



Kaka'ako Community Development District
Makai Area Rules

Amendments to
Hawai'i Administrative Rules Title 15, Chapter 23

December 2023
Final (Standard Format)



**Hawaii Community
Development Authority**



HAWAII COUNTY
DEPARTMENT
SECURITY
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DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND
TOURISM

Amendments and Compilation of Chapter 15-23
Hawaii Administrative Rules

December 6, 2023

SUMMARY

1. §15-23-1 is repealed.
2. §15-23-1.1 is added.
3. §§15-23-2 to §15-23-3 are amended.
4. §15-23-4 is repealed.
5. §15-23-5 is amended.
6. §15-23-6 is repealed.
7. §15-23-6.1 is added.
8. §15-23-7 is repealed.
9. §15-23-7.5 is added.
10. §15-23-8 is amended.
11. §15-23-10 is repealed.
12. §15-23-10.1 is added.
13. §15-23-11 is repealed.
14. §15-23-13 is amended.
15. §15-23-14 is repealed.
16. §15-23-14.1 is added.

17. §§15-23-15 to §15-23-17 are amended.
18. §15-23-20 is amended.
19. §15-23-21 is repealed.
20. §15-23-22 is amended.
21. §§15-23-23 to §15-23-27 are added.
22. §§15-23-30 to §15-23-31 are amended.
23. §15-23-32 is repealed.
24. §15-23-33 is amended.
25. §§15-23-34 is repealed.
26. §§15-23-37 to §15-23-41 are repealed.
27. §15-23-42 is amended.
28. §§15-23-62 to §15-23-65 are amended.
29. §§15-23-67 to §15-23-70 are amended.
30. §15-23-71.1 is added.
31. §15-23-72 is repealed.
32. §§15-23-73 to §15-23-81 are amended.
33. §15-23-82.1 is added.
34. §§15-23-83 to §15-23-84 are amended.
35. §15-23-85 is repealed.
36. §15-23-86 is amended.
37. §15-23-87 is repealed.

38. §§15-23-88 to §15-23-89 are amended.
39. §15-23-90 is added.
40. §§15-23-139 to §15-23-143 are amended.
41. §§15-23-158 to §15-23-159 are amended.
42. §§15-23-160 to §15-23-161 are repealed.
43. §15-23-161.1 is added.
44. §§15-23-162 to §15-23-163 are amended.
45. §15-23-164 is repealed.
46. §15-23-178 is repealed.
47. §15-23-178.1 is added.

HAWAII ADMINISTRATIVE RULES

TITLE 15

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND
TOURISM

SUBTITLE 4

HAWAII COMMUNITY DEVELOPMENT AUTHORITY

CHAPTER 23

KAKA'AKO COMMUNITY DEVELOPMENT DISTRICT

MAKAI AREA RULES

Subchapter 1 General Provisions

\$15-23-1	Repealed
\$15-23-1.1	Purpose
\$15-23-2	Development guidance policies
\$15-23-3	Title
\$15-23-4	Repealed
\$15-23-5	Definitions
\$15-23-6	Repealed
\$15-23-6.1	Rules of interpretation
\$15-23-7	Repealed
\$15-23-7.5	Compliance with other regulations
\$15-23-8	Establishment and scope of controls
\$15-23-9	Repealed
\$15-23-10	Repealed
\$15-23-10.1	Completeness review
\$15-23-11	Repealed
\$15-23-12	Administration
\$15-23-13	Appeals

§15-23-14	Repealed
§15-23-14.1	Variances
§15-23-15	Nonconformities
§15-23-16	Application fees
§15-23-17	Violations
§15-23-18	Amendments
§15-23-19	Severability
§15-23-20	Interpretation by the executive director
§15-23-21	Repealed
§15-23-22	Automatic approvals
§15-23-23	Approval validity period
§15-23-24	Zoning clearance
§15-23-25	Rules clearance
§15-23-26	Renovation permit
§15-23-27	Improvement and development permits
§§15-23-28 to 15-23-29	Reserved

Subchapter 2 Land Use Zone Rules

§15-23-30	Establishment of land use zones
§15-23-31	MUZ zone: purpose and intent
§15-23-32	Repealed
§15-23-33	WC zone: purpose and intent
§15-23-34	Repealed
§§15-23-35 to §15-23-36	Repealed
§15-23-37	Repealed
§15-23-38	Repealed
§15-23-39	Repealed
§15-23-40	Park areas
§15-23-41	Public areas
§15-23-42	Minimum lot area, width, and depth
§15-23-43	Subdivision and consolidation
§§15-23-44 to 15-23-59	Reserved
§15-23-60	Additional development requirements

Subchapter 3 General Development Requirements

§15-23-61	Purpose and intent
§15-23-62	Density
§15-23-63	Heights
§15-23-64	Yards
§15-23-65	Open space

§15-23-66	Repealed
§15-23-67	Building envelopes
§15-23-68	Off-street parking
§15-23-69	Off-street loading
§15-23-70	Signs
§15-23-71	Repealed
§15-23-71.1	Architectural design
§15-23-72	Circulation
§15-23-73	Public facilities dedication of land or fee
§15-23-74	Prohibition of structures within a mapped street
§15-23-75	Development of properties within the Aloha tower special district
§15-23-76	Utilities required to be underground
§15-23-77	Environmental standards
§15-23-78	Temporary use permit
§15-23-79	Conditional use of vacant land
§15-23-80	Joint development of two or more adjacent zoning lots
§15-23-81	Flood hazard district
§15-23-82	Repealed
§15-23-82.1	Conditional use permit
§15-23-83	Applications
§15-23-84	Determination by authority or executive director
§15-23-85	Repealed
§15-23-86	Conditions
§15-23-87	Repealed
§15-23-88	Modification of specific provisions
§15-23-89	Conditions for modification
§15-23-90	Minor changes
§§15-23-91 to 15-23-107	Reserved
§§15-23-108 to 15-23-137	Repealed

Subchapter 4 Special Urban Design Rules

§15-23-138	Statement of purposes
§15-23-139	Applicability
§15-23-140	Streetscapes
§15-23-141	Tower spacing and circulation
§15-23-142	Landscaping
§15-23-143	Modification of urban design requirements

§§15-23-144 to 15-23-157 Reserved

Subchapter 5 Historic and Cultural Sites

§15-23-158 Statement of purposes
§15-23-159 Historic or culturally significant
 property defined
§15-23-160 Repealed
§15-23-161 Repealed
§15-23-161.1 Preservation and consultation
§15-23-162 Uses
§15-23-163 Protective maintenance
§15-23-164 Repealed
§§15-23-165 to 15-23-177 Reserved

Subchapter 6 Master Plan Rules

§15-23-178 Repealed
§15-23-178.1 Master plans
§§15-23-179 to 15-23-191 Reserved

Subchapter 7 Rules Review and Amendment

§15-23-192 Rules review and amendment

SUBCHAPTER 1

GENERAL PROVISIONS

§15-23-1 REPEALED. [R JAN 18 2024]

§15-23-1.1 Purpose. (a) The makai 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 Kaka'ako community development district.

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

(d) So that Kaka'ako can be developed as an attractive and desirable urban community, the authority shall interpret these rules to encourage flexibility of design. [Eff 2/24/90; am and comp 10/10/98; comp 2/2/02; comp 12/9/02; comp 11/3/05; am and comp JAN 18 2024] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-1, 206E-4, 206E-5, 206E-7)



§15-23-2 Development guidance policies. The development guidance policies governing the authority's actions in the Kaka'ako district have been set forth by the legislature in section 206E-33, HRS. [Eff 2/24/90; am and comp 10/10/98; comp 2/2/02; comp 12/9/02; comp 11/3/05; am and comp ^{JAN 18 2024}] (Auth: HRS §206E-33) (Imp: HRS §206E-33)

§15-23-3 Title. (a) This chapter of the Hawaii Administrative Rules shall be known, and may be cited, as the "makai area rules."

(b) References to "rules" within this chapter are references to the makai 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 November 2023, attached at the end of this chapter, the makai area plan, dated December 2023, and the the Kaka'ako makai conceptual master plan, dated April 2011, are hereby incorporated by reference and made a part of this chapter. [Eff 2/24/90; comp 10/10/98; comp 2/2/02; comp 12/9/02; comp 11/3/05; am and comp] (Auth: HRS §§206E-5, 206E-7) (Imp: HRS §§206E-5, 206E-7)

§15-23-4 REPEALED. [R ^{JAN 18 2024}]

§15-23-5 Definitions. 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 15-23-6.1 (rules

of interpretation) or section 15-23-20 (interpretation by the executive director):

"Aloha Tower special district" means that parcel of land identified by tax map key 2-1-14: 06, situated mauka of Piers 6 and 7 and makai of Nimitz Highway, being the site for the existing Hawaiian Electric power plant and related facilities.

"Arcade" means a protected walkway that provides public pedestrian access contiguous to a building. It is open on at least one long dimension, except for structural columns, and has an average unobstructed ceiling height of at least twelve feet. It shall have a clear walkway width of at least twelve feet and not less than five hundred square feet of covered area, including the area occupied by the structural columns. An arcade is not more than eighteen inches above adjoining grade.

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

"Awning" means a temporary shelter supported entirely from the exterior wall of a building.

"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 makai area.

"Developer's proposal to develop lands under the authority's control" as used in section 206E-5.6, HRS, shall mean and include: (1) Any permit application filed by any private person or entity seeking the authority's approval for a development project; or (2) An improvement or development project on lands owned by the authority.

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

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

"Development project" means and includes construction and site improvements, including new floor area, that totals 20,001 square feet or more.

"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.

"Executive director" means the executive director of the authority.

"Federal emergency management agency flood maps" means maps that set flood insurance rates, regulate floodplain development, and delineate 100-year floodplain boundaries that are prepared under the National flood insurance program. Federal emergency management agency flood maps contain flood zones that describe different levels of flood risk and elevation.

"Floor area" means the sum of the gross horizontal areas of all floors of a building, including interior balconies, mezzanines, and storage areas measured from the exterior face of exterior walls or from the centerline of a wall separating two structures.

- (1) Floor area shall include the area of roofed structures, building overhangs, canopies less than fifty per cent open to sky, porches, lanais having more than two walls, accessory structures on the same lot, mechanical and machine rooms, and elevator shafts. The area of roofed structures that are not enclosed by walls shall be measured from the exterior face of its supporting structure, columns, posts, or the determined useable area it covers;
- (2) Floor area shall exclude parking facilities and loading spaces, including their driveways, stairwells open on at least two sides with only handrailing or fall protection, elevator shafts, basements, below ground structures, screening for rooftop machinery equipment, elevator housings on the rooftop, covered drop-offs located at or leading to the street curb,

and lanais less than fifteen per cent interior floor area; and

- (3) Parking areas dedicated to electric vehicles and electric vehicle charging, long-term bike parking and storage, car sharing, nonpetroleum based motor vehicles, robotic parking systems and its machinery, and other high efficiency parking systems approved by the executive director, may be excluded from floor area calculations.

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

"Ground elevation" means the existing grade of a sidewalk adjacent to any front yard property line or the adjacent street right-of-way line if no sidewalk exists.

"Ground floor windows" means windows extending over at least fifty per cent of the length and twenty-five per cent of the area of ground elevation walls. Ground elevation walls include all exterior wall areas up to nine feet above the ground floor that abut front yards. Ground floor windows must be either windows that allow views into working areas or lobbies, pedestrian entrances, or display windows.

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

"Improvement project" means and includes:

- (1) Construction and site improvements, including new floor area, that total twenty thousand square feet or less;
- (2) Exterior alterations, excluding ordinary repairs and maintenance covered by a rules clearance or a renovation permit; and
- (3) Demolition of an existing structure.

"Joint development" means the treatment of two or more adjacent lots, or lots directly facing each other but separated by a street, as a single development lot, for the purposes of this chapter.

"Kaka'ako special design district ordinance" means Ordinance No. 80-58 of the city and county of Honolulu, as amended.

"Land use ordinance" means the land use ordinance of the city and county of Honolulu, as amended.

"Land use zone" means any zone delineated on the land use plan map of the makai area plan.

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

"Makai area" means that portion of the Kaka'ako district, established by section 206E-32, HRS, which is bounded by Ala Moana Boulevard, inclusive from South Street to its intersection with the Ewa boundary of Ala Moana Park, also identified as the Ewa boundary of tax map key 2-3-37: 01; the Ewa boundary of tax map key 2-3-37: 01 from its intersection with Ala Moana Boulevard to the shoreline; the shoreline from its intersection with the property line representing the Ewa boundary of property identified by tax map key 2-3-37: 01 to its intersection with the property line along the Diamond Head side of Pier 1 and Forest Avenue, also identified as the Diamond Head boundary of tax map key 2-1-15: 09; and along the Diamond Head side of Pier 1 and Forest Avenue, also identified as the tax map key 2-1-15: 09 from the shoreline to the intersection of Ala Moana Boulevard and South Street. The makai area also includes that parcel of land identified by tax map key 2-1-14: 06, situated mauka of Piers 6 and 7 and makai of Nimitz Highway, being the site for the existing Hawaiian Electric power plant and related facilities.

"Makai area plan" means the development plan for the makai area of the Kaka'ako community development district adopted on September 29, 1998, as amended on December 9, 2002; November 3, 2005; and

JAN 18 2024

"Mauka area" means that portion of the Kaka'ako 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 Kaka'ako 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; January 9, 2002; and October 31, 2011.

