

DEPARTMENT OF TRANSPORTATION

Adoption of Chapter 19-170
Hawaii Administrative Rules

April 23, 2013

SUMMARY

Chapter 19-170, Hawaii Administrative Rules,
entitled "Rules of Practice and Procedure" is adopted..

HAWAII ADMINISTRATIVE RULES

TITLE 19

DEPARTMENT OF TRANSPORTATION

SUBTITLE 7

ALOHA TOWER DEVELOPMENT CORPORATION

CHAPTER 170

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SUBCHAPTER 1

RULES OF GENERAL APPLICABILITY

§19-170-1 Purpose. This chapter governs procedures before the Aloha Tower development corporation under chapter 206J, HRS, and shall be construed to effectuate the purpose of the chapter and to secure the just and efficient determination of every proceeding. [Eff **MAY 5 2013**] (Auth: HRS §§91-2, 206J-5(5)) (Imp: HRS §§91-2, 206J-5(5))

§19-170-2 Definitions. As used in this chapter, unless the context clearly requires otherwise:

"Aloha Tower complex" means that parcel of land described by section 206J-3, HRS.

"Board" means the board of directors who constitute the governing body of the development corporation, as provided by section 206J-4 (b), HRS.

"Bonds" means revenue bonds, special facilities revenue bonds, notes or other instruments of indebtedness of the development corporation issued under this chapter and shall include refunding bonds.

"Chairperson" means the board member who is designated as chairperson of the board by the board under section 206J-4(b), HRS.

"Designated representative" means any person designated in writing by the state director of business, economic development, and tourism, the state director of transportation, or the deputy director of transportation, harbors division, to represent the designator as an ex officio voting member of the board.

"Developer-lessee" means the entity selected to enter into the development agreement and lease with the development corporation and/or the development corporation's public sector joint venturers.

"Development agreement" means the plan for development of the project as agreed upon by the board and the developer-lessee after the developer's selection and as authorized by section 206J-5(7), HRS.

"Development area" means the geographic area on which a project will be developed, which area may include all or any part of the Aloha Tower complex and any property outside the Aloha Tower complex that is under the jurisdiction of public sector joint venturers.

"Development corporation" means the Aloha Tower development corporation established by section 206J-4.

"Executive officer" means the chief administrative officer of the development corporation appointed by the board pursuant to section §206J-4(d), HRS.

"HRS" means the Hawaii Revised Statutes.

"Maritime" means the administration of chapter 266 by the department of transportation.

"Meeting" means the convening of the board for which a quorum is required in order to make a decision or to deliberate toward a decision upon a matter under the supervision or control of the board.

"Petitioner" means any person or agency that petitions the board, or on whose behalf a petition is made to the board, and concerning which the board may take action under statutory or other powers granted to it.

"Proceeding" means any matter brought before the board which is given consideration in light of the powers and duties of the board as provided by law.

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

"Project cost" means the total cost in carrying out all undertakings that the development corporation deems reasonable and necessary for the development of a project, including but not limited to the cost of studies, surveys, plans and specifications, architectural, design, engineering, or any other special related services; the cost of site preparation and development, demolition, construction, reconstruction, rehabilitation, and improvement; the cost of financing such project, including interest on bonds issued to finance such project from the date thereof to the estimated date of completion of such project as determined by the board; the cost of an allocable portion of the administrative and operating expenses of the development corporation related to the development of such project; and the cost of any indemnity and surety bonds, premiums on policies of insurance, legal fees, and fees and expenses of trustees, depositories, and paying agents for the bonds; all as the development corporation shall deem necessary.

"Public agency" means any office, department, board, commission, bureau, division, public corporation, agency, or instrumentality of the federal, state, or county government.

"Public facilities" means streets, utility and service corridors, and utility lines where applicable, sufficient to adequately service developable improvements in the area, parking garages, sidewalks,

pedestrian ways, parks and other community facilities.

"Public sector joint venturer" means any public agency with which the development corporation enters into a joint venture or other cooperative arrangement to develop a project which encompasses the Aloha Tower complex and such other property as may be under the jurisdiction of such agency.

"Qualified person" means any individual, partnership, corporation, limited liability company or other business entity legally organized and registered to do business in the state, or any public agency, possessing the competence, expertise, experience and resources, including financial, personnel, and tangible resources, required for the purposes of the project and such other qualifications as may be deemed desirable by the development corporation in administering this chapter.

"Real property" means lands, structures, and interests therein and natural resources including water, minerals, and all such things connected with land, including lands under water and riparian rights, space rights, and air rights and any and all other things and rights usually included within the term. Real property also means any and all interests in such property less than fee title, such as leasehold interests, easements, incorporeal hereditaments, and every estate, interest or right, legal or equitable, including terms for years and liens thereon by way of judgments, mortgages, or otherwise.

[Eff MAY 5 2013] (Auth: HRS §§91-2, 206J-5(5))
(Imp: HRS §206J-2, as amended, 206J-5(5))

§19-170-3 Grammatical usage. (a) Words used in the present tense include the future tense.

(b) The singular number includes the plural; and the plural, the singular.

(c) The word "shall" is always mandatory.

(d) The word "may" is always permissive.

(e) Terms not defined in this chapter shall have the meanings customarily assigned to them.

[Eff MAY 5 2013] (Auth: HRS §206J-5) (Imp: HRS

§91-2, §206J-5)

§19-170-4 Office and office hours. (a) The office of the development corporation is in Honolulu, Hawaii. All communications to the development corporation shall be addressed to the department of transportation, unless otherwise directed by the development corporation.

(b) The office of the development corporation shall be open from 7:45 a.m. to 4:30 p.m., Monday through Friday, unless otherwise provided by statute or executive order. [Eff MAY 5 2013] (Auth: HRS §§91-2, 206J-5) (Imp: HRS §§91-2, 206J-5)

§19-170-5 Executive officer. (a) An executive officer shall be appointed by the board. The executive officer shall be directly responsible to the board, and shall have control over and responsibility for the execution of the board's policies, the administration of its affairs, and the supervision of its staff.

(b) The executive officer shall prepare a hearing calendar and the agenda for all meetings, under the direction of the chairperson.

(c) The executive officer shall prepare for the development corporation the draft of an annual report of the board's activities, accomplishments, and recommendations for submission to the governor and to the legislature through the governor.

(d) The executive officer may be appointed by the board to serve as hearing officer.

(e) The executive officer in conjunction with and as directed by the board shall evaluate proposals to develop projects on all or any part of the Aloha Tower complex pursuant to subchapter 3.

(f) The executive officer may employ planning, financial, economic, legal, architectural and other consultants as the board may decide in its sole discretion to help it carry out the statutory purposes of the development corporation.

(g) The executive officer shall, with the

board's approval, appoint such officers, agents, and employees as are necessary to fulfill the purposes of chapter 206J, HRS, and shall prescribe their duties and qualifications, and fix their salaries, consistent with chapters 76 and 77, HRS. [Eff MAY 5 2013]
 (Auth: HRS §§91-2, 206J-5) (Imp: HRS §§91-2, 206J-5)

§19-170-6 Public records. The term "public records" shall have the same meaning as is defined in chapter 92, HRS, and shall include maps, rules, written statements of policy or interpretation formulated, adopted, or used by the board in its functions, all decision, orders, minutes of board meetings, and records of any docket on file with the board, but shall not include records which invade the right of privacy of an individual.
 [Eff MAY 5 2013] (Auth: HRS §§91-2, 206J-5) (Imp: HRS §§91-2, 92-21, 92-50, 92-51, 206J-5)

§19-170-7 Meetings; generally. (a) The board may meet and exercise its powers in any part of the State of Hawaii. Except as provided in sections 92-4 and 92-5, HRS, all of the board meetings are open to the public. The parliamentary procedure to be utilized by the board in the conduct of its meetings shall be based on the current edition of Robert's Rules of Order, Newly Revised, only if it does not conflict with chapter 91, HRS, or these rules.

(b) The board shall allow all interested persons an opportunity to submit data, views, arguments or present oral testimony on any agenda item in an open meeting. The board may provide for the recordation of all oral testimony presented.

(c) The board shall comply with the provisions of section 92-7, HRS, by providing the required written public notice of any meeting.
 [Eff MAY 5 2013] (Auth: HRS §§91-2, 206J-5) (Imp: HRS §§91-2, 92-3)

§19-170-8 Executive Meetings. (a) The board may hold an executive meeting from which the public may be excluded pursuant to section 92-4, HRS.

(b) The board shall not finally act upon any ruling, rule, contract, appointment, or decision in an executive meeting, except as provided in section 92-5(a)(1) to (6), HRS. [Eff MAY 5 2013] (Auth: HRS §§91-2, 206J-5) (Imp: HRS §§91-2, 92-4, 92-5, 206J-5)

§19-170-9 Emergency meetings. The board may hold an emergency meeting that complies with the notice requirement of section 92-7, HRS, under conditions specified in section 92-8, HRS. [Eff MAY 5 2013] (Auth: §§91-2, 206J-5) (Imp: HRS §92-8)

§19-170-10 Quorum and number of votes necessary for a decision; designated representatives. (a) Unless otherwise provided by law, a majority of all the members to which the board is entitled shall constitute a quorum to transact business, and the concurrence of a majority of all the members to which the board is entitled also shall be necessary to make a board decision valid.

(b) A designated representative shall serve as a voting member when representing a member. [Eff MAY 5 2013] (Auth: HRS §§91-2, 206J-5) (Imp: HRS §92-15)

§19-170-11 Removal of persons from meetings. The presiding officer may remove any person who willfully disrupts a meeting. [Eff MAY 5 2013] (Auth: HRS §§91-2, 206J-5) (Imp: HRS §92-3)

§19-170-12 Minutes of meetings. (a) The board shall keep written minutes of all meetings. Unless otherwise required by law, neither a full transcript nor a recording of the meeting shall be required, but

the written minutes shall give a true reflection of the matters discussed at the meeting and the views of the participants. The minutes shall include, but need not be limited to:

- (1) The date, time, and place of meeting;
- (2) The members of the board recorded as either present or absent;
- (3) The substance of all matters proposed, discussed, or decided; and a record, by individual member, of any votes taken; and
- (4) Any other information that any member of the board requests be included or reflected in the minutes.

