more than twenty-five per cent of the floor area of the structure, exclusive of any proposed demolition, as it legally existed on February 27, 1982 unless a conditional use permit has been granted as set forth in section 15-217-81 (conditional use permit); and
- (2) Evaluation criteria. In addition to the criteria required to be met for a section 15-217-81(d) (conditional use permit), the following criteria shall apply to the issuance of a conditional use permit for the expansion of a nonconforming use or structure:
  - (A) The termination of such nonconformity will result in unnecessary hardship;
  - (B) The expansion of the nonconformity will not be contrary to the public interest;
  - (C) The expansion of the nonconformity will not substantially or permanently injure the appropriate use of adjacent conforming property;
  - (D) The use is consistent with the spirit and purpose of these regulations and the mauka area plan goals, objectives, and policies;
  - (E) The plight of the applicant for which the expansion of the nonconformity is sought is due to unique circumstances existing on the property and within the surrounding area;
  - (F) The expansion of the nonconformity will not substantially weaken the general

- purposes of this section or the regulations established in this section for the applicable neighborhood zone;
- (G) The expansion of the nonconformity will not adversely affect the public health, safety, and welfare; and
  - (H) 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; and
    - (2) Off-street parking and loading requirements of this section shall be satisfied for additional floor area constructed.  
[Eff NOV 11 2011 ] (Auth: HRS §§206E-4, 206E-5, 206E-7, 206E-33)  
(Imp: HRS §§206E-4, 206E-5, 206E-7, 206E-33)

§15-217-92 Violations and enforcement. All provisions relating to violations of these rules and enforcement of said violations are provided in HCDA's rules of practice and procedure. [Eff NOV 11 2011 ]  
(Auth: HRS §§206E-4, 206E-22) (Imp: HRS §206E-22)

§15-217-93 Fee schedule. The following fee schedule shall be applicable to all permits, rule clearance, and public hearings.

Rule Clearance	\$20.00										
Conditional Use of Vacant Land	\$20.00										
Improvement Permit	<table> <tr> <td><u>Cost:</u></td><td><u>Project Size:</u></td></tr> <tr> <td>\$20</td><td>up to 1,000 s.f.</td></tr> <tr> <td>\$100</td><td>1,001-10,000 s.f.</td></tr> <tr> <td>\$500</td><td>10,001-30,000 s.f.</td></tr> <tr> <td>\$1,000</td><td>&gt; 30,000 s.f.</td></tr> </table>	<u>Cost:</u>	<u>Project Size:</u>	\$20	up to 1,000 s.f.	\$100	1,001-10,000 s.f.	\$500	10,001-30,000 s.f.	\$1,000	> 30,000 s.f.
<u>Cost:</u>	<u>Project Size:</u>										
\$20	up to 1,000 s.f.										
\$100	1,001-10,000 s.f.										
\$500	10,001-30,000 s.f.										
\$1,000	> 30,000 s.f.										
Development Permit	\$6,400 plus the cost of public hearing										
Master Plan Permit	\$10,000 plus the cost of public hearing										
Variance	\$500 plus the cost of public hearing										

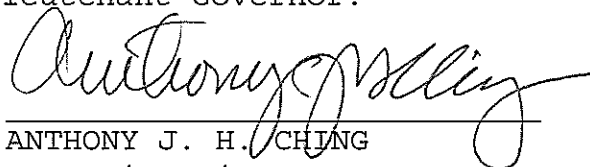
[Eff NOV 11 2011 ] (Auth: HRS §§ 206E-4, 206E-5)  
 (Imp: HRS §§206E-4, 206E-5)

§§15-217-94 to 15-217-107 (Reserved).

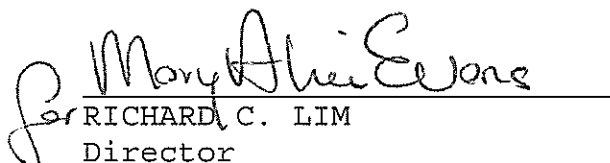
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM

The repeal of chapter 15-22, Hawaii Administrative Rules, and the adoption of chapter 15-217, Hawaii Administrative Rules, on the Summary Page dated September 14, 2011, were adopted on September 14, 2011, following public hearings held on May 18, 2011 and September 14, 2011, after public hearing notices were given in the Honolulu Star Advertiser, Hawaii Tribune-Herald, The Maui News, West Hawaii Today, and The Garden Island, on April 16, 2011 and August 14, 2011, respectively.

The repeal of chapter 15-22, Hawaii Administrative Rules, and the adoption of chapter 15-217, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.



ANTHONY J. H. CHING  
Executive Director  
Hawaii Community Development  
Authority



RICHARD C. LIM  
Director  
Department of Business,  
Economic Development, and  
Tourism

APPROVED AS TO FORM:

  
Deputy Attorney General

NEIL ABERCROMBIE  
Governor  
State of Hawaii

Date:

10.31.11

Filed