"Mixed use" means the combination of more than one land use within a development or development lot.

"MUZ" means a makai urban zone where commercial and community uses are permitted.

"Nonconforming use" means an activity using land, buildings, signs, or structures for purposes which were legally established within the makai area prior to JAN 18 2024 but would not be permitted as a new use in any of the land use zones established by this chapter.

"Open space" means space that is one hundred per cent open to the sky and that is between or adjacent to a structure and located either (a) at-grade, or (b) on a publicly-accessible and usable podium, roof garden, or roof-top recreation area.

"Open space systems" mean continuous networks of open space that result from public rights-of-way, view corridors, building setback areas, parks, and private open spaces.

"Passageway" means a ground floor, cross-block pedestrianway that facilitates pedestrian movement, is open to the public, and has a minimum clear width of thirty feet and minimum clear height of twelve feet. To qualify, a passageway shall also be open to the sky for at least twenty-five per cent of its area, and all openings to the sky must not be less than twelve feet in any dimension. Passageways must link active use areas, such as lobbies, courtyards, retail shops, and drop-offs. Passageways are exempt from parking, loading, and public facilities fee requirements.

"Platforms" mean a building form providing a base for tower structures. The platforms may contain extensive parking areas as well as other permitted uses.

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

"Project" means any intentional man-made change over, upon, under, or across improved or unimproved real property, including construction and site improvements.

"Protection" means undertaking actions or applying measures that will prevent the property from deterioration or loss or that will keep it from being destroyed or abused.

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

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

"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.

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

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

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

"Renovation project" means and includes:

- (1) Interior alterations and modifications of an existing structure that increases floor area, not to exceed twenty-five per cent of the building floor area as originally constructed, and where the total building floor area is less than twenty thousand square feet; and

- (2) Minor modifications to the exterior of the existing structure.

"Restoration" means recovering accurately the authentic form and details of a property, or a structure and its setting, usually by renovating a later work, or replacing missing earlier work.

"Revised ordinances of Honolulu" or "ROH" means the revised ordinances of the city and county of Honolulu, as amended.

"Rules clearance" means and includes a permit approved and issued by the executive director when the uses, structures, and activities:

- (1) Complies with setback requirements, height limits, and all other applicable standards and existing nonconformities; and
- (2) Does not require the issuance of a renovation permit, improvement permit, or development permit.

"Tower" means a single building form which may be situated above or abutting a platform.

"Tower footprint" means the largest area of a single floor of a building above sixty-five feet in height as measured from its exterior faces or edges. [Eff 2/24/90; am 1/7/91; am 2/22/93; am and comp 10/10/98; am 1/13/00; am and comp 2/2/02; am and comp 12/9/02; am and comp 11/3/05; am and comp JAN 18 2024] (Auth: HRS §§206E-2, 206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-2, 206E-4, 206E-5, 206E-7)

§15-23-6 REPEALED. [R JAN 18 2024]

§15-23-6.1 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 the text-only contents of the rules, section 15-23-6.1 shall also control related captions, titles, and figures.

(c) Terms not defined in section 15-23-5 shall be accorded their commonly accepted meanings. In the

event of conflicts between the definitions in section 15-23-5 and those found elsewhere within the authority's administrative rules, the definitions in section 15-23-5 shall take precedence.

(d) Figures 1 to 6, dated November 2023, made a part of this chapter, and attached at the end of this chapter, are an integral part of the rules. Figure 7, dated November 2023, made a part of this chapter, and attached at the end of this chapter, contains illustrative guidelines.

(e) In case of any difference of meaning or implication between the text of this chapter and any caption, illustration, map, summary table, or illustrative table, the text shall control.

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

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

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

(i) Within the rules, sections are occasionally prefaced with purpose or intent statements that are intended to guide the implementation of the rules but are not binding standards.

(j) In their interpretation and application, the provisions of the rules are considered minimal in nature. Whenever the provisions, standards, or requirements of the authority's rules of practice and procedure, chapter 219, Hawaii Administrative Rules, are higher or more restrictive, the latter shall control.

(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, the lot line, alley centerline, or street 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 JAN 19 2024] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-23-7 REPEALED. [R JAN 19 2024]

§15-23-7.5 Compliance with other regulations.

- (a) Whenever conflicting requirements are discovered in the application of the rules, they shall be resolved as follows:
 - (1) Makai area rules. If a conflict occurs between requirements within the rules, the most restrictive requirement shall apply;
 - (2) Makai area plan. When the provisions of the rules are in conflict with the makai area plan, the rules shall take precedence;
 - (3) Master plan. If conflicts occur between the requirements of the makai area rules and standards adopted as part of any master plan, the requirements of the master plan shall apply; and
 - (4) Private agreements. If conflicts occur between the requirements of the rules and private agreements or restrictions, the rules shall apply and take precedence. The rules apply to all real property located within the makai area regardless of whether the rules impose a greater or lesser restriction on the development or use of structures or land than a private agreement or restriction, such as conditions, covenants and restrictions.

(b) The provisions of chapter 15-219, the authority's rules of practice and procedure, apply within the makai area and may be referenced herein. [Eff ~~1/1/2024~~] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-23-8 Establishment and scope of controls.

(a) In harmony with the purpose and intent of chapter 206E, HRS, these rules are established by the Hawaii community development authority for the makai area of the Kaka'ako district to regulate the area of lots; height of buildings; minimum yards and setbacks; required open spaces; the density of buildings; the location and amount of authorized uses; the location of buildings and other structures; off-street loading requirements; public facilities fee requirements; architectural design; urban design; historic and cultural sites; circulation criteria; environmental standards; and other appropriate matters relating to land use, zoning, climate change, sea level rise, climate-resilient development, and planning for buildings and structures for all properties within the makai area of the Kaka'ako district.

(b) This chapter, together with the makai area plan, shall govern all developments and use of properties within the makai area.

(c) No building permit shall be issued for any project within the makai area unless it conforms to the provisions of the makai area plan and this chapter.

(d) All projects, proposed projects, and properties within the makai area shall be subject to all of the provisions of this chapter and the makai area plan. This requirement shall apply notwithstanding the fact that at the effective date of this chapter, a city and county of Honolulu building permit has been applied for or has been issued for the developments, proposed developments, or properties; provided that such requirement shall not apply if a city and county of Honolulu building permit has been issued, substantial expenditures have been incurred, and substantial changes in the land have already

occurred. Substantial changes in the land shall be evidenced by substantial excavations for foundations.

(e) Except as otherwise specifically provided, the provisions of this chapter shall supersede the provisions of the city and county of Honolulu's development plan (Ordinance No. 81-79, as amended), the provisions of the Kaka'ako special design district ordinance (Ordinance No. 80-58, as amended), the provisions of the Hawaii Capitol District Ordinance (Article 7, land use ordinance), and the provisions of the land use ordinance (Ordinance No. 86-96, as amended) as they all shall relate to properties within the Kaka'ako district. The foregoing ordinances are hereby declared to be inconsistent with this chapter, and shall therefore be inapplicable to developments within the district unless otherwise specifically stated.

(f) 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 Kaka'ako district.

(g) Developments shall not be approved unless adequate infrastructure facilities are or will be made available to service the proposed development prior to occupancy. The executive director may consult with applicable governmental agencies regarding the adequacy of infrastructure requirements. Any development approval may be conditioned with the requirement that the concerns and requirements of appropriate governmental agencies relative to the adequacy of infrastructure facilities for the proposed development are satisfied. [Eff 2/24/90; am and comp 10/10/98; comp 2/2/02; comp 12/9/02; am and comp 11/3/05; am and comp JAN 11 2006] (Auth: HRS §§206E-1, 206E-4, 206E-5, 206E-7, 206E-13, 206E-33) (Imp: HRS §§206E-1, 206E-4, 206E-5, 206E-7, 206E-13, 206E-33)

§15-23-9 REPEALED. [R 10/10/98]

§15-23-10 REPEALED. [R JAN 12 201]

§15-23-10.1 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, except rules clearance, zoning clearance, and temporary use permit applications.

(c) Application materials. No application shall be deemed complete unless all of the information required by forms published by the authority and required for proper assessment of the request are included and all filing fees have been paid. The executive director shall ensure that application materials are available to the public electronically via the internet and in hardcopy format at the authority's office upon request.

(d) Jurisdiction. All applications shall be reviewed by the executive director or designee 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 authority. Once accepted for filing, the executive director's final determination on completeness of an application is appealable to the authority pursuant to section 15-23-13.

(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 to be incomplete, the executive director's determination shall specify those parts of the application that are incomplete and shall indicate the manner in which those parts of the application 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 the agency or entity prior to 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 15-23-13. 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. Automatic approvals do not apply if an

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applicant submits an application for an incorrect permit type. In computing time periods of this section, the day upon which the application was submitted is not to be included. 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 is deemed complete as per section 15-23-10.1(c), 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.

(j) Pre-application meeting. Applicants may request a meeting with the executive director or designee to review the application materials prior to or after filing and submission. [Eff JAN 13 2004]
(Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-23-11 REPEALED. [R JAN 13 2004]

§15-23-12 Administration. The authority, through its executive director, shall administer the provisions of this chapter. [Eff 2/24/90; comp 10/10/98; comp 2/2/02; comp 12/9/02; comp 11/3/05]
(Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-23-13 Appeals. (a) Decisions of the executive director rendered in the administration of the rules are appealable, as provided herein, to the authority (see Figure 2 (approval requirements

matrix), dated November 2023, 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 the authority finds:

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

(c) All appeals and appeal procedures shall be filed and processed in accordance with the authority's rules of practice and procedure, title 15, chapter 219, Hawaii Administrative Rules.

[Eff 2/24/90; am and comp 10/10/98; comp 2/2/02; comp 12/9/02; am and comp 11/3/05; am and comp] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7).

§15-23-14 REPEALED. [R]

§15-23-14.1 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 15-23-14.1(f).

(c) Types. Variances are subject to authority review and action.

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

- (1) Deprivation of the reasonable use of the property. The applicant would be deprived of the reasonable use of land or building in

complying strictly with the standards of the rules. Reasonable use is not highest and best use;

- (2) 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;
- (3) 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;
- (4) 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;
- (5) 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
- (6) 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 15-23-14.1(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 5 (land use), dated November 2023, 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) Land use classifications as described in Figure 5 (land use), dated November 2023, made a part of this chapter, and attached at the end of this chapter; and
- (3) 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) A justification for the proposed variance in light of all requirements set forth above;
- (4) 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; and
- (5) Other information as may be required by the decision-maker. [Eff JAN 18 2024] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-23-15 Nonconformities. (a) Except as otherwise provided, nonconforming uses of land and structures, and nonconforming lots, structures, parking, and loading within the makai area may be continued subject to the provisions of this section.

(b) Any provision to the contrary notwithstanding, existing industrial and commercial

uses which meet reasonable performance standards as contained in this chapter shall be permitted to continue in appropriate locations within the district as determined by the authority in its sole discretion.

(c) Nonconforming uses may be permitted anywhere within the existing makai area.

(d) Nonconforming use of land shall not:

- (1) Be enlarged, increased, or extended to occupy a greater area of land than was occupied on JAN 18 2024;
- (2) Continue if it ceases for any reason (except where government action impedes access to the premises) for a period of more than six consecutive months or for twelve months during any three-year period; or
- (3) Be moved in whole or in part to any portion of the lot or parcel other than that occupied by the use on JAN 18 2024.