(b) The minutes shall be public records and shall be available within thirty days after the meeting except where the disclosure would be inconsistent with section 92-5, HRS. The board may withhold publication of the minutes of executive meetings so long as their publication would defeat the lawful purpose of the executive meeting, but no longer. [Eff **MAY 5 2013**] (Auth: HRS §§91-2, 206J-5) (Imp: HRS §92-9)

§19-170-13 Computation of time. In computing any period of time under the rules as provided in this chapter, by notice, or by any order, or rule of the board, the time begins with the day following the act, event, or default, and includes the last day of the period unless it is a Saturday, Sunday, or legal holiday in which event the period runs until the end of the next day which is not a Saturday, Sunday, or legal holiday. When the prescribed period of time is not more than ten days, Saturdays, Sundays or legal holidays within the designated period shall be excluded in the computation. [Eff **MAY 5 2013**] (Auth: HRS §§91-2, 206J-5) (Imp: HRS §91-2)

§19-170-14 Authentication of board actions. All actions, decisions, and orders of the board requiring authentication shall be signed by the chairperson, or in the chairperson's absence, by the executive officer

of the development corporation. [Eff MAY 5 2013]
(Auth: HRS §§91-2, 206J-5(5)) (Imp: HRS §§91-2, 206J-5(5))

§19-170-15 Submittals and requests of petitioners. All submittals and requests requiring action by the board shall be made in writing and filed with the office of the development corporation at least ten calendar days before the date of a scheduled meeting. [Eff MAY 5 2013] (Auth: HRS §§91-2, 206J-5(5)) (Imp: HRS §§91-2, 206J-5(5))

§19-170-16 Inspection of public records; requests for public information. All public records of the development corporation shall be available for inspection by any person during office hours unless public inspection of such records is in violation of any state or federal law, or of any court order. Requests for inspection of public records and for public information shall be referred to the executive officer, or to a subordinate staff member designated by the executive officer. [Eff MAY 5 2013] (Auth: HRS §§91-2, 206J-5(5)) (Imp: HRS §§91-2, 206J-5(5))

§19-170-17 Delegation of administrative duties.
(a) The board may delegate to the executive officer any power or authority vested in the board as it deems reasonable and proper for the effective administration of chapter 206J, HRS, except the power to adopt, amend, or repeal rules; and any power or authority expressly reserved to the board by statute or rule.
(b) The board may appoint a hearing officer to conduct a proceeding as provided in this chapter and pursuant to the requirements of chapter 91, HRS.
[Eff MAY 5 2013] (Auth: HRS §206J-5(5)) (Imp: HRS §206J-5(5))

§§19-170-18 to 19-170-20 (Reserved)

SUBCHAPTER 2

PROCEEDINGS BEFORE THE DEVELOPMENT CORPORATION

§19-170-21 General rule. All petitioners shall comply with these rules of practice and procedures when appearing before the board. Procedures to be followed by the board, unless specifically prescribed in this chapter or by chapter 91, HRS, shall be those which, in the opinion of the board, will best serve the purposes of the proceeding. The board may waive or suspend the provisions of this chapter.
 [Eff MAY 5 2013] (Auth: HRS §§91-2, 206J-5(5))
 (Imp: HRS §§91-2, 206J-5(5))

§19-170-22 Appearances before the board. (a) Any party to any proceeding before the board may appear pro se or be represented by an authorized representative.

(b) When an individual acting in a representative capacity appears in person or signs a paper submitted to the board, the personal appearance or signature of that individual shall constitute a representation to the board that under the provisions of this chapter and the applicable statute, the individual is authorized and qualified to represent that particular person or entity. The board, at any time, may require any person transacting business with the development corporation in a representative capacity to authenticate the person's authority and qualification to act. [Eff MAY 5 2013] (Auth: HRS §§91-2, 206J-5(5)) (Imp: HRS §§91-2, 206J-5(5))

§19-170-23 Disqualification of board members. Up to five calendar days before the proceeding a petitioner may file an affidavit alleging that one or more of the board members has a personal bias or

prejudice. Every such affidavit shall state the facts and reasons for the belief that bias or prejudice exists. Any member against whom the affidavit is filed may answer the affidavit in which case the chairperson shall decide whether that member should be disqualified from the proceeding. [Eff MAY 5 2013]
(Auth: HRS §§91-2, 206J-5(5)) (Imp: HRS §§91-2, 206J-5(5))

§19-170-24 Filing of papers. (a) All requests, submittals, petitions, reports, maps, exceptions, plans, memoranda, and other papers required to be filed with the development corporation pursuant to any proceeding shall be filed within the time limits prescribed by law, rules, or by order of the board. The date on which the papers are received by personal service or by mail shall be regarded as the date of filing.

(b) All papers filed with the development corporation shall be:

- (1) Written in black ink, typewritten, mimeographed, or printed;
- (2) Plainly legible; and,
- (3) On strong, durable paper no larger than 8-1/2" x 14" in size, except that maps, charts, tables, and other like documents may be larger, folded to the size of the papers to which they are attached.

(c) Reproduction may be by any process, provided all copies are clear and permanently legible.

(d) The original of each paper shall be signed in ink by the party.

(e) All papers shall be signed by the petitioner. The signature shall constitute a verification that the paper has been read and that to the best knowledge, information, and belief of that person:

- (1) Every statement contained therein is true;
 - (2) No statement is misleading; and,
 - (3) That the paper is not interposed for delay.
- (f) Unless otherwise required by this chapter or

the board, there shall be filed with the development corporation an original and seven copies of each paper. Additional copies shall be promptly provided if requested by the chairperson or executive officer.

(g) If any paper filed with the development corporation is not in substantial conformity with the applicable rules of the development corporation, on its own motion or on motion of any party, the board may strike the paper or require its amendment. If amended, the paper shall be effective as of the date of the receipt of the amendment.

(h) All papers filed with the development corporation shall be retained for a reasonable time by the board in its files. [Eff ^{MAY} 5 2013] (Auth: HRS §§91-2, 206J-5(5)) (Imp: HRS §§91-2, 206J-5(5))

§19-170-25 Continuances or extensions of time.

Whenever a person or agency is required to take action within the period prescribed or allowed by this chapter, or by notice given under this chapter, or by an order, the chairperson may:

- (1) With or without notice, extend the period before the expiration of the prescribed period; or
- (2) Upon motion, permit the act to be done after the expiration of a specified period where the failure to act is reasonably shown to be excusable. [Eff ^{MAY} 5 2013] (Auth: HRS §§91-2, 206J-5(5)) (Imp: HRS §§91-2, 206J-5(5))

§§19-170-26 to 19-170-27 (Reserved)

SUBCHAPTER 3

RULEMAKING PROCEDURE

§19-170-28 Initiation of rulemaking procedure.

(a) The adoption, amendment, or repeal of any rule of the development corporation may be made by the board on its own motion, or by petition of any interested person or agency.

(b) Petitions for rulemaking shall conform to the requirements of §19-170-17 and shall contain:

- (1) The name, address, and telephone number of each petitioner;
- (2) The signature of each petitioner;
- (3) A draft or the substance of the proposed rule or amendment or a designation of the provisions the repeal of which is desired;
- (4) A statement of the petitioner's interest in the subject matter; and
- (5) A statement of the reasons in support of the proposed rule, amendment, or repeal.

(c) Within thirty days after the filing of a petition for rulemaking, the board shall either deny the petition or initiate rulemaking proceedings.

[Eff MAY 5 2013] (Auth: HRS §§91-2, 91-6) (Imp: HRS §§91-3, 91-6)

§19-170-29 Denial of petition. Any petition that fails in any material respect to comply with the requirements of this chapter or fails to disclose sufficient reasons to justify the institution of public rulemaking proceedings shall not be considered by the board. The board shall notify the petitioner in writing of the denial, stating the reasons therefor. Denial of a petition shall not operate to prevent the board from acting, on its own motion, upon any matter disclosed in the petition.

[Eff MAY 5 2013] (Auth: HRS §91-6) (Imp: HRS §91-6)

§19-170-30 Acceptance of petition. If the board determines that the petition is in order and that it discloses sufficient reasons in support of the proposed rulemaking to justify the institution of rulemaking proceedings, the procedures to be followed shall be as set forth in this chapter and the applicable provisions of chapter 91, HRS.

[Eff MAY 5 2013] (Auth: HRS §91-6) (Imp: HRS §91-6)

§19-170-31 Notice of public hearing. (a) Whenever, pursuant to a petition or upon its own motion, the board proposes to adopt, amend, or repeal any rule, a notice of proposed rulemaking shall be published at least once in a newspaper of general circulation in the State. The notice shall also be mailed to all agencies or persons who have made timely written requests for advance notice of the development corporation's rulemaking proceedings. All notices shall be published at least twenty days prior to the date set for public hearing.

(b) A notice of the proposed adoption, amendment, or repeal of any rule shall include:

- (1) A statement of the date, time, and place where the public hearing will be held;
- (2) Reference to the authority under which the adoption, amendment, or repeal of the rule is proposed; and
- (3) A statement of the substance of the proposed rule. [Eff MAY 5 2013] (Auth: HRS §§91-2, 91-6) (Imp: HRS §§ 91-3, 91-6, 92-41)

§19-170-32 Hearing procedures. (a) The public hearing before the development corporation shall be presided over by the chairperson, or, in the chairperson's absence, by another board member or hearing officer designated by the board. A quorum of the board shall not be required in the conduct of a hearing. Interested individuals and agencies shall have a reasonable opportunity to offer testimony with

respect to the matters specified in the notice of hearing. A clear and orderly record shall be obtained. The presiding officer shall be authorized to administer oaths or affirmations and to take all other actions necessary to the orderly conduct of the hearing.

(b) Each hearing shall be held at the time and place set in the notice of hearing but may at such time and place be continued by the presiding officer from day to day or adjourned to a later date or to a different place without notice other than the announcement at the hearing.

(c) At the commencement of the hearing, the presiding officer shall read the notice of hearing and shall outline briefly the procedure to be followed. Testimony shall then be received with respect to the matters specified in the notice of hearing in the order the presiding officer prescribes.

(d) To avoid unnecessary cumulative evidence, the presiding officer may limit the number of witnesses or the time for testimony upon a particular issue.

(e) The presiding officer shall have any person who willfully disrupts a hearing to prevent or compromise the conduct of the hearing removed from the hearing room.

(f) Before proceeding to testify, witnesses shall state their name, address, and whom they represent at the hearing, and shall give any information respecting their appearance as the presiding officer may request. The presiding officer shall confine the testimony to the matters for which the hearing has been called but shall not apply the technical rules of evidence. Witnesses shall be subject to questioning by the members of the board or by any other representative of the board.

(g) All interested persons or agencies shall be afforded an opportunity to submit data, views, or arguments orally or in writing that are relevant to the matters specified in the notice of hearing. The period for filing written comments or recommendations may be extended beyond the hearing date by the

presiding officer for good cause. An original and seven copies shall be required when submitting written comments, recommendations, or replies.

(h) Unless otherwise specifically ordered by the board, testimony given at the public hearing shall not be reported verbatim. All supporting written statements, maps, charts, tabulations, or similar data offered in evidence at the hearing, and which are deemed by the presiding officer to be authentic and relevant, shall be received in evidence and made a part of the record. Unless the presiding officer finds that furnishing copies is impracticable, eight copies of the exhibits shall be submitted.

[Eff **MAY 5 2013**] (Auth: HRS §§91-2, 91-6) (Imp: HRS §§91-3, 91-6)

§19-170-33 Board action. The board shall consider all relevant comments and materials of record before taking final action in a rulemaking proceeding. Final action shall be taken within a reasonable amount of time following:

- (1) The final public hearing; or
- (2) The expiration of any extension period for submission of written comments or recommendations, whichever occurs later.

[Eff **MAY 5 2013**] (Auth: HRS §§91-2, 91-6) (Imp: HRS §§91-3, 91-6)

§19-170-34 Emergency rulemaking. The board may adopt emergency rules pursuant to the requirements of section 91-3(B), HRS. [Eff **MAY 5 2013**] (Auth: HRS §91-2) (Imp: HRS §91-3)

§§19-170-35 and 19-170-36 (Reserved).

SUBCHAPTER 4

DEVELOPMENT GUIDELINES

§19-170-37 Statutory purpose. The development corporation was established for the purpose of undertaking the redevelopment of the Aloha Tower complex in order to strengthen the international economic base of the community in trade activities, to enhance the beautification of the waterfront, to better serve modern maritime uses, and to provide for public access and use of the waterfront property, all of which are intended to further serve as a stimulant to the commercial activities of the downtown business community and help transform the waterfront into a people place. The development corporation may act alone or enter into any form of joint venture or other undertaking with any other governmental agency for the purpose of meeting its purpose of redeveloping the Aloha Tower and adjoining waterfront areas.

[Eff MAY 5 2013] (Auth: HRS §206J-5(a)(5)) (Imp: HRS §§206J-1, 206J-5(9))

§19-170-38 Development objectives. In order to achieve its statutory purposes, the development corporation shall be guided by the following development objectives in formulating a development plan for the Aloha Tower complex and in selecting any proposal submitted by any qualified person for the development of all or any part of the Aloha Tower complex or related areas.

- (1) Ensure the project is capable of integration into any overall development plan which may be adopted for the Honolulu waterfront.
- (2) Maintain passenger ship operations in a manner compatible with the development of the downtown waterfront as a people place and in conformity to the maritime requirements of the department of transportation.

- (3) Balance practical economic and market realities with a vision of what can be created.
- (4) Provide ease of pedestrian access to the project and waterfront, and generous open spaces for public enjoyment by eliminating visual and physical barriers between the waterfront and downtown, and by creating strong pedestrian links between downtown and Aloha Tower, particularly along Fort and Bishop streets.
- (5) Improve view corridors down Fort street, Bishop street and Alakea street.
- (6) Expand and improve Irwin park while maintaining its rich vegetation.
- (7) Create a homogeneous project that avoids fragmentation.
- (8) Feature and enhance the physical, public use and visual characteristics of the historic Aloha Tower.
- (9) Minimize unattractive physical facilities (e.g. parking, utilities, service and back-of-house operations).
- (10) Plan buildings and project features to attract people to the waterfront and create a major public gathering place at the Aloha Tower complex by enhancing public access to and along the water's edge and by creating opportunities for a variety of water's-edge experiences appropriate to the downtown waterfront.
- (11) Develop uses which would stimulate and be compatible with the commercial activities of the downtown business community, which may include, but need not be limited to, retail, restaurant, office, hotel, condominium, recreational, historical and cultural uses; and create new activities to assist in bringing people to the waterfront.
- (12) Provide accessible vehicular ingress and egress, and create a parking strategy which minimizes both the cost and impact of

parking on the Aloha Tower complex.

- (13) Establish a construction phasing strategy which will minimize disruption of maritime operations and achieve planned development of the Aloha Tower in the earliest practicable time.
- (14) Create a financially feasible and aesthetically creative project which can be initiated at the earliest practicable time.
- (15) Encourage, to the extent possible, development of the Aloha Tower complex and adjoining areas by a qualified private sector developer who will provide all or substantially all of the costs of development.
- (16) Utilize the powers of the development corporation to transcend, as necessary, zoning, density and height limitations in an aesthetically pleasing manner to accomplish the goals of the development corporation and to encourage private sector developers to undertake development plan solutions which will satisfy the foregoing development objectives. [Eff MAY 5 2013] (Auth: HRS §206J-5) (Imp: HRS §§206J-1, 206J-5, 206J-6, 206J-7)

§§19-170-39 and 19-170-40 (Reserved).

SUBCHAPTER 5

SELECTION OF DEVELOPERS

§19-170-41 Authority to select developers.

Except to the extent it may be limited by the terms of any joint venture agreement with a public agency, the development corporation has sole authority to select any qualified person to be a developer-lessee.

[Eff MAY 5 2013] (Auth: HRS §206J-5) (Imp: HRS

§§206J-5, 206J-11)

§19-170-42 Selection process. The development corporation, by itself or in conjunction with any public sector joint venturer, may select qualified persons to develop a development area pursuant to a process of direct negotiation, a request for proposals, a competitive bidding process, or a combination of any or all of the above. The development corporation shall determine the method for pursuing its objectives, either alone or in conjunction with a joint venturer, or through a cooperative arrangement with other governmental agencies. [Eff **MAY 5 2013**] (Auth: HRS §206J-5(a)(5)) (Imp: HRS §§206J-5, 206J-10, 206J-11)

§19-170-43 Environmental assessment. Either before or after selection of a qualified person to develop a development area and prior to any actual construction or alteration of the Aloha Tower complex or related areas, the development corporation, by itself or in conjunction with any public sector joint venturer, shall cause an environmental assessment or environmental impact statement to be prepared in compliance with chapter 343, HRS. In the case where developer selection is accomplished through a request-for-proposal process or a process of direct negotiation, preparation of an environmental assessment or environmental impact statement may be one of the selection criteria. Where a developer is selected by competitive bidding, preparation of an environmental assessment or environmental impact statement may be a part of the subject matter of the bid, or may be accomplished by the development corporation alone or in conjunction with a public sector joint venturer at public expense, provided appropriations are available. [Eff **MAY 5 2013**] (Auth: HRS §206J-5) (Imp: HRS §343-5)

§19-170-44 Request for proposals. Should the development corporation and any joint venturer determine to select a developer for a project through a request for proposals, the process shall encompass a publicly advertised request for proposals, an evaluation of submitted proposals, selection of a qualified person based upon its submitted proposals, and finally, direct negotiation for a development agreement. The selection process shall be as follows:

- (1) The RFP may be developed and prepared by the executive officer in conjunction with any public sector joint venturer, and shall generally delineate the scope of the development area geographically and in terms consistent with the objectives of the development corporation as set forth herein.
- (2) After approval of the board and of the head or governing body of any public sector joint venturer, the development corporation and any joint venturer shall issue a request for proposal (hereinafter "RFP") covering a proposed development area.
- (3) Notice for the RFP shall be published not less than three times in the two major Honolulu newspapers. No more than one of these publications shall be made on any one day or on two consecutive days. Notice for the RFP shall also be published in the wall street journal once a week for a two-week period. Additional publication may be accomplished in the board's discretion.
- (4) The executive officer shall hold a pre-presentation briefing for interested parties as soon as practicable following the last publication of the notice of the RFP to discuss the development objectives of the specific project in the development area, the selection process, and the selection criteria.
- (5) The RFP shall require that any party interested in being a developer-lessee of the proposed development area shall submit a

detailed proposal inclusive of, but not limited to, a description of the developer, its experience and its basic development team, architecturally prepared schematic drawings, proposed footprints of the buildings, preliminary traffic studies and solutions prepared by certified engineers and designers, feasibility studies, anticipated benefit to the State of Hawaii, and timetable for construction as set forth in more detail in §19-170-45 below. Each candidate must submit market studies or other satisfactory evidence to support the financial feasibility of its proposal.

- (6) All responses to the RFP must be submitted within the time set forth in the RFP after the date of final publication of the notice of the RFP, and only those parties submitting responses that meet the minimum submission requirements and qualifications as set forth in §19-170-45 and §19-170-46 below shall be considered as the potential developer-lessee of the project as described in the RFP. The contents of any proposals received shall be kept confidential and shall not be distributed in any case to other parties who are participating in the RFP process until after a long term lease and development agreement are executed.
- (7) The development corporation by itself, or in conjunction with any public joint venturer, shall review all responses to the RFP and may require each party who has submitted a response to make a presentation of its proposal to the development corporation and its public sector joint venturer, if any. These presentations and interviews shall be timed, scheduled, and otherwise organized at the sole discretion of the board. Because responders may be required to disseminate proprietary or other confidential information during such presentations, the

presentations will be limited to members of the board, officers, and staff of the development corporation and their counsel, and corresponding board members, officers, staff and counsel of any public sector joint venturer; and the substance of such presentations shall be kept private and confidential until after a long term lease and development agreement are executed. The presentations shall be exclusively for purposes of fact-finding and investigation, and in no case shall the board make any decisions or deliberate toward any decision regarding selection of a developer or development proposal at presentation sessions.