(e) The following requirements apply to nonconforming uses of structure:

- (1) Nonconforming use of structure shall not extend to any part of the structure which was not manifestly arranged or designed for the use on JAN 18 2024; and a nonconforming use shall not be extended to occupy any land outside the structure. The structure shall not be enlarged, extended, constructed, reconstructed, moved, or structurally altered;
- (2) Nonconforming use of structure shall not continue if it is discontinued for twelve consecutive months or for eighteen months during any three-year period;
- (3) If structural alterations are not made, any nonconforming use of a structure, or structure and premises in combination, may be changed to another nonconforming use of the same nature, or to a more restricted use, or to a conforming use; provided that change to a more restricted use or to another nonconforming use may be made only if the relation of the structure to the surrounding property is such that adverse effects on occupants and neighboring

- property will not be greater than if the original nonconforming use continued;
- (4) On any building devoted in whole or in part to any nonconforming use, work may be done in any period of twelve consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, roofs, fixtures, wiring, or plumbing, to an extent not exceeding ten per cent of the current replacement value of the building; provided that the cubic content of the building as it existed on JAN 18 2024, shall not be increased; and
- (5) Nothing contained in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of that official.
- (f) The following requirements apply to nonconforming structures:
- (1) A nonconforming structure may be continued as long as it remains otherwise lawful;
- (2) A nonconforming structure may be altered in any way which does not increase its nonconformity. However, a nonconforming structure may be enlarged without satisfying the public facilities fee and open space requirements of this chapter; 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 JAN 18 2024, or floor area of the structure at the time of application for an improvement or development permit excluding proposed demolitions, whichever is less;
- (B) The proposed construction does not encroach into a required yard, except that roof overhangs, eaves, sunshades, sills, frames, beam ends, projecting courses, planters, or awnings are allowed if they do not extend more than

- four feet from the existing structure. However, in no event shall roof overhangs, eaves, sunshades, sills, frames, beam ends, projecting courses, or planters be closer than five feet from the property line; and awnings may extend over the property line above public property pursuant to the provisions of paragraph (6);
- (C) The total floor area of the existing structure and the expansion do not exceed 1.5 FAR;
 - (D) The proposed construction does not exceed forty-five feet in height;
 - (E) The proposed construction does not adversely affect neighboring properties;
 - (F) The parking requirements of this chapter are satisfied for the area proposed to be constructed; and
 - (G) The area created by the proposed construction will be utilized for a permitted use;
- (3) Any provision of these rules to the contrary notwithstanding, if a nonconforming structure is proposed to be partially acquired as part of an improvement district or other public project, the remainder of the structure may be demolished and the equivalent floor area reconstructed on the lot without satisfying the public facilities fee and open space requirements of this chapter; provided that the executive director shall find that the proposed reconstruction will be utilized for a permitted use, is practically and aesthetically superior to that which would otherwise result if the partially acquired structure was refaced at the new property line, and does not substantially increase nonconformity. Any additional floor area created by the proposed reconstruction shall be subject to the applicable requirements of this chapter;

- (4) If a nonconforming structure is destroyed by any means to an extent of more than fifty per cent of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of these rules.
Except as otherwise provided herein, no nonconforming structure that is voluntarily razed or required by law to be razed by the owner thereof may thereafter be restored except in full conformity with the provisions of this chapter;
- (5) If a nonconforming structure is moved for any reason, it shall thereafter conform to the applicable rules of this chapter after it is moved;
- (6) Any awning may extend from a nonconforming structure over public property, provided approvals from the appropriate governmental agencies are secured and the awning does not extend more than four feet from the face of the building to which it is attached; and
- (g) The following requirements apply to nonconforming lot:
 - (1) A nonconforming lot shall not be reduced in area, width, or depth, except because of a government project that is intended to further the public health, safety, or welfare or the intent of the makai area plan;
 - (2) Any conforming structure or use may be constructed, enlarged, extended, or moved on a nonconforming lot as long as all other requirements of this chapter are complied with.
- (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 chapter shall be satisfied for additional floor area constructed. [Eff 2/24/90; am and comp 10/10/98; comp 2/2/02; comp 12/9/02; am and comp 11/3/05; am and comp JAN 18 2024] (Auth: HRS §§206E-4, 206E-5, 206E-7, 206E-33) (Imp: HRS §§206E-4, 206E-5, 206E-7, 206E-33)

§15-23-16 Application fees. (a) The following fee schedule shall be applicable to all permits, rule clearance, and public hearings.

Permit Fee Schedule (12/1/23)

Rule	Permit	Fee Amount
§15-23-14.1	Variance	\$500 plus the cost of public hearing
§15-23-24	Zoning Clearance	\$50
§15-23-25	Rules Clearance	\$50
§15-23-26	Renovation Permit	\$50
§15-23-27	Improvement Permit	Project size up to 1,000 square feet (sf): \$50
		Project size of 1,001 sf to 10,000 sf: \$100
		Project size of 10,001 sf to 20,000 sf: \$500
§15-23-27	Development Permit	\$6,400 plus the cost of public hearing
§15-23-78	Temporary Use Permit	\$50
§15-23-79	Conditional Use of Vacant Land	\$50

Rule	Permit	Fee Amount
§15-23-82.1	Conditional Use Permit	\$500 plus the cost of public hearing
§15-23-178	Master Plan Permit	\$10,000 plus the cost of public hearing

(b) Government agencies shall be exempt from all fees required by this chapter. [Eff 2/24/90; am and comp 10/10/98; comp 2/2/02; comp 12/9/02; comp 11/3/05; am and comp] (Auth: HRS §§206E-4, 206E-5) (Imp: HRS §§206E-4, 206E-5)

§15-23-17 Violations. (a) The authority may maintain an action for an injunction to restrain any violation of this chapter or the makai area plan, and may take lawful action to prevent or remedy any violation.

(b) When the executive director finds that a violation has occurred, the executive director shall require that corrective action be taken and may impose administrative penalties pursuant to subchapter 8 of chapter 15-16. [Eff 2/24/90; am 10/3/94; comp 10/10/98; comp 2/2/02; comp 12/9/02; comp 11/3/05; am and comp] (Auth: HRS §§206E-4, 206E-22) (Imp: HRS §206E-22)

§15-23-18 Amendments. This chapter may be amended pursuant to chapter 91, HRS, as may be necessary. [Eff 2/24/90; comp 10/10/98; comp 2/2/02; comp 12/9/02; comp 11/3/05] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-23-19 Severability. (a) If a court of competent jurisdiction finds any provision or provisions of this chapter to be invalid or ineffective in whole or in part, the effect of that

decision shall be limited to those provisions which are expressly stated in the decision to be invalid or ineffective, and all other provisions of these rules shall continue to be separately and fully effective

(b) If a court of competent jurisdiction finds the application of any provision or provisions of this chapter to any zoning lot, building or other structure, or tract of land to be invalid or ineffective in whole or in part, the effect of that decision shall be limited to the person, property, or situation immediately involved in the controversy, and the application of any such provision to other persons, property, or situations shall not be affected. [Eff 2/24/90; am and comp 10/10/98; comp 2/2/02; comp 12/9/02; comp 11/3/05] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-23-20 Interpretation by the executive director. (a) In administering this chapter, the executive director may, when deemed necessary, render written interpretations to clarify or elaborate upon the meaning of specific provisions of this chapter for intent, clarity and applicability to a particular situation. The executive director may also provide a preliminary interpretation of the meaning or applicability of any provision of the rules directly to the authority for a determination at a public meeting.

(b) 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 makai area plan.

(c) All interpretations shall be:

(1) 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

(2) Distributed to the authority, executive director, and authority staff.

(d) Any interpretation of the rules by the executive director may be appealed to the authority in compliance with section 15-23-13; and

(e) 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 pursuant to subchapter 4, chapter 15-219. 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. [Eff 10/10/98; comp 2/2/02; comp 12/9/02; comp 11/3/05; am and comp JAN 19 2004] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-23-21 REPEALED. [R JAN 19 2004]

§15-23-22 Automatic approvals. (a) The following permits shall be deemed approved if a certificate of completeness has been issued as appropriate, any applicable hearings have been held, but no decision has been rendered within the review periods in the table below:

Automatic Approvals Duration (12/1/23)

Rule	Permit	Duration
§15-23-14.1	Variance	100 calendar days
§15-23-24	Zoning clearance	30 calendar days
§15-23-25	Rules clearance	60 calendar days
§15-23-26	Renovation permit	90 calendar days
§15-23-27	Development permit	160 calendar days

§15-23-22

Rule	Permit	Duration
§15-23-27	Improvement permit	120 calendar days
§15-23-78	Temporary use permit	14 calendar days
§15-23-79	Conditional use of vacant land	90 calendar days
§15-23-82.1	Conditional use permit	90 calendar days
§15-23-178	Master Plan permit	200 calendar days

(b) The review period shall commence upon issuance of a certificate of completeness, as pursuant to section 15-23-10.1.

(c) When a proposed project requires more than one permit, the longest review period of the durations shown in the table following section 15-23-22(a) shall apply for determining the deemed approved date. If one approval is required before proceeding with another approval, then the review periods will be added to one another.

(d) Application filing procedures and preparation guidelines may be provided to assist applicants. [Eff 1/13/00; comp 2/2/02; comp 12/9/02; am and comp 11/3/05; am and comp JAN 18 2024]
(Auth: HRS §§91-13.5, 206E-4, 206E-5, 206E-7) (Imp: HRS §§91-13.5, 206E-4, 206E-5, 206E-7)

§15-23-23 Approval validity period. (a) Rules clearance, renovation permits, and zoning clearance approvals shall have an effective approval period of one year.

(b) Improvement permits, development permits, 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 15-23-178.1(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 business day, in which event the period runs until the next business day.

(f) If construction has not commenced within the approval validity period, a new permit will be required. [Eff JAN 13 2024] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-23-24 Zoning clearance. (a) Applicability. Any identified uses and activities that are in compliance with the applicable land use standards may be issued a zoning clearance to satisfy the requirements of other government agencies.

(b) Initiation. An applicant may apply for a zoning clearance by filing an application with the executive director.

(c) Action. In accordance with Figure 2 (approval requirements matrix), dated November 2023, made a part of this chapter, and attached at the end of this chapter, the executive director may approve all zoning clearance applications consistent with this section after receipt of a complete application and payment of the requisite fee. [Eff APR 15 2024] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-23-25 Rules clearance. (a) Applicability. Any uses, structures, and activities identified by section 15-23-25(b) that are in compliance with the setback requirements, height limits, and all other applicable standards and, where applicable, those

relating to section 15-23-15 (nonconformities), shall require a rules clearance permit.

(b) Qualifying land uses, structures, and activities. The following are eligible for issuance of a rules clearance when in compliance with section 15-23-25(a):

- (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;
- (3) Interior alterations or change in use that do not increase the gross floor area of the structure;
- (4) Repairs and maintenance. Ordinary non-structural repairs to, and maintenance of existing structures, if:
 - (A) The work does not change the approved land use of the site or structure, or add to, enlarge, or expand the land use or structure; and
 - (B) Any exterior repairs employing the same materials and design as the original construction;
- (4) Small, portable 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 that are consistent with this subsection may be approved by the executive director;
- (5) Open space and parks. Any improvement project over, upon, under, or across any open space or park pursuant to Figure 3 (land use zones), dated November 2023, made a part of this chapter, and attached at the end of this chapter;
- (6) Private utility improvements or repairs for existing structures; and
- (7) Any public utility project.

(c) Action. In accordance with Figure 2 (approval requirements matrix), dated November 2023, 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.

(d) Exceptions. Building permits can be approved without an associated rules clearance permit in the following cases:

- (1) Standalone interior electrical or plumbing work that would otherwise comply with section 15-23-25(a);
- (2) Changes in use that are still permitted under subchapter 2. [Eff JAN 18 2024]
(Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-23-26 Renovation permit.

(a) Applicability. Any renovation project for an existing building, including uses, structures, and activities identified by section 15-23-26(b) that are in compliance with the setback requirements, height limits, and all other applicable standards and, where applicable, those relating to section 15-23-15 (nonconformities), shall require a renovation permit.

(b) Qualifying land uses, structures, and activities. The following are eligible for issuance of a renovation permit when in compliance with section 15-23-26(a):

- (1) Interior alterations, improvements, and modifications of an existing structure that increases floor area, not to exceed twenty-five per cent of the building floor area as originally constructed, and where the total building floor area is less than twenty thousand square feet; and
- (2) Minor modifications to the exterior of the existing structure

(c) Exceptions. Renovation permits are not required if:

- (1) Approved as a rules clearance under section 15-23-25, an improvement or development

permit under section 15-23-27, a temporary use permit under section 15-23-78, a conditional use of vacant land permit under section 15-23-79, or a conditional use permit under section 15-23-82.1; or

(2) Waived as a minor change in accordance with section 15-23-90.

(d) Initiation. A developer may apply for a renovation permit by filing an application with the executive director.

(e) Action. In accordance with Figure 2 (approval requirements matrix), dated November 2023, made a part of this chapter, and attached at the end of this chapter, the executive director shall approve all renovation permit applications consistent with this section after receipt of a complete application and payment of the requisite fee.

[Eff ^{JAN 10 2024}] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-23-27 Improvement and development permits.

(a) All new improvement projects and development projects shall require a permit.

(b) Types and eligibility. There shall be two types of permits: improvement permits and development permits. Each type shall be subject to the decision-maker review and action pursuant to Figure 2 (approval requirements matrix), dated November 2023, made a part of this chapter, and attached at the end of this chapter:

(1) Improvement permits shall apply to improvement projects as defined in section 15-23-5 and are subject to executive director review and action, except for developer proposals to develop lands under the authority's control; and

(2) Development permits shall apply to development projects as defined in section 15-23-5 and are subject to authority review and action.

(c) Exceptions. Improvement and development permits are not required when:

- (1) Approved as a rules clearance under section 15-23-25, a renovation permit under section 15-23-26, a temporary use permit under section 15-23-78, a conditional use of vacant land permit under section 15-23-79, or a conditional use permit under section 15-23-82.1; or
 - (2) Waived as a minor change in accordance with section 15-23-90.
- (d) Initiation. A developer may apply for an improvement permit or development permit by filing an application with the executive director.
- (e) Required findings. Approval of an improvement permit or a development permit shall require all the following findings of fact:
- (1) Makai area plan consistency. The proposal complies with, and advances, the goals, policies, and objectives of the makai area plan;
 - (2) Makai area rules consistency. The proposal protects, preserves, or enhances desirable neighborhood characteristics through compliance with the standards and guidelines of the makai area rules;
 - (3) Compatibility. 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; and
 - (4) Climate Adaptation. The proposal has considered climate change, sea level rise, and climate-resilient development in the design and siting of buildings.
- (f) Conditions. In approving a development permit or an improvement permit, the decision-maker may impose reasonable conditions to ensure that the approval complies with the findings required in subsection (e). Any conditions attached to a development permit or an improvement 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 15-23-17 (violations). Such conditions may be waived if a

development permit or an improvement permit application is approved by the decision-maker that originally imposed such condition(s) and where the applicant agrees to waive and abandon all rights secured under the regulations formerly in effect.

(g) Design advisory board. The executive director may convene a design advisory board prior to acting on an improvement or development permit application. Where an application has been referred to the authority for review and action under section 15-23-27(h) or when reviewing a development permit application, the authority may convene a design advisory board whether or not the executive director has done so previously:

- (1) Composition. The design advisory board shall comprise the authority's director of planning and development or the director's designee, one member of the authority, one cultural consultant with specialized expertise on native Hawaiian culture, and one or more technical consultants (e.g., architect, landscape architect, or engineer) chosen by the executive director. The cultural consultant must be validated or be recommended by a native Hawaiian serving organization;
- (2) Fee. The applicant shall compensate the authority for all costs relating to the participation of cultural and technical consultants in the design advisory board. Prior to retaining cultural and technical consultants, the executive director shall consult with the applicant on the fees and work scope of the cultural and technical consultants; provided that the executive director may accept or reject the applicant's recommendations or comments, or both, on the cultural and technical consultant to be retained at the executive director's sole discretion; and

(3) Purpose. The design advisory board shall provide only non-binding recommendations to the executive director or, in the case of referral under section 15-23-11(g), to the authority.

(h) Authority referral. The executive director may refer an improvement permit application to the authority for review and action. Where a design advisory board has been or will be convened, the design advisory board shall review the application and provide its non-binding recommendations to the authority. [Eff JAN 18 2024] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§§15-23-28 to 15-23-29 (Reserved)

SUBCHAPTER 2

LAND USE ZONE RULES

§15-23-30 Establishment of land use zones.

(a) Within the makai area, there are hereby established the following land use zones:

- (1) Makai urban zone (MUZ);
- (2) Waterfront community (WC); and
- (3) Park (P).

(b) The boundaries for each zone are set forth in Figure 3 entitled "Land Use Zones", dated November 2023, and attached at the end of this chapter.

(c) Buildings and lots in each zone shall conform to the land uses specified in Figure 5 (land use), dated November 2023, made a part of this chapter, and attached at the end of this chapter.

(d) Any one or more allowed land uses may be established on any lot, subject to Figure 5 (land use), dated November 2023, made a part of this chapter, and attached at the end of this chapter.

(e) Where a single lot is proposed for development with two or more land uses listed in Figure 5 (land use), dated November 2023, 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.

(f) In circumstances where there may be uncertainty about applicable provisions, the executive director shall determine which land use zone provisions apply. [Eff 2/24/90; am and comp 10/10/98; comp 2/2/02; am and comp 12/9/02; am and comp 11/3/05; am and comp] (Auth: HRS §206E-7)
(Imp: HRS §206E-7)

§15-23-31 MUZ zone: purpose and intent. The makai urban zone (MUZ) established by this chapter is designed to promote and protect the public health, safety, and general welfare. These general goals include, among others, the following specific purposes:

- (1) To provide a subdistrict whereby a variety of urban uses may coexist compatibly within the same area. The emphasis within this zone shall be to develop a mixed-use multi-storied area which will provide jobs and other employment opportunities. In addition, the area will support a variety of appropriate community facilities;
- (2) To create a truly vibrant environment by regulating the density and bulk of buildings in relation to the land around them and to one another, by requiring the provision of open space and encouraging the development of job opportunities;
- (3) To provide freedom of architectural design, in order to encourage the development of more attractive and economic building forms; and
- (4) To promote the most desirable use of land and direction of building development in accord with a well-considered plan, to promote community stability, to protect the character of the district and its peculiar

suitability for particular uses, and to conserve the value of land and buildings. [Eff 2/24/90; am and comp 10/10/98; comp 2/2/02; comp 12/9/02; am and comp 11/3/05; am and comp] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)]

§15-23-32 REPEALED. [R]

§15-23-33 WC zone: purpose and intent. The waterfront community zone (WC) established by this chapter is designed to promote and protect the public health, safety, and general welfare. These general goals include, among others, the following specific purposes:

- (1) To promote an environment where urban and community uses will coexist compatibly alongside maritime uses; and
- (2) To promote the most desirable use of land and adjacent water uses in accordance with a well-considered plan, to promote stability of surrounding land uses, to protect the character of the district and its peculiar suitability for particular uses, and to conserve the value of land and buildings. [Eff 2/24/90; am and comp 10/10/98; comp 2/2/02; comp 12/9/02; am and comp 11/3/05; am and comp] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §206E-4, 206E-5, 206E-7)

§15-23-34 REPEALED. [R]

§15-23-35 REPEALED. [R 10/10/98]

§15-23-36 REPEALED. [R 10/10/98]

§15-23-37 REPEALED. [R 11/3/02]

§15-23-38 REPEALED. [R 11/3/02]

§15-23-39 REPEALED. [R 11/3/02]

§15-23-40 REPEALED. [R 11/3/02]

§15-23-41 REPEALED. [R 11/3/02]

§15-23-42 Minimum lot area, width, and depth.

Subdivision of any parcel within any land use zone shall result in a lot area of no less than ten thousand square feet and a lot width and depth of no less than sixty feet, provided no minimum subdivided lot area, width and depth shall apply to permanent off-site parking facilities, street and utility improvement projects, and public utility lots or easements used solely for utility facilities such as transformers, switch vault substations, and pumping stations. [Eff 2/24/90; am and comp 10/10/98; comp 2/2/02; comp 12/9/02; comp 11/3/05] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-23-43 Subdivision and consolidation. The subdivision or consolidation of land within any land use zone shall be processed and approved by the city

and county of Honolulu. [Eff 2/24/90; comp 10/10/98; comp 2/2/02; comp 12/9/02; comp 11/3/05] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§§15-23-44 to 15-23-59 (Reserved)

§15-23-60 Additional development requirements.

In addition to the requirements of the respective land use zones specified in this subchapter, the development requirements of subchapter 3 relating to any development, irrespective of the land use zone in which it is located, shall be applicable unless specifically provided otherwise. [Eff 2/24/90; comp 10/10/98; comp 2/2/02; comp 12/9/02; comp 11/3/05] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

SUBCHAPTER 3

GENERAL DEVELOPMENT REQUIREMENTS

§15-23-61 Purpose and intent. The purpose of this subchapter is to set forth standards relating to development which are generally applicable to any use or site, irrespective of the land use zone in which it is located. [Eff 2/24/90; am and comp 10/10/98; comp 2/2/02; comp 12/9/02; comp 11/3/05] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-23-62 Density. The maximum floor area ratio (FAR) for any development lot within any land use zone shall be as set forth in Figure 4, entitled "Maximum

Height and Density Plan", dated November 2023, and attached at the end of this chapter. [Eff 2/24/90; am and comp 10/10/98; comp 2/2/02; am and comp 12/9/02; am and comp 11/3/05; am and comp]
(Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-23-63 Heights. (a) No portion of any building or other structure located within any land use zone shall exceed the height set forth in Figure 4, entitled "Maximum Height and Density Plan", dated November 2023, and attached at the end of this chapter.

(b) The height of any structure shall be measured from ground elevation, except where finish grade is higher than ground elevation in order to meet city construction standards for driveways, roadways, drainage, sewerage, and other infrastructure requirements.

(c) The following building elements or features and associated screening shall be exempt from height limits subject to the following restrictions:

- (1) Necessary utilitarian features including: stairwell enclosures, safety railings, ventilators, and skylights; decorative or recreational features, including rooftop gardens, planter boxes, flag poles, spires, parapet walls or ornamental cornices; roof-mounted mast, whip and dish antennae; and energy-saving devices, including heat pumps and solar collectors, may exceed the height limit by not more than twelve feet; and
- (2) Vent pipes, fans, roof access stairwells, and structures housing rooftop machinery, such as elevators and air-conditioning, and chimneys, may exceed the height limit by not more than eighteen feet.

(d) Auditoriums, amphitheaters, cultural facilities, and performing arts centers may exceed the height limit as approved by the authority. [Eff 2/24/90; am and comp 10/10/98; comp 2/2/02; am and comp 12/9/02; am and comp 11/3/05; am and

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

§15-23-64 Yards. (a) Every yard bounded by a street shall be a front yard. A minimum front yard of fifteen feet in depth shall be required for each development lot. The minimum front yard may be waived if commercial use is provided at grade that enhances the pedestrian environment. Notwithstanding the foregoing, the block bounded by Ala Moana Boulevard, Cooke, Ilalo, and Coral streets shall have a minimum front yard of thirty feet in depth on its Cooke Street boundary and no front yard shall be required on its Coral Street boundary.

(b) The minimum side and rear yard requirements shall be as follows:

- (1) For structures without windows or openings facing side or rear property lines, no side or rear yard shall be required;
- (2) For structures containing windows or openings facing side or rear property lines, the minimum side yard shall be ten feet, and the minimum rear yard shall be ten feet; and
- (3) Parking spaces may extend to side and rear property lines through the improvement or development permit process specified in section 15-23-27, subject to the following conditions:
 - (A) An area or areas of required yards equivalent to the area to be used for parking or accessory use structures is provided elsewhere on the zoning lot. This equivalent area shall be maintained in landscaping, except for drives or walkways necessary for access to adjacent streets. Parking may overhang yard areas up to three feet if wheel stops are installed. A minimum of fifty per cent of the equivalent area shall be contiguous to the street frontage abutting the zoning lot.
 - (B) Any parking floor situated within ten feet of the property line shall not be

more than four feet above existing grade.

(c) Yard widths shall be measured perpendicular to lot lines, except that front yards shall be measured perpendicular to the street right-of-way or the established street setback line, whichever is the greater distance from the street center line.

(d) All required yards shall be landscaped pursuant to section 15-23-142.

(e) No business or structure shall be carried on or located within any required yard except as follows:

- (1) Up to fifty per cent of the lot frontage may be used for outdoor dining areas; provided they are covered with umbrellas, awnings, or trellises, and remain open on the sides during business hours;
- (2) Dispensers for newspaper sales and distribution are permitted;
- (3) Porte cocheres and pergolas may be allowed with approval of the executive director; and
- (4) Bicycle parking, including a fixed bicycle rack for parking and locking bicycles.

(f) Roof overhangs, eaves, sunshades, sills, frames, beam ends, projecting courses, planters, awnings, and other architectural embellishments or appendages, and minor mechanical apparatus with less than a thirty-inch vertical thickness may project into the required yards no more than five feet.

(g) Retaining walls within required yards shall not exceed a height of three feet. A safety railing, not capable of retaining earth or exceeding forty-two inches may be erected on top of the retaining wall. Walls and fences may project into or enclose any part of any yard, except required front yards; provided that the fence or wall shall not exceed a height of six feet. Walls and fences for public utility projects may be constructed up to eight feet in height and topped with security wire to a height of ten feet.

(h) Parking and loading including related maneuvering area or aisle shall not be allowed in any required yard or street setback area, except that parking spaces may overlap required front yards by three feet if wheel stops are installed. [Eff 2/24/90; am and comp 10/10/98; am 1/13/00; comp 2/2/02; comp 12/9/02; am and comp 11/3/05; am and

comp ^{JAN 18 2021}] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-23-65 Open space. (a) Open space is that portion of a development lot, exclusive of required yards, setback areas, or parking areas, which is:

- (1) Open and unobstructed overhead;
- (2) Landscaped or maintained as a recreational or social facility;
- (3) Not to be used for driveways, loading purposes, or storage, or for the parking of vehicles; and
- (4) Visible and open to the public during normal business hours.

(b) Berms, landforms, or underground structures covered with landscape treatment, including artificial turf, shall be considered as part of the required open space; provided that open space shall not exceed four feet from the sidewalk elevation. Open space can also be provided on a podium, roof garden, or roof top recreation area if it is publicly accessible and useable.

(c) For any development lot within any land use zone:

- (1) The minimum amount of open space shall be the lower of:
 - (A) Twenty per cent of the development lot area; or
 - (B) Thirty per cent of the development lot area less required yard areas;
- (2) The minimum required open space may include both of the following:
 - (A) Up to twenty-five per cent of an adjacent front yard; provided that:
 - (i) At least one-half of the open space is entirely in one location and proportioned to a maximum length-to-width of 2:1; and
 - (ii) One linear foot of seating is provided for each thirty square feet of open space;

(B) Up to twenty-five per cent of any passageways or arcades.

(d) Open space requirements for developments on lots of 40,000 square feet or less shall be according to the following table. For lot areas between 10,000 and 40,000 square feet, the minimum open space is proportional to the parameters of the lots enumerated in the following table:

Open Space Requirements for
Lots Less than 40,000 Square Feet (12/1/23)

Lot Area (square feet)	Minimum Open Space (Per cent of lot area)
40,000	20
20,000	10
10,000 or less	0

[Eff 2/24/90; am and comp 10/10/98; comp 2/2/02; comp 12/9/02; am and comp 11/3/05; am and comp JAN 19 2011] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-23-66 REPEALED. [R 10/10/98]

§15-23-67 Building envelopes. Building envelopes for developments shall conform with requirements set forth in Figure 6, entitled "Maximum Building Envelope", dated November 2023, attached at the end of this chapter. Towers shall generally be oriented with the long axis in the mauka-makai direction. [Eff 2/24/90; am and comp 10/10/98; comp 2/2/02; am and comp 12/9/02; am and comp 11/3/05; am and comp JAN 19 2011] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-23-68 Off-street parking. (a) There are no minimum number of required off-street parking spaces for development lots within any land use zone.