- (8) As soon as practicable following the final presentation, the development corporation and any public sector joint venturer shall publicly announce the selection of the developer-lessee and shall then enter into negotiations for a development agreement for development of the project and for issuance of a long-term lease for the development area. The development corporation and the selected developer-lessee shall conclude their negotiations and execute said document as soon as practicable after announcement of selection of the developer-lessee. Failure to enter into a long-term lease and development agreement within six months may disqualify the selected developer, and the board may select developers from the remaining proposals or may repeat the RFP process from the first step.

[Eff **MAY 5 2013**] (Auth: HRS §206J-5)
(Imp: HRS §§2065-5, 2065-11)

§19-170-45 Submission requirements. Any interested person wishing to respond to a request for proposals shall submit 20 copies of the following

information and material as part of its proposal:

- (1) Qualifications of developer-lessee
 - (A) Identification of the type of any legal entity with whom the development corporation might enter into a long-term lease and development agreement.
 - (B) Identification of the developer-lessee and its project team, including key design consultants, including all joint venture or limited partners and their respective percentage of interest in the developer-lessee, if any.
 - (C) The previous relevant project experience of the developer-lessee and its project team (including joint venture partners); photographs, brief description of projects (date, location, concept, land uses, size, construction cost, role of development entity, etc.)
 - (D) The previous experience of the developer-lessee and its project team in on-going management and operation of facilities with uses similar to those proposed in the RFP and relevant experience, description of previous projects and role of consultants in the developer-lessee's proposal.
 - (E) Satisfactory evidence from the developer-lessee (including its joint venture partners) to support the financial feasibility of the developer-lessee's proposal.
 - (F) Three copies of the developer-lessee's most recent audited financial statements must be submitted confidentially under separate cover.
 - (G) Organizational and management approach, and role of each development partner and major consultant, in the development.
 - (H) Developer-lessee references.

- (2) Description of proposal
 - (A) Identification of the complete development team.
 - (B) A complete description of the proposed development including:
 - (i) Narrative description of the development plan, design concepts and buildings' orientation.
 - (ii) Complete preliminary building floor plans, illustrating the proposed project, individual buildings, parking systems and service facilities, organizational schemes of ground floor activities and roof top treatments.
 - (iii) Elevations, indicating building materials, longitudinal and cross sections, sketches of major interior spaces, edge conditions and site perspective drawings and/or building mass model.
 - (C) Financial pro forma and development schedule, consisting of:
 - (i) Summary pro forma, during construction and for the first ten operating years of the proposed project, including specific estimates of development and construction costs.
 - (ii) Proposed development schedule and project phasing, including supportive, technical and logical rationale for such schedule and phasing. [Eff MAY 5 2012]
(Auth: HRS §206J-5) (Imp: HRS §§206J-5, 206J-11)

§19-170-46 Selection criteria. In selecting qualified persons to be the developer-lessee of all or any part of the Aloha Tower complex, the development corporation, through its board, shall be guided by the

following criteria:

(1) Qualifications of developer-lessee:

(A) Developer experience:

- (i) Major urban projects involving:
 - (a) Hotel developments;
 - (b) Office buildings and complexes;
 - (c) Retail facilities and centers;
 - (d) Recreation/entertainment uses with large public open spaces;
 - (e) Waterfront locations.
- (ii) Success of comparable undertakings related to the following:
 - (a) Economic success (high occupancy, high quality tenancies, favorable refinancing experience, etc.);
 - (b) Overall design quality;
 - (c) Successful operation in urban and waterfront settings, with emphasis on quality maintenance.
- (iii) Working relationships with and personal contacts with major hotel operators;
- (iv) Timeliness of performance;
- (v) Demonstrated ability to undertake redevelopment projects and to respond to public objectives.

(B) Management experience of the key use categories:

- (i) Success of major projects involving one or more similar uses;
- (ii) Experience in operating developments in urban settings;
- (iii) Success in achieving high quality project maintenance standards.

- (C) Project architecture and design experience:
 - (i) Major mixed-use projects;
 - (ii) Waterfront projects;
 - (iii) Projects in urban settings;
 - (iv) Overall architectural and landscape design quality;
 - (v) Joint public/private projects.
 - (D) Financial capability of developer:
 - (i) Ability to raise equity/debt funds including current relationship with major lenders;
 - (ii) Ability to provide for operation and maintenance;
 - (iii) Resources and tenacity ("staying power").
 - (E) Organization/management approach:
 - (i) Clear lines of responsibility within the developer's organization that the development corporation can rely on to be responsive and effective;
 - (ii) Track record in real estate development;
 - (iii) Availability of a full-time representative of the developer in Honolulu during the development of the project.
 - (F) Qualifications of key personnel:
Qualifications and experience of key persons and entities associated with the developer.
 - (G) Other factors as appropriate for specific development information submitted.
- (2) Merits of proposal:
- (A) Fulfillment of and responsiveness to project objectives as outlined in §19-170-38 above;
 - (B) Overall strength of development team:
 - (i) Economic and management strength of the developer-lessee and

- development team and quality of
guarantee of land lease rent
payable to the development
corporation;
- (ii) Experience of designated
architectural consultants in major
hotel, mixed-use and waterfront
projects in a downtown setting as
evidenced by overall architectural
and urban design quality in
previous projects;
- (iii) Experience and strength of other
key consultants/specialists
designated to be part of the
development.
- (C) Project economics:
 - (i) Development feasibility and
likelihood of orderly and rapid
implementation;
 - (ii) Responsiveness to economic factors
affecting key components of the
proposal;
 - (iii) Quality of development components.
- (D) Architectural and design quality:
 - (i) Overall quality of design;
 - (ii) Ability of design concept to
reinforce public improvements;
 - (iii) Conformance with development
objectives and the design manual;
 - (iv) Imagination and creativity in the
organization of components;
 - (v) Appropriateness of image and
character.
- (E) Ability to conform with development
schedule:
 - (i) Date of project financing;
 - (ii) Date for start of construction;
 - (iii) Development construction and
schedule;
 - (iv) Anticipated date of completion.
- (3) Benefits to State of Hawaii:
 - (A) Project revenue;

- (B) Tax revenue;
- (C) Public improvements such as open space, infrastructure and other amenities;
- (D) Other benefits. [Eff MAY 5 2013]
(Auth: HRS §206J-5(a)(5)) (Imp: HRS §§206J-5(a)(8)&(9), 206J-11)

§19-170-47 Direct negotiation. Should the development corporation and any joint venturer determine to select a developer-lessee by direct negotiation, the board shall prepare or cause to be prepared a development plan for the Aloha Tower complex which incorporates the needs of the department of transportation and which accommodates the plans, specifications, designs, or estimates of any project the board finds acceptable and advisable to carry out the intent of chapter 206J, HRS. In selecting a qualified person to be the developer-lessee of all or any part of the Aloha Tower complex, the development corporation, through its board, shall be guided by the criteria listed in §19-170-46 of these rules.
[Eff MAY 5 2013] (Auth: HRS §206J-5(a)(5)) (Imp: HRS §§206J-5(a) and (b))

§19-170-48 Competitive bidding. (a) Should the development corporation and any joint venturer determine to select a developer-lessee by competitive bidding, the board and any joint venturer shall prepare or cause to be prepared a development plan for the Aloha Tower complex which incorporates the needs of the department of transportation, and which will implement the intent of chapter 206J, HRS.

(b) The development plan will be prepared in sufficient detail and with the specificity which will enable qualified bidders to submit competitive priced tenders based on definitive requirements. Terms will be set forth generally in the advertisement for sealed tenders.

(c) Notice of the request for bids shall be

published not less than three times in the two major Honolulu newspapers. No more than one of these publications shall be made on any one day or on two consecutive days.

(d) Leases will be awarded on the basis of the highest return to the State and joint venturer.

[Eff **MAY 5 2013**] (Auth: HRS §206J-5) (Imp: HRS §§206J-5, 206J-9, 206J-10, 206J-11)

§§19-170-49 to 19-170-50 (Reserved).

SUBCHAPTER 6 GENERAL PROVISIONS

§19-170-51 General purposes. (a) The legislature of the State of Hawaii, by chapter 206J, HRS, established the Aloha Tower complex area. In so doing, the legislature found the following respecting the Aloha Tower complex:

- (1) The area in downtown Honolulu on the waterfront, including the Hale Awa Ku Moku Building and Irwin Memorial Park, is one of the most valuable properties in downtown Honolulu and certain portions of this area should be redeveloped, renovated, or improved to better serve the economic, maritime, and recreational needs of the people of Hawaii; and
- (2) The Aloha Tower complex still serves a vital maritime function that must be maintained to insure adequacy and viability for existing and future maritime activities.

(b) The legislature authorized and empowered the Aloha Tower development corporation to undertake the redevelopment of the Aloha Tower complex to strengthen the international economic base of the community in trade activities, to enhance the beautification of the waterfront, and in conjunction with the department of transportation, to better serve modern maritime uses,

and to provide for public access and use of the waterfront property.

(c) The legislature further authorized and empowered the authority to establish and adopt development rules under chapter 91, HRS, on health, safety, building, planning, zoning, and land use which shall supersede all other inconsistent ordinances and rules relating to the use, zoning, planning, and development of land and construction thereon.

(d) With the support of the legislature, the Governor's office of state planning prepared the Honolulu waterfront master plan which reconfirmed that the Aloha Tower complex should further serve as a stimulant to the commercial activities of the downtown business community and help transform the waterfront into a "people place."

(e) In accordance with its rules of practice and procedure, the corporation selected a developer for the Aloha Tower project area and entered into lease negotiations with said developer.

(f) In accordance with the declarations of the legislature, the corporation has caused to be prepared a development plan for the Aloha Tower project area. As an integral part of implementing this plan, and in compliance with the mandate of the legislature, the authority has developed these development rules for the Aloha Tower project area.

(g) It is the intent of the authority that these rules shall be established and adopted to implement the purposes and intent of the legislature as set forth in chapter 206J, HRS. It is the further intent of the authority that these rules shall implement the policies and programs relating to the Aloha Tower project area as set forth in the provisions of the plan.

(h) So that the Aloha Tower project area can be developed as an attractive and desirable urban waterfront project, the corporation shall interpret these rules to encourage flexibility of design.

[Eff **MAY 5 2013**] (Auth: HRS §§206J-1, 206J-7, 206J-4) (Imp: HRS §§206J-2, 206J-7)

§19-170-52 Development guidelines. The development guidelines governing the corporation's actions in the Aloha Tower complex area have been set forth in subchapter 4 of the corporation's rules of practice and procedure and the findings and recommendations of the Honolulu waterfront master plan. [Eff **MAY 5 2013**] (Auth: HRS §§206J-7) (Imp: HRS §§206J-5)

§19-170-53 Title. These rules shall be known and may be cited as the Aloha Tower complex rules for the Aloha Tower project area. [Eff **MAY 5 2013**] (Auth: HRS §§206J-7) (Imp: HRS §206J-7)

§19-170-54 Plan incorporated by reference. The Aloha Tower project area plan, is hereby incorporated by reference and made a part of this chapter. [Eff **MAY 5 2013**] (Auth: HRS §206J-7) (Imp: HRS §206J-5)

§19-170-55 Definitions. Except as otherwise stated in this chapter, all of the definitions contained in the land use ordinance of the city and county of Honolulu are by reference incorporated herein and made a part hereof. As used in this chapter, the following words and terms shall have the following meanings unless the context shall indicate another or different meaning or intent:

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

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

"Building height" means the vertical distance measured from the existing grade of the nearest public street to the top of the roof slab, parapet wall or ridge line of the subject building except as provided

in Section 19-170-112 of these rules.

"Corporation" or "development corporation" means the Aloha Tower development corporation established by section 206J-4, HRS.

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

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

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

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

"Floor area" means the total area of all floors of a building measured from the exterior faces of the exterior walls or from the center line of party walls separating portions of a building excluding unroofed areas, interior elevator and mechanical shafts and stairways. The floor area of a building, or portion thereof, not provided with surrounding exterior walls shall be the usable area under the horizontal projection of the roof or floor above, excluding arcades, cantilevered floors and non-structural overhangs. Also excluded from the floor area are parking facilities and loading spaces, including their driveways and accessways, lanais or balconies of dwelling or lodging units which do not exceed 15 per cent of the total floor area of the unit to which they are appurtenant, non-habitable attic areas, and rooftop machinery equipment rooms and elevator housings on the top of buildings.

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

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

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

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

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

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

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

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

"Project area" means the Aloha Tower project area as defined in section 19-170-57(b) of these rules.

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

"Public improvement" means any improvement, facility, or service, together with customary improvements and appurtenances thereto, necessary to provide public needs as: vehicular and pedestrian circulation systems, storm sewers, flood control improvements, water supply and distribution

facilities, sanitary sewage disposal and treatment, public utility and energy services.

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

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

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

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

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

[Eff **MAY 5 2013**] (Auth: HRS §§206J-2, 206J-3, 206J-5, 206J-7). (Imp: HRS §§206J-2, 206J-3, 206J-5, 206J-7)

§19-170-56 Rules for construction of language.

The following rules of construction apply to the text of this chapter.

- (1) The particular shall control the general.
- (2) In case of any difference of meaning or implication between the text of this chapter and any caption, illustration, map, summary table, or illustrative table, the text shall control.
- (3) The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
- (4) Words used in the present tense shall

- include the future; and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- (5) A "building" or "structure" includes any part thereof.
 - (6) The phrase "used for" includes "arranged for", "designed for", "intended for", "maintained for", or "occupied for".
 - (7) The word "person" includes an individual, a corporation, a partnership, a limited liability company, an incorporated association, or any other similar entity.
 - (8) Unless the context clearly indicates the contrary, where a rule involves two or more items, conditions, provisions, or events connected by the conjunction "and", "or", or "either... or", the conjunction shall be interpreted as follows:
 - (A) "And" indicates that all the connected items, conditions, provisions, or events shall apply.
 - (B) "Or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.
 - (C) "Either... or" indicates that the connected items, conditions, provisions, or events shall apply singly but not in combination.
 - (9) The word "includes" shall not limit a term to the specified examples, but is intended to extend its meaning to all other instances or circumstances of kind or character. [Eff ~~MAY~~ 5 2019] (Auth: HRS §206J-7) (Imp: HRS §206J-7)

§19-170-57 Establishment of the Aloha Tower complex and the Aloha Tower project area. (a) The Aloha Tower complex area was established by the legislature in 1981. As originally delineated, the

complex included primarily that area makai of Nimitz Highway between piers 8 and 11. Subsequent legislatures have amended the boundaries to include piers 5 through 11.

(b) The Aloha Tower project area is that portion of the Aloha Tower complex which has been designated for the first phase of redevelopment by the Aloha Tower development corporation. The boundaries of this project area may extend from piers 5 through 11 on the makai side of Nimitz Highway excluding TMK parcel 2-1-14:6 (Hawaiian Electric). An official survey map of the project area dated July 23, 1990 is on file at the corporation's office. Maps showing subsequent changes to the project area will be kept on file at the corporation's office. [Eff] (Auth: HRS §§206J-7, 206J-5). (Imp: HRS §§206J-2, 206J-3, 206J-5)

§19-170-58 Establishment and scope of controls. (a) In harmony with the purpose and intent of chapter 206J, HRS, these rules are established by the Aloha Tower development corporation for the project area controlling, regulating, and determining the height of buildings; minimum setbacks; required open spaces; the density of buildings; the location and amount of retail, office, hotel, residential, maritime, park, cultural, and other appropriate uses; the location of buildings and other structures; architectural design; urban design; historic and cultural sites; circulation criteria; and other appropriate regulations relating to land use, zoning, and planning for buildings and structures for all properties within the Aloha Tower project area.

(b) This chapter, together with the development plan for the Aloha Tower project area shall govern all developments and use of properties within the project area. In case of any discrepancy between the provisions of this chapter and the development plan, this chapter shall control.

(c) No building permit shall be issued for any development within the project area unless the development conforms to the provisions of the

development plan and this chapter.

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

(e) Except as otherwise specifically provided, the provisions of this chapter shall supersede the provisions of the city and county of Honolulu's development plan (Ordinance No. 8179, as amended), the provisions of the Hawaii Capitol District Ordinance (Article 7, land use ordinance), and the provisions of the land use ordinance (Ordinance 86-96, as amended) as they all shall relate to properties within the project area. The foregoing ordinances are hereby declared to be inconsistent with this chapter, and shall therefor be inapplicable to development within the project area unless otherwise specifically stated.

(f) All agencies of the city and state governments shall perform their duties, functions, and powers which affect the project area in accordance with the provisions of the development plan and this chapter.

(g) The development corporation shall not exercise any jurisdiction over any replacement facilities located within the Aloha Tower complex required for necessary maritime purposes and activities. Jurisdiction over such replacement facilities shall remain in the department of transportation, state of Hawaii. The department of transportation shall not be subject to these rules.
[Eff MAY 5 2013] (Auth: HRS §206J-7) (Imp: HRS §§206J-7, 206J-10, 206J-1)

§19-170-59 Project eligibility review. (a) The executive officer may require, at his discretion, prior to receipt of any application for a development permit, a project eligibility review of the development project to consider the project concept and its impact on infrastructure facilities such as streets, pedestrian and bicycle circulation, sanitary sewers, drainage and water, and to improve efficiency

and avoid unnecessary delays and expense in processing the formal development application. If the executive officer determines that project eligibility review is required, no development application shall be considered until such review has been completed.

(b) To conduct project eligibility review, the applicant shall provide such information as the executive officer may request in his discretion, including without limitation, the proposed site plan, basic massing, floor area allocation and location of proposed uses, off-street parking and loading, pedestrian and vehicular circulation, and location of existing and proposed improvements and utilities.

(c) To the extent possible, project eligibility review shall be completed within thirty days of the executive officer's determination to require the review.

(d) Development shall not be approved unless adequate infrastructure facilities are or will be made available to service the proposed development prior to occupancy. The executive officer may consult with applicable governmental agencies regarding the adequacy of infrastructure requirements. Any development approval may be subject to such conditions as the corporation may impose under these rules, including without limitation, the requirement that the concerns and requirements of appropriate governmental agencies relative to the adequacy of infrastructure facilities for the proposed development are satisfied.

(e) Notwithstanding a requirement for a project eligibility review, potential applicants may seek preliminary review of their proposed developments with the executive officer prior to submitting an application for a development permit.

(f) Approval of construction plans by ATDC shall constitute a determination that the project has met the project eligibility review requirements herein.

[Eff MAY 5 2013] (Auth: HRS §§206J-7, 206J-5)
(Imp: HRS §§206J-10, 206J-1, 91-2, 206J-5)

§19-170-60 Requirement of development permit.

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

(b) An application to the corporation for a development permit shall include complete, detailed information showing that the development complies with all of the provisions of this chapter and the development plan. The corporation may determine the nature and extent of the information required in the application.

(c) Prior to submission of an application to the development corporation which impacts or affects the operations or maritime facilities of the department of transportation (DOT), state of Hawaii, the executive officer shall require that the applicant show that it has notified the DOT of its request and that it has consulted with the DOT in regard thereto and taken into account the DOT's needs and requirements.