(b) The following are general standards for parking lots or areas:

- (1) All parking and drive areas shall be provided and maintained with an all-weather surface, except as otherwise provided in this chapter;
- (2) Parking areas, if illuminated, shall be illuminated in such a manner that all light sources are shielded from the direct view of adjacent lots;
- (3) Ingress and egress aisles shall be provided to a street and between parking bays, and no driveway leading into a parking area shall be less than twelve feet in width. In addition, minimum aisle widths for parking bays, except mechanical parking areas, shall be provided in accordance with the following table:

Minimum Parking Aisle Widths (12/1/23)

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

Notwithstanding the foregoing, with 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 of eight feet three inches, to a minimum aisle width of nineteen feet;

- (4) Where four or more parking spaces are provided, all parking areas shall be designed or arranged in a manner that no

- maneuvering into any street, alley, or walkway is necessary in order for a vehicle to enter or leave the parking space, and which allows all vehicles to enter the street in a forward manner;
- (5) Developments may have open or uncovered parking at grade. Developments that provide parking in a structure shall contain a roof or trellis within the allowable height limit and walls on at least three sides. The walls shall be at least forty-two inches high and shall screen parked vehicles.
 - (6) Grade level open or uncovered parking areas with more than ten spaces shall provide at least eight per cent of the gross parking and driveway area as interior parking area landscaping. Interior parking area landscaping is defined as landscaped areas not counted as open space or required yard setbacks situated between parking stalls. The interior parking area landscaping shall consist of planter areas, each containing one tree of at least two-inch caliper with ground cover or shrubs at the base dispersed within the parking area. Trees within the planter area shall be limited to shade or flowering trees such as monkeypod, rainbow shower, poinciana, wiliwili, or autographs;
 - (7) For new developments or enlargement of nonconforming structures, parking may be open or uncovered at grade but shall be buffered or screened from any right-of-way by a hedge of at least forty-two inches in height, provided the hedge shall not be required for vehicular sales or rental establishments. The hedge may be located in required yards or open space. Cars shall not be parked so as to protrude into required yards or open space, except as provided by section 15-23-64(b)(3);
 - (8) Above-ground parking lots and structures shall not front open space or thoroughfare without a liner building, active retail or commercial uses; and

- (9) To the maximum extent possible, above-ground multi-level parking structures shall be designed with flat floors and systems that can accommodate future conversion to inhabitable, non-parking uses.
- (c) The following are general standards for parking spaces:
 - (1) All spaces shall be individually marked if more than four spaces are required;
 - (2) All spaces shall be unobstructed; provided a building column may extend a maximum total of six inches into the sides of the parking space. A wall is not considered a building column;
 - (3) Standard-sized parking spaces shall be at least eighteen feet in length and eight feet three inches in width with parallel spaces at least twenty-two feet in length; and
 - (4) All spaces shall be so arranged that any automobile may be moved without moving another, except that tandem parking shall be permissible in instances where the parking spaces are used for employee parking, where all parking is performed by an attendant at all times, or for public assembly facilities and temporary events, including church services and activities where user arrivals and departures are simultaneous and parking is attendant directed. Tandem parking for employee parking shall be limited to a configuration of two stacked parking stalls and at no time shall the number of parking spaces allocated for employees exceed twenty-five per cent of the total number of required spaces.
- (d) Mechanical means of providing parking spaces or access thereto is permitted; provided the following conditions are met:
 - (1) Adequate waiting and maneuvering spaces are provided on the lot in order to minimize on-street traffic congestion, subject to the approval of the executive director; and
 - (2) All mechanical equipment shall be visually screened by architectural or landscape treatments.

(e) Parking for the physically disabled shall comply with applicable federal, state, and county standards, rules, and regulations for the physically disabled. Public projects shall comply with section 103-50, Hawaii Revised Statutes.

(f) Parking for electric vehicle charging shall comply with applicable federal, state, and county standards, rules, and regulations. [Eff 2/24/90; am and comp 10/10/98; am 1/13/00; comp 2/2/02; am and comp 12/9/02; am and comp 11/3/05; am and comp 11/12/08] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-23-69 Off-street loading. (a) Except as otherwise provided in this chapter, the off-street loading requirements herein specified shall apply to all development lots exceeding five thousand square feet based on the class or kind of uses to which the lot is to be placed. In addition, in connection with development permits involving such classes or kinds of uses, special requirements may be imposed.

(b) Any building existing within the makai area on _____, and which is subsequently altered to increase floor area shall provide off-street loading spaces for the area proposed to be constructed as indicated in the following table:

Off-Street Loading Requirements (12/1/23)

Use or Use Category	Floor Area (in square feet)	Loading Space Requirements
Hospitals or similar institutions or places of public assembly	5,000 - 10,000	one
	10,001 - 50,000	two
	50,001 - 100,000	three
	Each additional 100,000 over 100,000	one
Offices or office buildings, waterfront industrial uses	20,000 - 50,000	one
	50,001 - 100,000	two
	Each additional 100,000 over 100,000	one
Retail stores, eating and drinking establishments, wholesale operations, business services, personal services, repair, general service	2,000 - 10,000	one
	10,001 - 20,000	two
	20,001 - 40,000	three
	40,001 - 60,000	four
	Each additional 50,000 over 60,000	one
Civil support, educational, and civic	5,000 - 10,000	one
	10,001 - 50,000	two
	50,001 - 100,000	three
	Each additional 100,000 over 100,000	one

(c) In the event a building is used for more than one use, and the floor area for each use is below the minimum requiring a loading space, as set forth in

the table above, the required loading space or spaces shall be determined by taking the aggregate floor area of the several uses and applying the requirements of the use category requiring the greatest number of loading spaces.

(d) Loading space required under this section shall not be in any street or alley, but shall be provided within the building or on the lot. The following standards shall also apply to loading spaces:

- (1) 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 eighteen feet by eight feet three inches, and the space shall have a vertical clearance of at least ten feet;
- (2) When more than one loading space is required, the minimum horizontal dimensions of at least half of the required spaces shall be twelve feet by thirty-five feet and have a vertical clearance of at least fourteen feet. The balance of the required spaces shall have horizontal dimensions of at least eighteen feet by eight feet three inches and vertical clearance of at least ten feet;
- (3) Each loading space shall be unobstructed and shall be arranged so that any vehicle may be moved without moving the other;
- (4) 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;
- (5) All loading spaces and maneuvering areas shall be paved with an all-weather surface;
- (6) Where loading areas are illuminated, all sources of illumination shall be shielded to prevent any direct reflection toward adjacent premises;
- (7) 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;

- (8) Each required loading space shall be identified as such and shall be reserved for loading purposes;
 - (9) No loading space shall occupy required off-street parking spaces or restrict access; and
 - (10) No loading space or maneuvering area shall be located within a required yard.
- (e) An adjustment of up to fifty per cent of the required number of loading spaces may be allowed when the loading spaces are assigned to serve two or more uses of a single development project jointly; provided that:
- (1) Each use has access to the loading zone without crossing any street or public sidewalk; and
 - (2) 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. [Eff 2/24/90; am and comp 10/10/98; comp 2/2/02; comp 12/9/02; am and comp 11/3/05; am and comp 10/13/04] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-23-70 Signs. (a) Sign permits shall be processed by the city and county of Honolulu. Except as otherwise provided, signs shall conform to the "B-2 Community Business District" sign regulations of the city and county of Honolulu land use ordinance. The city and county of Honolulu shall be responsible for enforcement of the ordinance's provisions, and shall also administer appeals and variances relating to signs.

(b) Where possible, signage shall be in the two official languages of Hawai'i: 'Ōlelo Hawai'i and English. [Eff 2/24/90; am and comp 10/10/98; comp 2/2/02; comp 12/9/02; comp 11/3/05; am and comp 10/13/04] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-23-71 REPEALED. [R 10/10/98]

§15-23-71.1 Architectural design. (a) Windows:

- (1) Highly-reflective, and mirrored 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;
 - (3) Windows shall have the highest reasonably possible visual light transmission level, while still complying with the state energy code or other government requirements, including those for solar heat gain coefficients; and
 - (4) Applicants shall submit, for the executive director's review and acceptance, all window specifications for buildings that propose reducing the window visual light transmission level below seventy per cent at ground level and fifty per cent for all other floors.
- (b) Storefronts and windows for retail:
- (1) Applicability. This subsection applies to existing or newly proposed principal buildings used or intended to accommodate retail land uses;
 - (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 at least twenty feet of usable commercial or active public use space;
 - (4) At least seventy per cent of a retail front element along a thoroughfare shall be transparent glazing:
 - (A) At least seventy per cent of the glazing shall allow views into the store rather than being shallow window box displays;
 - (B) No more than thirty per cent of the window area at facades may be

- obstructed by signage or interior displays; and
- (C) Display windows may be used on the ground floor and on upper floors of retail spaces;
- (5) 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; and
- (6) Buildings facades and side elevations shall accommodate signage for ground floor retail tenants. [Eff JAN 18 2024] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-23-72 REPEALED. [R JAN 18 2024]

§15-23-73 Public facilities dedication of land or fee. (a) This section shall apply to any development or improvement project within the makai area that increases an existing development's floor area by more than twenty-five per cent as compared to the development's floor area existing within the makai area on JAN 18 2024, or at the time of application for a development permit or an improvement permit, excluding proposed demolitions, whichever is less; provided 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, or new buildings or structures with a floor area of less than two hundred square feet.

(b) As a condition precedent to the issuance of a development permit, the developer shall agree to dedicate land or a commensurate fee amount for public facilities. The public facilities dedication fee shall be established at a sum equal to the fair market value of land for the following respective land uses: Three per cent of the total commercial and community

service floor area of the development to be constructed.

(c) Valuation of land shall be determined as follows:

- (1) Valuation shall be based upon the fair market value of the land prior to its development; and
- (2) In the event that a fair market value cannot be agreed on, the value shall be fixed and established by majority vote of three land appraisers; one shall be appointed by the developer, one appointed by the executive director in the case of base zone development or the authority in the case of planned development, and the third appointed by the first two appraisers. All appraisers shall have had a minimum of five years of training and experience in real estate appraisal work. The developer shall be responsible for one-half of the appraisal fees and costs.

(d) This section shall not apply to any development or to that portion of a development undertaken by an eleemosynary organization for its own use, or to any development for public uses and structures or for a public improvement or any public project.

(e) The dedication of land or payment of the fee shall be completed prior to the issuance of the initial certificate of occupancy. The fee shall be 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. Calculation of the fee shall be fixed in the development permit and may only be adjusted for revisions in floor area that is approved through an amendment of the development permit.

(f) Payment of fees shall be made to the authority for deposit in a revolving fund to be created and established by the authority. The authority may expend the moneys in the fund for the purchase, creation, expansion, or improvement of public facilities within the district. The authority

may transfer any portion of those funds to the city and county of Honolulu for public facilities purposes within the Kaka'ako district.

(g) Nothing contained in this subchapter shall preclude the creation of any improvement district for public facilities, or the imposition of assessments against properties specially benefited within the district. [Eff 2/24/90; am and comp 10/10/98; comp 2/2/02; comp 12/9/02; am and comp 11/3/05; am and comp JAN 18 2024] (Auth: HRS §§206E-7, 206E-12) (Imp: HRS §§206E-7, 206E-12)

§15-23-74 Prohibition of structures within a mapped street. (a) As used in this section, "mapped street" means a highway, road, or street designated in the makai area plan as an existing or future road, street, or highway right-of-way.

(b) No building or structure shall be erected within the area of any mapped street or its required setback area, except upper-level pedestrianways approved by the authority and awnings which may be allowed to project from nonconforming structures over public property pursuant to section 15-23-15.

(c) Except as provided in subsection (b), if the authority finds that a building or structure proposed to be erected will be within the boundaries of any mapped street, the development permit shall be denied and the owner or applicant for the permit shall be notified of the reason for the denial. [Eff 2/24/90; am and comp 10/10/98; comp 2/2/02; am and comp 12/9/02; comp 11/3/05; am and comp JAN 19 2024] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-23-75 Development of properties within the Aloha tower special district. (a) Properties within the Aloha tower special district as set forth in Figure 1, entitled "Makai Area Context", dated November 2023, and attached at the end of this chapter, shall be developed so that the resulting development is capable of integration into any overall

development plan that may be adopted for the Honolulu waterfront and the development objectives of the Aloha tower development corporation, as identified in chapter 19-170.

(b) Permitted uses within the Aloha tower special district shall be any of the uses which the authority finds compatible with the makai area plan, and capable of integration into any overall development plan which may be adopted for the Honolulu waterfront and the development objectives of the Aloha tower development corporation.

(c) In approving development permits for projects within the Aloha tower special district, the authority may impose on the applicant conditions and requirements that are reasonable and necessary to carry out the intent of any overall development plan which may be adopted for the Honolulu waterfront and the development objectives of the Aloha tower development corporation.

(d) Any provision to the contrary notwithstanding, the authority may waive requirements of these rules or the makai area plan for developments within the Aloha tower special district provided the authority is assured that the waiver will result in an increase of public benefits to the Aloha tower development project. [Eff 2/24/90; am 1/7/91; am and comp 10/10/98; comp 2/2/02; am and comp 12/9/02; am and comp 11/3/05; am and comp ^{JAN 13 2024}]
(Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-23-76 Utilities required to be underground.

(a) Public utility companies shall place utility lines underground within the district. The location of all utility structures placed on pads shall be subject to the executive director's approval.