[Eff **MAY 5 2013**] (Auth: HRS §§206J-7, 206J-5)
(Imp: HRS §§206J-5)

§19-170-61 Administration. The corporation, through its executive officer, shall administer the provisions of this chapter. [Eff **MAY 5 2013**]
(Auth: HRS §206J-7) (Imp: HRS §§206J-4, 206J-7)

§19-170-62 Appeals. (a) The corporation shall hear and determine appeals from the actions of the executive officer in the administration of this chapter. An appeal shall be sustained only if the corporation finds that the executive officer's action was based on an erroneous finding of a material fact, or that the executive officer had acted in an arbitrary or capricious manner or had manifestly abused his discretion.

(b) All appeals and appeal procedures shall comply with the provisions of subchapter 7 of chapter

1516, Hawaii Administrative Rules.

[Eff MAY 5 2013] (Auth: HRS §§206J-7, 206J-5)
(Imp: HRS §§91-2, 206J-5, 206J-7)

§19-170-63 Variances. (a) The corporation shall hear and determine petitions for varying the application of this chapter with respect to a specific parcel of land and building, and may grant a variance based on unnecessary hardship if the record shows that:

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

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

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

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

(e) Any variance granted under the provisions of this section shall automatically terminate if a

development permit for a development requiring said variance has not been issued within two years from the date of granting the variance. This time limit may be extended for a period not to exceed two years, on the corporation's approval of the applicant's request and justification in writing for an extension, provided the request and justification are received by the corporation at least one hundred days in advance of the automatic termination date of the variance and there are no material changes in circumstances which may be cause for denial of the extension. Prior to making a determination on a request for extension, the corporation shall hold a public hearing. The request for extension shall be accompanied by a fee of \$200 plus the cost of publication of notice to defray the expenses of holding a hearing. The cost of the hearing notice shall be refunded only if the public hearing notice has not been submitted to the publishing agency.

(f) All requests for variances and the applicable requirements and procedures thereto shall comply with subchapter 5 of chapter 19-170, Hawaii Administrative Rules. [Eff MAY 5 2013] (Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§206J-5, 206J-7)

§19-170-64 Nonconformities. (a) Except as otherwise provided, nonconforming uses of land and structures, and nonconforming lots, structures, parking and loading within the project area may be continued subject to the provisions hereinafter specified.

- (b) Nonconforming use of land shall not:
 - (1) Be enlarged, increased or extended to occupy a greater area of land than was occupied on January 1, 1991;
 - (2) Continue if it ceases for any reason (except where government action impedes access to the premises) for a period of more than six consecutive months or for twelve months during any three-year period; or
 - (3) Be moved in whole or in part to any portion

of the lot or parcel other than that occupied by the use on January 1, 1991;

(c) The following are rules with respect to nonconforming uses of structure:

- (1) Nonconforming use of structure shall not extend to any part of the structure which was not manifestly arranged or designed for the use there on January 1, 1991; and a nonconforming use shall not be extended to occupy any land outside the structure. The structure shall not be enlarged, extended, constructed, reconstructed, moved, or structurally altered;
- (2) Nonconforming use of structure shall not continue if it is discontinued for twelve consecutive months or for eighteen months during any three-year period;
- (3) If structural alterations are not made, any nonconforming use of a structure, or structure and premises in combination, may be changed to another nonconforming use of the same nature, or to a more restricted use, or to a conforming use; provided that change to a more restricted use or to another nonconforming use may be made only if the relation of the structure to the surrounding facility is such that adverse effects on occupants and neighboring facility will not be greater than if the original nonconforming use continued;
- (4) On any building devoted in whole or in part to any nonconforming use, work may be done in any period of twelve consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing, to an extent not exceeding ten per cent of the current replacement value of the building;
- (5) Nothing contained in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be

unsafe by any official charged with protecting the public safety, upon order of that official.

(d) The following are rules with respect to nonconforming structures:

- (1) A nonconforming structure may be continued as long as it remains otherwise lawful.
- (2) A nonconforming structure may be altered in any way which does not increase its nonconformity.
- (3) If a nonconforming structure is destroyed by any means to an extent of more than fifty per cent of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of these rules. Except as otherwise provided herein, no nonconforming structure that is voluntarily razed or required by law to be razed by the owner thereof may thereafter be restored except in full conformity with the provisions of this chapter.
- (4) If a nonconforming structure is moved for any reason, it shall thereafter conform to the applicable rules of this chapter after it is moved.

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

- (1) If there is a change in use which has a greater parking or loading requirement than the former use, additional parking and loading shall be required and shall not be less than the difference between the requirements for the former use and the proposed use.
- (2) Off-street parking and loading requirements of this chapter shall be satisfied for additional floor area constructed.

[Eff MAY 5 2013] (Auth: HRS §§206J-5, 206J-7, 206J-1) (Imp: HRS §§ 206J-1, 206J-5, 206J-7)

§19-170-65 Application fees. (a) All fees required pursuant to the provisions of this chapter shall be paid upon application. Application fees are not refundable. If a joint hearing is held for more than one permit requiring a public hearing for a single development project, only one public hearing fee shall be charged.

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

§19-170-66 Violations. The corporation may maintain an action for an injunction to restrain any violation of this chapter or the development plan, and may take any other lawful action to prevent or remedy any violation. [Eff MAY 5 2013] (Auth: HRS §§206J-5, 206J-7, 206J-1) (Imp: HRS §§206J-1, 206J-5, 206J-7)

§19-170-67 Amendments. This chapter may be amended pursuant to chapter 91, HRS, as may be necessary. [Eff MAY 5 2013] (Auth: HRS §206J-7)
(Imp: HRS §§206J-7)

§19-170-68 Severability. (a) If a court of competent jurisdiction finds any provision or provisions of this chapter to be invalid or ineffective in whole or in part, the effect of that decision shall be limited to those provisions which are expressly stated in the decision to be invalid or ineffective, and all other provisions of these rules shall continue to be separately and fully effective.

(b) If a court of competent jurisdiction finds the application of any provision or provisions of this chapter to any zoning lot, building or other structure, or tract of land to be invalid or ineffective in whole or in part, the effect of that decision shall be limited to the person, facility, or

situation immediately involved in the controversy, and the application of any such provision to other persons, facility, or situations shall not be affected. [Eff MAY 5 2013] (Auth: HRS §206J-7)
(Imp: HRS §§206J-7)

SUBCHAPTER 7 LAND USE ZONE RULES

§19-170-69 Establishment of land use zones.
Within the project area, there are hereby established the following land use zones:

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

The boundaries for each zone are set forth in exhibit entitled "Land Use Zones" and dated 2012. The exhibit is made a part of this section and is located at the end of the chapter.

[Eff MAY 5 2013] (Auth: HRS §§206J-7, 206J-5)
(Imp: HRS §§206J-5)

§19-170-70 M/O/C zone: purpose and intent.
The maritime/office/commercial zone (M/O/C) established by this chapter is designed to promote and protect the public health, safety, and general welfare. These general goals include, among others, the following specific purposes:

- (1) To meet the needs of the state's maritime industry, and to serve as a center for cruise ship operations on Oahu, in addition to Pier 2 and, in particular, to serve the terminal needs for large international cruise ships;

- (2) To help meet the need for office and commercial space in downtown Honolulu and, regarding office space, with emphasis on maritime related uses; and/or
- (3) To provide a multiple purpose venue in downtown Honolulu for performing arts, sports and entertainment events.
[Eff **MAY 5 2013**] (Auth: HRS §§206J-7, 206J-5) (Imp: HRS §§206J-5, 206J-1)206J-1)

§19-170-71 M/O/C zone: use rules. Within the maritime/office/commercial zone (M/O/C), the following uses and structures shall be permitted:

- (1) Maritime uses:
 - (A) Piers, wharves and docks;
 - (B) Terminals for passengers arriving or departing by ship, ferry, day/dinner cruise boat or water taxi;
 - (C) Transient berthing facilities;
 - (D) Sales offices for commercial maritime operations;
 - (E) Maritime fueling facilities;
 - (F) Short-term cargo and supply storage facilities;
 - (G) Government offices for federal and state maritime related operations;.
- (2) Commercial uses:
 - (A) Offices, with emphasis given to users with maritime interests;
 - (B) Food markets, stores, delicatessens and bakeries;
 - (C) Drug stores;
 - (D) Liquor stores;
 - (E) General merchandise and variety stores;
 - (F) Apparel and accessories;
 - (G) Eating and drinking establishments;
 - (H) Retail shops catering to cruise ship passengers and office workers within the maritime complex;
 - (I) Specialty retail establishments,

- including those on movable carts;
 - (J) Commercial support facilities, including restaurants, personal service establishments, etc.
 - (K) Banks and financial institutions, insurance and real estate offices;
 - (L) Personal and professional service establishments;
 - (M) Theaters, concerts, performing arts, museums, art galleries, classrooms, educational facilities, libraries and historical sites;
 - (N) Multipurpose venue, including without limitation, commercial entertainment, sports and recreational facilities (indoor and outdoor) and local and community events;
 - (O) Offices, professional offices, travel agencies, meeting facilities, conference rooms and other office uses;
 - (P) Private recreation and athletic clubs;
 - (Q) Car rental and ground tour operations;
 - (R) Fairs, markets, exhibitions and social functions.
 - (3) Public uses:
 - (A) Mini-parks, plazas, promenades and other public open spaces;
 - (B) Public streets.
 - (4) Uses and structures which are customarily accessory and clearly incidental and subordinate to principal uses and structures, including parking, security and utility installations.
- [Eff MAY 5 2013] (Auth: HRS §§206J-7, 205J-5) (Imp: HRS §§206J-5, 206J1)

§19-170-72 M/O/C zone: development requirements. Within the maritime/office/commercial zone (M/O/C), the following development requirements shall apply:

(1) Floor areas:

- (A) Maritime terminal facilities: A maximum 155,000 gross square feet (less the square footage comprising the multipurpose venue), or such lesser area as the Department of Transportation, State of Hawaii, shall require, of facilities for maritime uses located on the first two levels of the terminal structure;
- (B) Multipurpose venue: A minimum indoor capacity of 1,000 persons;
- (C) Office uses: A maximum of 85,000 gross square feet for both government and private offices located above the maritime terminal facilities;
- (D) Retail uses: A maximum of 30,000 gross square feet located on the first two levels of the terminal structure.

(2) Parking:

A portion of the 593 total existing parking spaces (including 105 reserved for state office users) for the existing structures located on Piers 5 through 11 in the Aloha Tower project area as of February 22, 2012, plus 110 additional parking spaces to be added at Ala Moana Mini and along Aloha Tower Drive.

(3) Building heights:

Buildings within 200 feet of the makai boundary of Ala Moana Boulevard shall not exceed 120 feet, and buildings within the remaining area shall not exceed 100 feet. [Eff **MAY 5 2013**] (Auth: HRS §§206J-7, 206J-5) (Imp: HRS §§206J-1, 206J-5, 206J-6)

§19-170-73 C/R zone: purpose and intent. The commercial/residential zone (C/R) established by this chapter is designed to promote and protect the public health, safety, and general welfare. These general goals include, among others, the following specific purposes:

- (1) To promote an environment where retail, commercial and residential uses will coexist compatibly alongside maritime uses;
 - (2) To create a vibrant, attractive retail, commercial and residential "people place" which will attract downtown workers, local residents and island visitors during daytime and evening hours;
 - (3) To protect, enhance and restore the historic Aloha Tower structure as the dominant feature in the zone;
 - (5) To provide housing in close proximity to the downtown workplace, thus reducing the residents' dependence on vehicular transportation; and/or
 - (5) To help meet the need for high quality office space in downtown Honolulu.
- [Eff MAY 5 2013] (Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§206J-1, 206J-5)

§19-170-74 C/R zone: use rules. Within the commercial/residential zone (C/R), the following uses and structures shall be permitted:

- (1) Commercial uses:
 - (A) Food markets, stores, delicatessens, and bakeries;
 - (B) Drug stores;
 - (C) Liquor stores;
 - (D) General merchandise and variety stores;
 - (E) Apparel and accessories;

- (F) Eating and drinking establishments;
 - (G) Specialty retail establishments, including those on movable carts;
 - (H) Banks and financial institutions, insurance and real estate offices;
 - (I) Personal and professional service establishments;
 - (J) Theaters, concerts, performing arts, museums, art galleries, classrooms, educational facilities, libraries, and historical sites;
 - (K) Commercial entertainment, sports and recreational facilities (indoor and outdoor) and local and community events;
 - (L) Offices, professional offices, travel agencies, meeting facilities, conference rooms and other office uses;
 - (M) Private recreation and athletic clubs;
 - (N) Hotels and related services, including food and beverage, retail, recreational and business service facilities;
 - (O) Car rental and ground tour operations;
 - (P) Fairs, markets, exhibitions and social functions.
- (2) Residential Uses:
- (A) Residential lofts/apartments, including condominium apartments and transient rentals;
 - (B) Private recreational facilities, common lounges, dining commons and cafeterias, residential manager's office/apartment and similar facilities;
 - (C) Commercial support facilities, including restaurants, personal service establishments, etc.
- (3) Maritime uses:

- (A) Piers, wharves and docks;
 - (B) Terminals for passengers arriving or departing by ship, ferry, day/dinner cruise boat or water taxi;
 - (C) Transient berthing facilities;
 - (D) Sales offices for commercial maritime operations;
 - (4) Public uses:
 - (A) Plazas, promenades and other public open spaces;
 - (B) Public streets.
 - (5) Uses and structures which are customarily accessory and clearly incidental and subordinate to the principal uses and structures, including parking, security and utility installations.
- [Eff ~~MAY~~ 5 2013] (Auth: HRS §206J-5, 206J-7) (Imp: HRS §206J-1, 206J-5)

§19-170-75 C/R zone: development requirements.
 Within the commercial/residential zone (C/R), the following development requirements shall apply.

- (1) Floor areas:
 - (A) Retail uses: A maximum of 300,000 gross square feet located on the lower three floors of a commercial "marketplace" structure;
 - (B) Office uses: A maximum of 160,000 gross square;
 - (C) Residential uses: A maximum of 100,000 gross square feet.
- (2) Parking:
 - (A) A portion of the not less than 593 total existing parking spaces (including 105 reserved for state office users) for the existing structures located on Piers 5 through 11 in the Aloha Tower project area as of February 22, 2012, plus 110 additional parking spaces to be added

at Ala Moana Mini and along Aloha Tower Drive.

(B) Building heights:

Buildings in the C/R zone shall not exceed 90 feet. [Eff **MAY 5 2013**]
(Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§206J-1, 206J-5, 206J-6)

§19-170-76 H/O/C/R zone: purpose and intent.
The hotel/office/commercial/residential zone (H/O/C/R) established by this chapter is designed to promote and protect the public health, safety, and general welfare. These general goals include, among others, the following specific purposes:

- (1) To provide overnight accommodations and services for neighbor island and out-of-state visitors in close proximity to the downtown business and civic center activities;
- (2) To help meet the need for high quality office space in downtown Honolulu;
- (3) To provide housing in close proximity to the downtown workplace, thus reducing the residents' dependence on vehicular transportation; and/or
- (4) To provide revenues in excess of those required to develop the uses in this zone in order to provide the maritime and public uses within the Aloha Tower project at no financial cost to the general public. [Eff **MAY 5 2013**] (Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§206J-1, 206J-5)

§19-170-77 H/O/C/R zone: use rules. Within the hotel/office/commercial/residential zone (H/O/C/R), the following uses and structures shall be permitted:

- (1) Maritime uses:
 - (A) Piers, wharves and docks;

- (B) Terminals for passengers arriving or departing by ship, ferry, day/dinner cruise boat or water taxi;
 - (C) Transient berthing facilities;
 - (D) Sales offices for commercial maritime operations;
 - (E) Maritime fueling facilities;
 - (F) Short-term cargo and supply storage facilities;
 - (G) Government offices for federal and state maritime related operations.
- (2) Commercial uses:
- (A) Hotels, including condominium hotels, and related services, including food and beverage, retail, recreational and business service facilities;
 - (B) Offices;
 - (C) Financial institutions and services;
 - (D) Food markets, stores, delicatessens and bakeries;
 - (E) Drug stores;
 - (F) Liquor stores;
 - (G) General merchandise and variety stores;
 - (H) Apparel and accessories;
 - (I) Eating and drinking establishments;
 - (J) Professional and personal service establishments;
 - (K) Specialty retail establishments catering to cruise ship passengers and office workers within the complex, including those on movable carts;
 - (L) Banks and financial institutions, insurance and real estate offices;
 - (M) Personal and professional service establishments;
 - (N) Theaters, concerts, performing arts, museums, art galleries, classrooms, educational facilities, libraries and historical sites;
 - (O) Commercial entertainment, sports and

- recreational facilities (indoor and outdoor) and local and community events;
- (P) Offices, professional offices, travel agencies, meeting facilities, conference rooms and other office uses;
- (Q) Private recreation and athletic clubs;
- (R) Car rental and ground tour operations;
- (S) Fairs, markets, exhibitions and social functions when not conflicting with maritime operations.
- (3) Residential uses:
 - (A) Apartments and residential lofts, including condominium apartments, and transient rentals;
 - (B) Private recreational facilities, common lounges, residential manager's office/apartment and similar facilities;
 - (C) Commercial support facilities, including restaurants, personal service establishments, etc.
- (4) Public uses:
 - (A) Plazas, promenades and other public open spaces;
 - (B) Public streets.
- (5) Uses and structures which are customarily accessory and clearly incidental and subordinate to the principal use and structures, including parking, security and utility installations.
[Eff MAY 5 2013] (Auth: HRS §§206J-5, 206J7) (Imp: HRS §§206J-1, 206J-5)

§19-170-78 H/O/C/R zone: development requirements. Within the hotel/office/commercial/residential zone (H/O/C/R),

the following development requirements shall apply:

- (1) Floor areas/units:
 - (A) Maritime terminal facilities: Maritime terminal facilities as the Department of Transportation, State of Hawaii, shall require;
 - (B) Hotel uses: A minimum of 109 hotel suites to a maximum of 350 guest rooms;
 - (C) Retail uses: A maximum of 40,000 gross square feet excluding hotel or office related shops and services;
 - (D) Office/residential uses: A cumulative maximum of 550,000 gross square feet (excluding future hotel conversion units).
- (2) Parking:
 - (A) A portion of the 593 total existing parking spaces (including 105 reserved for state office users) for the existing structures located on Piers 5 through 11 in the Aloha Tower project area as of February 22, 2012, plus 110 additional parking spaces to be added at Ala Moana Mini and along Aloha Tower Drive.
- (3) Building heights (areas shown on exhibit entitled Aloha Tower Project Area/Land Use Zones at the end of these rules):
 - (A) Makai areas: Structures within 120 feet of the pier face shall not exceed 120 feet, and structures within the remaining area shall not exceed 105 feet;
 - (B) Mauka areas: A single tower structure shall be permitted, not to exceed 400 feet. [Eff **MAY 5 2013**] (Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§206J-1, 206J-5, 206J-6)

§19-170-79 P zone: purpose and intent. The park zone (P) established by this chapter is designed to promote and protect the public health, safety and general welfare. These goals include, among others, the following specific purposes:

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

§19-170-80 P zone: use rules. Within park zone (P), the following uses and structures shall be permitted:

- (1) Public uses;
 - (A) Parks, plazas, promenades and other public open spaces;
 - (B) Historic structures, museums and interpretive displays;
 - (C) Pavilions, bandstands, gazebos and other open-air structures for performing and entertaining;
 - (D) Underground parking facilities and access ways thereto;
 - (E) Public restrooms;
 - (F) Piers and landings for use by small boats and water taxis.
- (3) Uses and structures which are customarily accessory and clearly incidental and subordinate to the principal uses and structures, including parking, security and utility installations.
[Eff MAY 5 2013] (Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§206J-1, 206J-5, 206J-6)