(b) The requirement in subsection (a) shall not apply to the following types of utility lines and related facilities if the executive director determines that the requirement would create undue hardship:

- (1) Overhead lines attached to the exterior surface of a building by means of a bracket

- or other fixture and extending from one location of the building to another location on the same building or to an adjacent building without crossing any street or alley; and
- (2) Electric distribution or transmission system in excess of fifteen kilovolts supported on metal or concrete poles without crossarms. [Eff 2/24/90; am and comp 10/10/98; comp 2/2/02; comp 12/9/02; comp 11/3/05; am and comp JAN 19 2024] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-23-77 Environmental standards. (a) All exterior lighting shall have full cut-off lighting fixtures.

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

(c) Any provision in this chapter to the contrary notwithstanding, the rules of the state department of health and other government agencies shall continue to apply to all activities and properties within the makai area. These rules shall include, but not be limited to, rules relating to sanitation, air-conditioning and ventilation, noise control, water pollution, solid waste management control, ambient air quality standards, or other rules, as applicable. [Eff 2/24/90; am and comp 10/10/98; am 1/13/00; comp 2/2/02; comp 12/9/02; am and comp 11/3/05; am and comp JAN 19 2024] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-23-78 Temporary use permit. (a) Temporary structures, such as tents and booths, may be permitted in any zone for periods not exceeding fourteen days[7] within a ninety-day period; provided that for good

reasons, the executive director may grant extensions for an additional fourteen days.

(b) Initiation. An applicant may apply for a temporary use permit by filing an application with the executive director.

(c) Action. In accordance with Figure 2 (approval requirements matrix), dated November 2023, made a part of this chapter, and attached at the end of this chapter, the executive director shall approve all temporary use permit applications consistent with this section after receipt of a complete application and payment of the requisite fee. In approving a temporary use permit, the executive director may impose reasonable standards, conditions, or requirements as a condition to the approval. [Eff 2/24/90; comp 10/10/98; comp 2/2/02; comp 12/9/02; comp 11/3/05; am and comp 11/13/2024] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-23-79 Conditional use of vacant land. The executive director may allow a conditional use of vacant land; provided:

- (1) The proposed use is any use permitted within the land use zone except:
 - (A) That open or uncovered temporary parking at grade may be permitted in all land use zones whether paved or unpaved; and
 - (B) Construction sites, special trade construction and storage yards, and nonextensive yard uses may be permitted in all land use zones where a six-foot screening wall, hedge, or fence is erected along all street rights-of-way;
- (2) The 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 allowed;
- (3) The floor area ratio of any proposed temporary structure does not exceed 0.5, and

- the project shall conform to the built form and landscaping standards of the rules;
- (4) In addition to the design controls listed in this section, the executive director may include additional conditions in the permit to ensure that the development does not adversely affect adjacent property and the appearance of the district. Conditional use of vacant land permits already issued under this section may be modified by the executive director at any time in response to valid public concern/complaint, to contain additional conditions for mitigation; and
 - (5) The proposed uses in no way prevents or delays the future development of the property. [Eff 2/24/90; am and comp 10/10/98; comp 2/2/02; comp 12/9/02; am and comp 11/3/05; am and comp 11/3/05]
(Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-23-80 Joint development of two or more adjacent zoning lots. (a) Whenever two or more lots are developed in accordance with the provisions of this section, they shall be considered and treated as one "development lot" for purposes of this chapter. The maximum building height and density shall be calculated on the basis of the combined land area of all lots being included in the "development lot."

(b) Owners, duly authorized agents of the owners, or duly authorized lessees, holding leases with a minimum of thirty years remaining in their terms, of adjacent lots, or lots directly facing each other but separated by a street, may undertake such a joint development, subject to review by the executive director.

(c) To undertake such a joint development, the landowners, duly authorized agents of the owners, or lessees shall submit an agreement for review by the executive director, that binds themselves and their successors in title, or lease individually and collectively, to maintain the pattern of development

proposed in such a way that there will be conformity with applicable zoning rules. The right to enforce the agreement shall also be granted to the authority or executive director, as the case may be.

(d) If it is found that the area involved is compact, regular, or logical, and that the proposed agreement assures future protection of the public interest and is consistent with the intent of the makai area plan, the request may be approved. Upon approval, the agreement, which shall be part of the conditions of development, shall be filed as a covenant running with the land with the bureau of conveyances or the assistant registrar of the land court. [Eff 2/24/90; am and comp 10/10/98; comp 2/2/02; comp 12/9/02; comp 11/3/05; am and comp JAN 18 2021] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-23-81 Flood hazard district. (a) These standards provide building and urban design strategies that supplement the regulations presented in the city and county of Honolulu flood hazard areas ordinance (chapter 21A, revised ordinances of Honolulu), which do and shall apply in the makai 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 Federal emergency management agency flood zone that are required by code to have raised ground floors.

- (1) Design and location standards for the americans with disability act-compliant wheelchair access ramps within flood zones:
 - (A) A wheelchair ramp may occupy only 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) All buildings occupying less than one hundred twenty feet of frontage shall use internal wheelchair ramps (see Figure 7.1 (flood zone design, internal wheelchair ramp), dated November 2023, made a part of this chapter, and attached at the end of this chapter);
 - (D) All buildings occupying more than or equal to one hundred twenty feet of frontage may use external wheelchair ramps (see Figures 7.2 and 7.3 (flood zone design), dated November 2023, made a part of this chapter, and attached at the end of this chapter); and
 - (E) For all buildings, 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 7.4, dated November 2023, 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
- (2) Other design standards for flood zones:
- (A) Measures undertaken to avoid floods shall not result in large blank walls along the building frontage. At least seventy-five per cent of a building's frontage shall be activated with shop

- front windows, seating areas, 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, planting features, and other elements approved by the executive director.

(c) The applicable provisions of the city and county of Honolulu flood hazard areas ordinance relating to flood hazard districts shall apply to all affected activities and properties within the Kaka'ako district. [Eff 2/24/90; comp 10/10/98; comp 2/2/02; comp 12/9/02; comp 11/3/05; am and comp 11/18/04] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-23-82 REPEALED. [R 10/10/98]

§15-23-82.1 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 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 as requiring a conditional use permit in Figure 5 (land use), dated November 2023, 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 and amendments to conditional use permits shall be subject to authority review and action.

(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 makai 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, and 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 15-23-82.1(d). Such additional standards, conditions, or requirements may include, but is not limited to:

- (1) Financing and availability of adequate public facilities or services;
- (2) Dedication of land;
- (3) Reservation of land;
- (4) Payment of impact fees;
- (5) Creation of special assessment districts;
- (6) Creation of restrictive covenants or easements;
- (7) Special setbacks;
- (8) Yard requirements;
- (9) Increased screening or landscaping requirements;
- (10) Area requirements;

- (11) Development phasing;
- (12) Standards pertaining to traffic, circulation, noise, lighting, hours of operation, protection of environmentally sensitive areas, and similar characteristics;
- (13) Provision of sustainable features, solar or other renewable energy source, rain water capture, storage and treatment, or other feature; or
- (14) 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.

(f) Initiation. A developer may apply for a conditional use permit by filing an application with the executive director.

(g) Action. The executive director shall process all conditional permit applications consistent with this section after receipt of a complete application and payment of the requisite fee.

[Eff ~~11/13/04~~] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-23-83 Applications. (a) When submitting an application for a permit, applicants shall have their projects reviewed by the executive director pursuant to section 15-23-10.1. [Eff 2/24/90; am and comp 10/10/98; comp 2/2/02; comp 12/9/02; am and comp 11/3/05; am and comp ~~11/13/04~~] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)]

§15-23-84 Determination by authority or executive director. In reaching its determination on an application for a development or improvement

permit, the authority or executive director, as applicable, shall consider the following:

- (1) The nature of the proposed site and development, including its size and shape, and the proposed size, shape, height, arrangement, and design of structures;
- (2) Whether the open spaces:
 - (A) Are of such size and location as to serve as convenient areas for recreation, relaxation, and social activities for the patrons of the development; and
 - (B) Are so planned, designed, and situated as to function as necessary physical and aesthetic open areas among and between individual structures and groups of structures;
- (3) Whether the setbacks, yards, pedestrianways, bikeways, and related walkways are so located and of sufficient dimensions to provide for adequate light, air, pedestrian circulation, and necessary vehicular access;
- (4) Whether the vehicular circulation system, including access and off-street parking and loading, is so designed as to provide an efficient, safe, and convenient transportation system;
- (5) Whether the pedestrian circulation system:
 - (A) Is so located, designed, and of sufficient size as to conveniently handle pedestrian traffic efficiently and without congestion;
 - (B) Is separated, if necessary, from vehicular roadways so as to be safe, pleasing, and efficient for movement of pedestrians; and
 - (C) Provides efficient, convenient, and adequate linkages among open spaces, commercial and employment areas, and public facilities;
- (6) The adequacy of landscaping, screening, parking, loading areas, service areas, lighting, and signs, with relation to the type of use and neighborhood;

- (7) The appropriateness of the proposed mixtures of uses;
- (8) The staging program and schedule of development;
- (9) Relationship between structures and operations within structures;
- (10) Whether views will be preserved or blocked;
- (11) Surface treatment;
- (12) Overall appearance of a development from the street and adjacent developments;
- (13) Whether structures have an appropriate orientation to take advantage of winds, reduce direct sun exposure, and minimize shadow effect on adjacent buildings;
- (14) Preservation of adjacent view corridors;
- (15) Whether the facades of building are properly terraced, landscaped, and designed;
- (16) Relationship between and among uses along the adjacent street;
- (17) Development contribution to the attractiveness of the street-scape;
- (18) Considerations of climate change, sea level rise, and climate resilient development in the design and siting of buildings; and
- (19) Any other matter relating to the development or its impact on affected properties or public facilities. [Eff 2/24/90; am and comp 10/10/98; comp 2/2/02; comp 12/9/02; am and comp 11/3/05; am and comp JAN 18 2024] (Auth: HRS §§206E-4, 206E-5, 206E-7, 206E-33) (Imp: HRS §§206E -4, 206E-5, 206E-7, 206E-33)

§15-23-85 **REPEALED.** [R JAN 18 2024]

§15-23-86 Conditions. The authority or executive director, as applicable, may attach to a development or improvement permit, conditions which may concern any matter subject to regulation under

this chapter, including, but not limited to, the following:

- (1) Minimizing any adverse impact of the development on other land, including the hours of use and operation and the type and intensity of activities that may be conducted;
- (2) Controlling the sequence of development, including when it must be commenced and completed;
- (3) Controlling the duration of use of development and the time within which any structures must be removed;
- (4) Assuring that development, including all street furniture located in yards and bus stop shelters, is maintained properly in the future;
- (5) Designating the exact location and nature of development;
- (6) Establishing more detailed records by submission of drawings, maps, plats, or specifications;
- (7) Requiring provision by the developer of streets, other rights-of-way, pedestrianways, bikeways, utilities, parks, and other open space, all of a quality and quantity reasonably necessary and proportionate for the proposed development;
- (8) Requiring the connection of such development to existing public service systems;
- (9) Requiring the applicant to demonstrate financial, organizational, and legal capacity to undertake the development that is proposed, and to offer written assurance of compliance with any representations made by it as part of the application for the development permit and any conditions attached to the permit;
- (10) Requiring the applicant to submit periodic reports showing what progress has been made in complying with any of the conditions imposed;
- (11) Requiring the applicant to indicate the method of relocation of tenants and businesses; and

- (12) Requiring the applicant to indicate the method of handling safety and security concerns, including the lighting of building interiors, grounds, landscaping, parking areas, and exterior common areas.
[Eff 10/10/98; comp 2/2/02; comp 12/9/02; comp 11/3/05; am and comp]
(Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-23-87 REPEALED. [R JAN 13 2011]

§15-23-88 Modification of specific provisions.

As a part of the development permit review process, the authority may modify plan and rule requirements; provided a public hearing is held. Except as otherwise specifically provided, modifications may be granted only to the following:

- (1) Building envelope requirements;
- (2) Yards;
- (3) Loading space; and
- (4) Open space, as follows:
 - (A) Obstructions overhead that enhance utilization and activity within open spaces or do not adversely affect the perception of open space; and
 - (B) Height from sidewalk elevation of four feet may be exceeded at a maximum height-to-length of 1:12 if superior visual relief from building mass results. [Eff 10/10/98; comp 2/2/02; comp 12/9/02; §15-23-87; am, ren, and comp 11/3/05; am and comp JAN 13 2011] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-23-89 Conditions for modification. (a) In order for the authority to consider modification of

the zoning requirements listed in section 15-23-88, the applicant must demonstrate that:

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

(b) The authority shall specify the particular evidence that supports the granting of a modification and may impose reasonable conditions in granting a modification. [Eff 10/10/98; comp 2/2/02; comp 12/9/02; §15-23-88; am, ren, and comp 11/3/05; am and comp] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-23-90 Minor changes. (a) After final approval of a permit, the executive director may allow minor amendments to the application without submittal of a new or amended application in order to address administrative corrections or minor adjustments or refinements to the approved project design.

(b) Examples of allowable minor changes include, but are not limited to, the following:

- (1) Administrative corrections such as the correction of typographical errors, name or mailing address changes; and
- (2) Minor adjustments or refinements to project architectural design features such as façade treatments, type or location of landscaping, and size or location of interior rooms.

(c) In order to qualify as a minor change, the requested amendment(s) may not:

- (1) Materially increase the floor area, height, or disturb any additional land area;
- (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.

(d) Minor changes to development permits shall require a new public hearing if the amendment concerns a new issue that would have itself required a public hearing prior to issuance of the original permit.

(e) For minor changes to improvement and development permits, the applicant must also submit documentation as to how the amendment would still advance the purposes of redevelopment and be consistent with the intent of this chapter and the makai area plan.

(f) The authority or executive director, as applicable, may attach additional conditions or require compliance with any other provisions of this chapter or the makai area plan.

(g) Any other change requests that do not qualify under sections 15-23-90(a) through (d) shall require the filing of a new application to be processed in accordance with this subchapter. Determination of whether proposed changes require the filing of a new application or qualify as a minor change is within the sole discretion of the executive director.

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

§§15-23-91 to 15-23-107 (Reserved)

§§15-23-108 to 15-23-137 **REPEALED.** [R 10/10/98]

SUBCHAPTER 4

SPECIAL URBAN DESIGN RULES

§15-23-138 Statement of purposes. The purpose of this subchapter is to provide for a high quality of urban design in the makai area with an emphasis on the pedestrian environment, and to promote a strong relationship between individual developments and the overall context. [Eff 2/24/90; am and comp 10/10/98; comp 2/2/02; comp 12/9/02; comp 11/3/05] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-23-139 Applicability. This subchapter shall apply to any development located on any development lot within the makai area and constructed after JAN 18 2024; except alterations to nonconforming structures, public improvements, and conditional use of vacant land. [Eff 2/24/90; am and comp 10/10/98; comp 2/2/02; comp 12/9/02; comp 11/3/05; am and comp] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-23-140 Streetscapes. (a) A high priority is placed on the streetscape design in the makai area in order to promote an outstanding pedestrian environment with access to the waterfront, parks, and commercial developments.

(b) The placement and location of curb cuts for driveways and drop-off areas shall be regulated as follows to promote continuous sidewalks without breaks or interruptions:

- (1) No curb cuts or drop-off areas, except as needed to allow access for persons with disabilities, shall be permitted along Ala

Moana Boulevard, and Ilalo Street between Ahui and Punchbowl Streets; and

- (2) Curb cuts and drop-off areas may be permitted in other areas if the executive director finds that the curb cut or drop-off area will not result in unreasonable conflict between pedestrian and vehicular circulation and will result in a good site plan.

(c) All new developments shall provide facilities for central trash storage within the development lot. Where trash storage facilities are provided outside of a building, the facilities shall be screened by an enclosure constructed of materials compatible with the materials of the front building wall of the development. In all cases, there shall be provided an area for central trash collection. Such area shall be ventilated.

(d) Street furniture shall be provided as follows:

- (1) Benches shall be provided for resting places along pedestrianways at appropriate locations. One eight-foot bench shall be located in an area receiving shade adjacent to or near a public sidewalk for every development project. Benches shall be positioned to serve general pedestrian traffic. Along Ilalo Street the number, type, and location of benches shall be provided in accordance with specifications approved by the authority; and
- (2) Bus stop shelters shall be provided for bus commuters where bus stops are located and the design and specifications shall be subject to the review and approval of the executive director. [Eff 2/24/90; am and comp 10/10/98; comp 2/2/02; comp 12/9/02; comp 11/3/05; am and comp JAN 18 2024]
(Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-23-141 Tower spacing and circulation. (a) Spacing between building towers shall be based upon

the tower location on the development lot and distances between neighboring towers. To the extent practicable, tower spacing shall be as follows:

- (1) At least two hundred feet between the long parallel sides of neighboring towers; and
- (2) At least one hundred fifty feet between the short side of towers.

(b) Building design and siting shall be such that shadow effects on neighboring buildings shall be minimized.

(c) Public or private mid-block pedestrian or bicycle circulation paths, or both, may be required to be created and maintained in conjunction with developments. The developer of a development may be required to dedicate to the authority a perpetual public easement for pedestrian-ways, the appropriate width and location to be as determined by the authority. [Eff 2/24/90; am and comp 10/10/98; comp 2/2/02; comp 12/9/02; am and comp 11/3/05; am and comp JAN 18 2024] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-23-142 Landscaping. (a) The authority recognizes the aesthetic, ecological, and economic value of landscaping and requires its use to establish an outstanding visual environment, promote compatibility between land uses by reducing impacts of specific developments, and enhance and define public and private spaces.

(b) All required yards shall be landscaped, except that front yards may be paved in accordance with specifications that are subject to review and approval by the executive director if ground floor windows are provided.

(c) Street trees with shade canopies shall be provided in accordance with specifications that are subject to review and approval by the executive director. Unless otherwise approved by the executive director, street trees shall be planted adjacent to the curb, forty feet on center or closer, and be a minimum of 4.5-inch caliper. Suggested street trees for the makai area are as follows, but alternative canopy trees may be proposed:

Suggested Street Tree List (12/1/23)

Street	Botanical Name	Common Name
Cooke	Cordia Subcordata	True Kou
Coral	Cordia Subcordata	True Kou
Ilalo	Samanea Saman	Monkey Pod
Keawe	Cordia Subcordata	True Kou
Koula	Cordia Subcordata	True Kou
Ohe	Cordia Subcordata	True Kou
Olomehani	Cordia Subcordata	True Kou
Punchbowl	Cordia Subcordata	True Kou
South	Cordia Subcordata	True Kou

(d) The planting, removal, and maintenance of street trees within the public right-of-way fronting any development lot shall be subject to the approval of the department of planning and permitting and the department of parks and recreation, division of urban forestry, city and county of Honolulu.

(e) The planting, removal, and maintenance of trees within the front yard setback area of any development lot or nonconforming property shall be subject to the approval of the executive director. Any tree six inches or greater in trunk diameter shall not be removed except under the following conditions:

- (1) There are no alternatives to removal to achieve appropriate development on the site;
- (2) The tree is a hazard to public safety or welfare;
- (3) The tree is dead, diseased, or otherwise irretrievably damaged; or
- (4) The applicant can demonstrate that the tree is unnecessary due to overcrowding of vegetation.

Where possible, trees proposed for removal shall be relocated to another area of the project site. No person shall injure or destroy any tree in any manner or by any means. Property owners shall be responsible for ensuring that all trees within the front yard setback area are properly maintained and do not cause any hazard to public safety or welfare.

(f) Street tree species and location shall be subject to the approval of the executive director in consultation with the department of planning and permitting and the department of parks and recreation, city and county of Honolulu.

(g) Planting strips, if provided between the curb and sidewalk, shall be landscaped and provided with an irrigation system. Planting in these areas, except trees, shall not exceed thirty inches in height and shall be grass only where adjacent curbside parking is permitted.

(h) Street planters used for the purpose of holding plant materials, whether portable or permanently fixed, shall be provided by property owners within their property lines. Planters shall be located along major streets where sidewalks are greater than eight feet wide.

(i) Within private open space areas visible from street frontages, trees, shrubs, ground cover plant material are required.

(j) If there is any change in elevation from the sidewalk to the grade level private open space area, such change shall be no greater than four feet.

(k) Parking areas, open storage areas, and work areas provided at ground level facing the street shall be screened with plant material or other architectural treatment.

(l) All rooftop mechanical appurtenances, stairwells and elevator enclosures, ventilators, and air-conditioning equipment shall be screened from view by architectural or landscape treatments. [Eff 2/24/90; am and comp 10/10/98; am 1/13/00; comp 2/2/02; am and comp 12/9/02; comp 11/3/05; am and comp JAN 18 2024] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-23-143 Modification of urban design requirements. The authority may allow modifications to the requirements of this subchapter. Modifications will be allowed if a finding is made that the modifications will enhance the design and quality of the development, or will not adversely affect the overall intent of this chapter and the makai area

plan. [Eff 2/24/90; am and comp 10/10/98; comp 2/2/02; comp 12/9/02; comp 11/3/05; am and comp JAN 18 2024] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§§15-23-144 to 15-23-157 (Reserved)

SUBCHAPTER 5

HISTORIC AND CULTURAL SITES

§15-23-158 Statement of purposes. (a) The purpose of this subchapter is to preserve, protect, reconstruct, rehabilitate, and restore properties situated in the district that are determined by the authority to be historic and culturally significant.

(b) Applicability. This subchapter applies to all historical or culturally significant properties within the makai area, whether physical remains of the property are present or not. [Eff 2/24/90; comp 10/10/98; comp 2/2/02; comp 12/9/02; comp 11/3/05; am and comp JAN 18 2024] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-23-159 Historic or culturally significant property defined. The term, "historic or culturally significant property" means any building, structure, object, district, area, or site, including heiau and underwater site, that is:

- (1) Listed on the Hawaii or national register of historic places;
- (2) Designated by the state historic preservation division or in the makai area plan as being: significant in the history or prehistory, architecture, culture, or development of Kaka'ako; a tangible,

- historic or cultural linkage between Kaka'ako of the past and Kaka'ako of the present; and capable of productive use to the extent that its owner is able to earn a reasonable return; or
- (3) Over fifty years old, as defined in chapter 6E, HRS. [Eff 2/24/90; comp 10/10/98; comp 2/2/02; comp 12/9/02; comp 11/3/05; am and comp ~~11/3/02~~] (Auth: HRS §§206E-7, 206E-33) (Imp: HRS §§206E-7, 206E-33)

§15-23-160 REPEALED. [R JAN 18 2024]

§15-23-161 REPEALED. [R JAN 18 2024]

§15-23-161.1 Preservation and consultation. (a)

In accordance with section 6E-42, HRS, developers of new projects or projects proposing alterations to historic or culturally significant properties shall consult with the department of land and natural resources, state historic preservation division ("SHPD"), to allow an opportunity for review of the effect of the proposed project on any historic properties or burial sites.

(b) 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.

(c) All SHPD requirements shall be completed by the developer prior to submittal of a permit application to the authority, unless otherwise permitted by SHPD and approved by the executive director. [Eff JAN 18 2024] (Auth: HRS §§6E-8, 6E-42 206E-7, 206E-33, 916) (Imp: HRS §§206E-7, 206E-33, 916)

§15-23-162

§15-23-162 Uses. A property designated historic or culturally significant may be put to any use permitted in the land use zone in which the property is situated, subject to the requirements of section 15-23-161.1. Setback requirements shall not be enforced as to any lot on which an historic or culturally significant property is situated where the enforcement would result in damage to or destruction of the historic or culturally significant features of the property. [Eff 2/24/90; comp 10/10/98; comp 2/2/02; comp 12/9/02; am and comp 11/3/05; am and comp JAN 18 2024] (Auth: HRS §§206E-7, 206E-33) (Imp: HRS §§206E-7, 206E-33)

§15-23-163 Protective maintenance. All historic or culturally significant properties shall be properly maintained and kept in good repair. [Eff 2/24/90; comp 10/10/98; comp 2/2/02; comp 12/9/02; comp 11/3/05; am and comp JAN 18 2024] (Auth: HRS §§206E-7, 206E-33) (Imp: HRS §§206E-7, 206E-33)

§15-23-164 REPEALED. [R JAN 18 2024]

§§15-23-165 to 15-23-177 (Reserved)

SUBCHAPTER 6

MASTER PLAN RULES

§15-23-178 REPEALED. [R JAN 18 2024]

15-23-82

§15-23-178.1 Master plans. (a) Purpose. The provisions of this section are 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 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) Public facilities, beyond that required by the makai area plan or the makai 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 makai area plan and makai area rules; and
- (2) That the master plan will either enhance or provide necessary public facilities, as provided for in section 15-23-178.1(f).

(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 and the relationship to surrounding uses;
- (2) Proposed development approval timeframe;
- (3) Proposed public facility improvements;
- (4) Environmental, social, and cultural impacts;
- (5) Review of public engagement efforts and feedback received; and

(6) 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, for a total maximum duration of twenty years.

(h) Expiration. At least 120 days prior to the expiration of a master plan permit, the applicant shall submit a reconciliation of all master plan obligations to the executive director. The authority may approve a closing development agreement that survives the expiration of the master plan until any remaining unsatisfied obligations are completed. [Eff JAN 18 2024] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-7, 206E-33)

§§15-23-179 to 15-23-191 (Reserved)

SUBCHAPTER 7

RULES REVIEW AND AMENDMENT

§15-23-192 Rules review and amendment. The makai area rules may be reviewed and amended in accordance with the authority's rules of practice and procedure. [Eff 2/24/90; comp 10/10/98; comp 2/2/02; comp 12/9/02; comp 11/3/05] (Auth: HRS §206E-5) (Imp: HRS §206E-5)

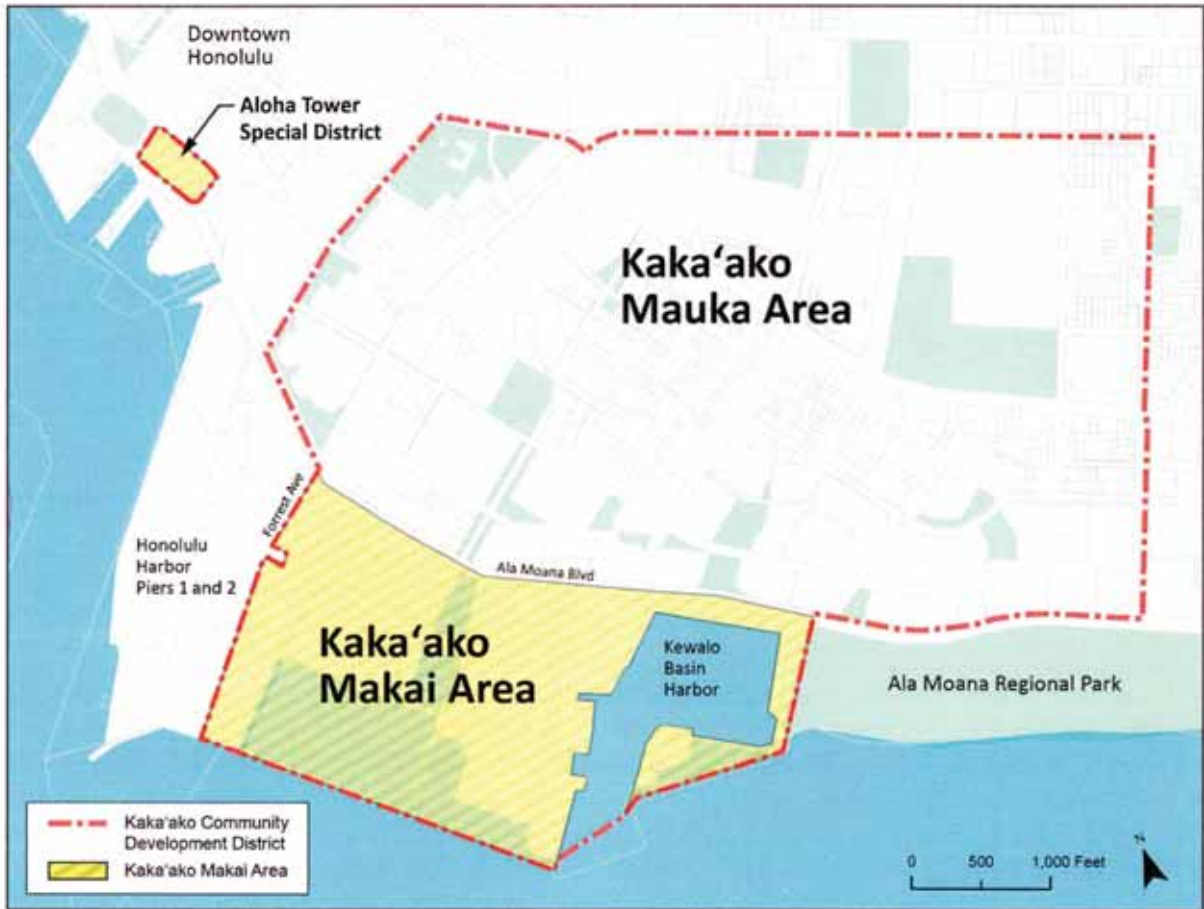
List of Figures

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- 1 Makai Area Context
- 2 Approval Requirements Matrix
- 3 Land Use Zones
- 4 Maximum Height and Density Plan
- 5 Land Use
- 6 Maximum Building Envelope
- 7 Flood Zone Design

FIGURE 1: MAKAI AREA CONTEXT



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FIGURE 2: APPROVAL REQUIREMENTS MATRIX

Rule	Development Approvals	Role	
		Executive Director	Authority
§15-23-14.1	Variance	Recommends Action	Decision
§15-23-24	Zoning clearance	Decision	Considers Appeal
§15-23-25	Rules clearance	Decision	Considers Appeal
§15-23-26	Renovation permit	Decision	Considers Appeal
§15-23-27	Improvement Permit	Decision*	Considers Appeal
§15-23-27	Development Permit	Recommends Action	Decision
§15-23-78	Temporary use permit	Decision	Considers Appeal
§15-23-79	Conditional Use of Vacant Land	Decision	Considers Appeal
§15-23-82.1	Conditional Use Permit	Recommends Action	Decision
§15-23-178.1	Master Plan	Recommends Action	Decision

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*Except on lands owned by the authority

FIGURE 3: LAND USE ZONES



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FIGURE 4: MAXIMUM HEIGHT AND DENSITY PLAN



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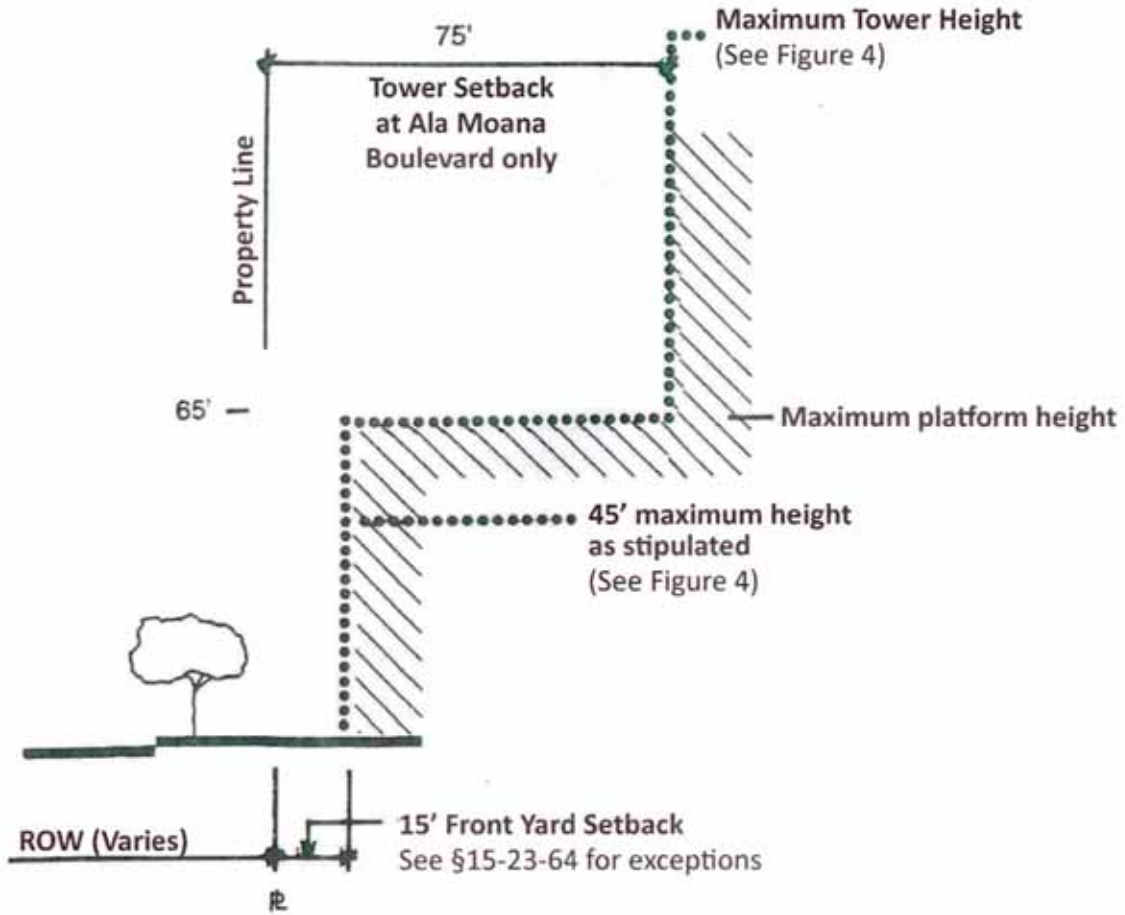
FIGURE 5: LAND USE

	Makal Urban Zone (MUZ)	Waterfront Community (WC)	Park (P)
Commercial			
Artisan or Craft Production	●	●	-
Convenience Retail or Grocery Store	●	●	-
Dance-Nightclub	●	●	-
Marine Services	●	●	-
Medical Services	●	-	-
Office and Professional Services	●	●	-
Personal Services	●	●	-
Restaurants and Bars	●	●	○
Retail Sales	●	●	-
Supermarket / Large Format Retail	●	-	-
Workshop/Studio	●	○	-
Civic			
Cultural Facility, Gallery, or Museum	●	●	●
Group Assembly	●	○	-
Indoor Recreation	●	●	○
Outdoor Recreation	●	●	●
Performance Space or Theater	●	●	○
Educational			
Conference Center	●	●	-
Day Care Center	●	○	○
Marine or Other Research Facility	●	●	-
School or Training Facility	●	●	○
Transportation/Utility			
Mobility Hub or Terminal/Port	●	●	-
Parking Structure	●	○	○
Utility Infrastructure	●	●	●
Vehicle Charging/Fueling or Service	○	○	-

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Legend	
●	Permitted
○	Requires conditional use permit
-	Not Permitted

FIGURE 6: MAXIMUM BUILDING ENVELOPE



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FIGURE 7: FLOOD ZONE DESIGN

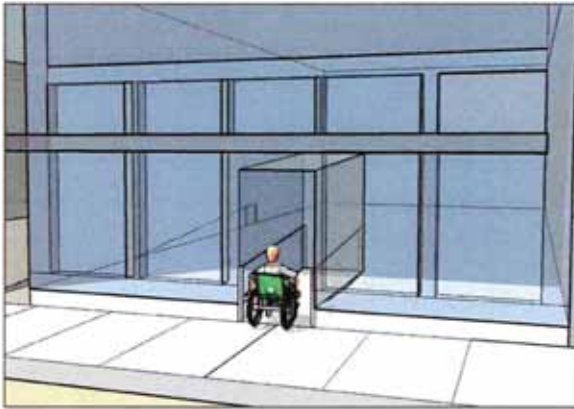
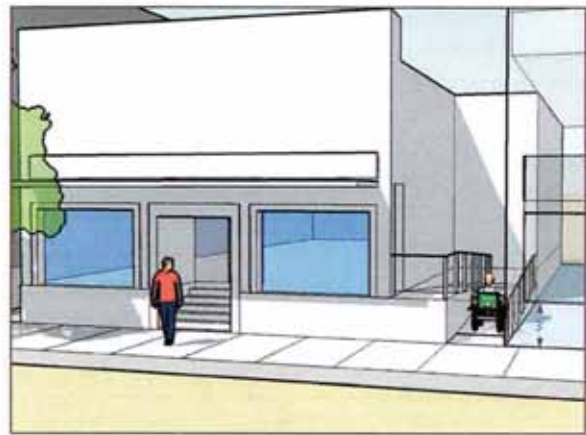
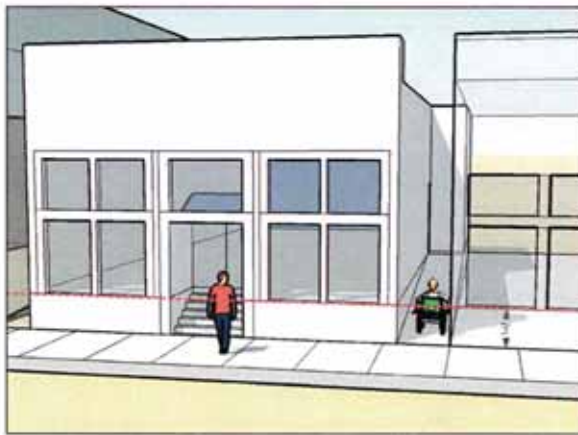
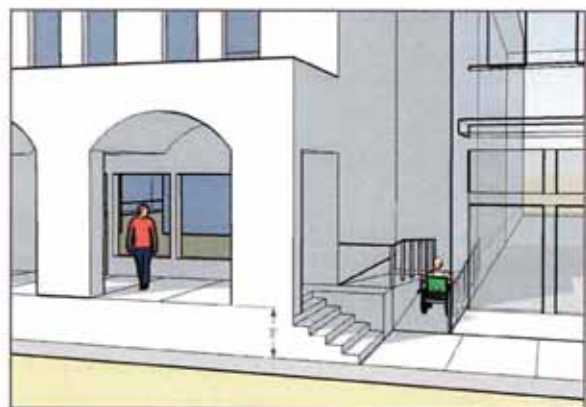
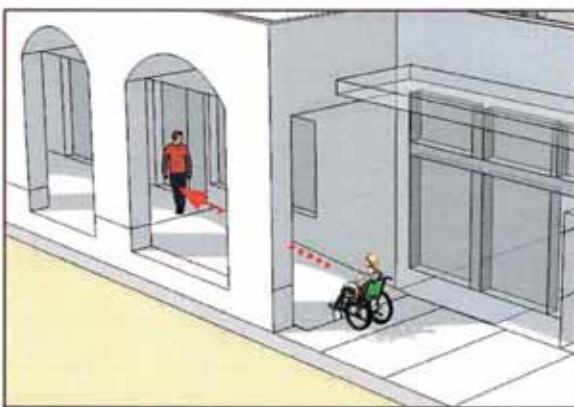


Figure 7.1: Internal Wheelchair Ramp (illustrative image).



Figures 7.2 and 7.3: External wheelchair ramps accessed directly from sidewalk to ensure easy access. Ramps are located on the side of building (illustrative images).



Figures 7.4 and 7.5: External wheelchair ramps accommodated under an arcade (illustrative images).

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM

Amendments to and compilation of chapter 15-23, Hawaii Administrative Rules, on the Summary Page dated December 6, 2023, were adopted on December 6, 2023, following public hearings held on November 1, 2023 and December 6, 2023, after public hearing notices were given in the Honolulu Star-Advertiser, Hawaii Tribune-Herald, West Hawaii Today, The Maui News, and The Garden Island, on September 29, 2023.

They shall take effect ten days after filing with the Office of the Lieutenant Governor.

CHL

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JAN 18 2024

Filed

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LIEUTENANT GOVERNOR'S
OFFICE

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