§19-170-81 P zone: development requirements.
Within the park zone (P), the following development requirements shall apply:

- (1) Parking: A portion of the 593 total existing parking spaces (including 105 reserved for state office users) for the existing structures located on Piers 5 through 11 in the Aloha Tower project area as of February 22, 2012, plus 110 additional parking spaces to be added at Ala Moana Mini and along Aloha Tower Drive.
- (2) Building heights: No structure within the P zone shall exceed 30 feet.
[Eff ~~MAY 5 2013~~] (Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§206J-1, 206J-5, 206J-6)

§19-170-82 to §19-170-109 (Reserved)

§19-170-110 Additional development requirements. In addition to the requirements of the respective land use zones specified in this subchapter, the development requirements of subchapter 8 relating to any development, irrespective of the land use zone in which it is located, shall be applicable unless specifically provided otherwise. [Eff ~~MAY 5 2013~~] (Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§206J-1, 206J-5, 206J-6)

SUBCHAPTER 8

GENERAL DEVELOPMENT REQUIREMENTS

§19-170-111 Purpose and intent. The purpose of

this subchapter is to set forth standards relating to development which are generally applicable to any use or site, irrespective of the land use zone in which it is located. [Eff ~~MAY 5 2013~~] (Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§206J-1, 206J-5, 206J-6)

§19-170-112 Heights. The following building elements or features may exceed the height limits prescribed in subchapter 7:

- (1) Structures housing or screening necessary mechanical appurtenances of the building on which they are erected;
- (2) Necessary utilitarian features including stairwell enclosures, safety railings, ventilators, and skylights;
- (3) Decorative or recreational features, including cornices, rooftop gardens, planter boxes, flag poles, spires, cupolas, or ornamental towers;
- (4) Roof-mounted radio or television mast antennae and roof-mounted dish antennae; and
- (5) Energy-saving devices, including heat pumps and solar collectors. [Eff ~~MAY 5 2013~~] (Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§206J-1, 206J-5, 206J-6)

§19-170-113 Yards. (a) The minimum front yard requirements shall be as follows:

- (1) A front yard of ten feet in depth measured perpendicularly from the street boundary line shall be provided for each development parcel.
- (2) Every yard bounded by a public street shall be a front yard.

(b) There shall be no minimum side and rear yard requirements.

(c) Permitted uses within all front yards include:

- (1) Buildings, or portions thereof, provided there is a minimum of 15 feet of public

sidewalk between the structure and the curb of the adjacent street;

- (2) Outdoor dining areas which are covered with umbrellas, awnings or trellises but remain open on the sides during business hours;
- (3) Porte cocheres;
- (4) Customary yard accessories;
- (5) Dispensers for newspaper sales and distribution;
- (6) Fences and retaining walls as provided in subsection (d) below;
- (7) Public utility facilities not exceeding six feet in height from existing grade and screened with landscaping;
- (8) Bus stop shelters;
- (9) Upper-level pedestrian-ways approved by the corporation; and
- (10) Other structures under thirty inches.

(d) Retaining walls within required front yards shall not exceed a height of thirty inches. A safety railing or fence may be erected on top of the retaining wall. The safety railing shall not be capable of retaining earth or exceed forty-two inches above the finish grade of the fill on the inside of the retaining wall.

(e) Except as specifically provided otherwise, roof overhangs, eaves, sunshades, sills, frames, beam ends, projecting courses, planters, awnings, and other architectural embellishments or appendages with less than a thirty-inch vertical thickness may project no more than four feet into the required distance of a yard or setback. Exterior balconies, lanais, arcades, or covered passageways are not permitted within required front yards.

(f) Parking and loading including any related maneuvering area or aisle shall not be allowed in any front yard or area except for short-term parking and loading in conjunction with porte activities. [Eff] (Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§206J-1, 206J-5, 206J-6)

§19-170-114 Off-street parking. (a) The minimum number of required off-street parking spaces for the existing structures located on Piers 5 through 11 in the Aloha Tower project area shall be as specified in subchapter 7.

(b) At least sixty per cent of required parking shall be standard sized parking spaces and forty per cent may be compact spaces, except that residential dwelling and hotel units may have fifty per cent compact spaces.

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

- (1) All parking and drive areas shall be provided and maintained with an all-weather surface;
- (2) All parking areas shall be illuminated in such a manner that all light sources are shielded from the direct view of adjacent developments;
- (3) Ingress and egress aisles shall be provided to a street and between parking bays. In addition, minimum aisle widths for parking bays, except mechanical parking areas, shall be provided in accordance with the following table:

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

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

provided that:

- (1) The corporation finds that:
 - (A) Such off-site parking would provide flexibility and result in a development that is practically and aesthetically superior to that which could be accomplished with the rigid enforcement of this chapter;
 - (B) The resulting development would not adversely affect adjacent developments or uses; and
 - (C) The resulting development will be consistent with the intent of the project plan;
- (2) The parking facility is located within or adjacent to the project area; and
- (3) A written agreement satisfactory to the corporation is executed stipulating that the required number of off-site parking spaces shall be available to the proposed use. Said agreement shall provide that if the amount of parking spaces is not maintained, or space acceptable to the executive officer substituted, the use, or such portion of the use as is deficient in number of parking spaces, shall be discontinued. No change in use or new construction shall be permitted which increases the requirements for off-street parking unless such additional space is provided. [Eff ~~MAY 5 2019~~] (Auth: HRS §§206J-5, 206-7) (Imp: §§206J-1, 206J-5, 206J-6)

§19-170-115 Off-street loading. (a) Buildings shall provide off-street loading spaces for the area proposed to be constructed as follows:

- (1) Hotel/office/commercial/residential (H/O/C/R) zone: A minimum of five spaces;
- (2) Commercial/residential (C/R); and Maritime/office/commercial (M/O/C) zones: A cumulative minimum of six spaces; and

(3) Park (P) zone: No spaces required.

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

- (1) The minimum horizontal dimensions of at least half of the required spaces shall be 12 x 35 feet and have a vertical clearance of at least fourteen feet. The balance of the required spaces in any zone shall have horizontal dimensions of at least 19 x 8-1/2 feet and vertical clearance of at least ten feet;
- (2) Each loading space shall be unobstructed and shall be arranged so that any vehicle may be moved without moving the other;
- (3) Adequate maneuvering areas and access to a street shall be provided and shall have a vertical clearance not less than the applicable height for the loading space;
- (4) All loading spaces and maneuvering areas shall be paved with an all-weather surface;
- (5) Where loading areas are illuminated, all sources of illumination shall be shielded to prevent any direct reflection toward adjacent premises;
- (6) Loading spaces for three or more vehicles shall be arranged so that no maneuvering to enter or leave a loading space shall be on any public street, alley or walkway;
- (7) Each required loading space shall be identified as such and shall be reserved for loading purposes;
- (8) No loading space shall occupy required off-street parking spaces or restrict access; and
- (9) No loading space or maneuvering area shall be located within a required yard.

[Eff **MAY 5 2013**] (Auth: HRS §§206J-5, 206-7) (Imp: §§206J-1, 206J-5, 206J-6)

§19-170-116 Signs. Except as otherwise provided, signs shall conform to the "B2 Community Business District" sign regulations of the land use ordinance of the city and county of Honolulu. The corporation shall be responsible for enforcement of the ordinance's provisions, and shall also administer appeals and variances relating to signs.

[Eff ~~MAY~~ 5 2013] (Auth: HRS §§206J-5, 206J-7)
(Imp: HRS §§206J-1, 206J-5, 206J-6)

§19-170-117 Architectural criteria. (a) All rooftop mechanical appurtenances, stairwells and elevator enclosures, ventilators, and air-conditioning equipment shall be screened from view by architectural or landscape treatments.

(b) Parking structures shall not be visible from adjacent streets. [Eff ~~MAY~~ 5 2013] (Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§206J-1, 206J-5, 206J-6)

§19-170-118 Circulation. The approval of the executive officer or corporation shall be required on any addition, deletion, modification or alteration of existing streets shown on the project area plan. The executive officer or corporation may consult with other appropriate governmental agencies prior to said approval. [Eff ~~MAY~~ 5 2013] (Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§206J-1, 206J-5, 206J-6)

§19-170-119 Utilities required to be underground. Public utility companies (including HECO, Hawaiian Telcom and CATV companies) shall place utility lines servicing new structures underground within the project area. The location of all utility structures placed on pads shall be subject to the executive officer's approval. [Eff] (Auth: HRS §§206J-5, 206J-7)
(Imp: HRS §§206J-1, 206J-5, 206J-6)

§19-170-120 Performance standards. (a) Where a building wall contains a reflective surface for more than thirty per cent of the surface area of the wall, diagrams, charts and other documents shall be submitted to the executive officer which clearly indicate the impact of the reflection from the wall on any street within 1,000 feet of the reflective wall during the two daily periods of 6:30 a.m. to 8:00 a.m., and 3:30 p.m. to 6:00 p.m. throughout the year. Denial or modification of the project may be made where adverse reflection can be shown.

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

(c) Any provision in this chapter to the contrary notwithstanding, the rules of the state department of health shall continue to apply to all activities and properties within the project area. These rules shall include, but not be limited to, department of health, chapter 11-43 relating to community noise control for Oahu, chapter 11-11 relating to sanitation, chapter 11-14 relating to housing, chapter 11-34 relating to poisons, chapter 11-39 relating to air conditioning and ventilation, chapter 11-42 relating to vehicular noise control, chapter 11-55 relating to water pollution, chapter 11-58 relating to solid waste management control, chapter 11-59 relating to ambient air quality standards, and chapter 11-60 relating to air pollution.

[Eff **MAY 5 2013**] (Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§206J-1, 206J-5, 206J-6)

§19-170-121 Temporary uses. Temporary structures, such as tents and booths, may be permitted in any zone for periods not exceeding fourteen days, provided that for good reasons, the executive officer, in his sole discretion, may grant extensions for an additional fourteen days. [Eff **MAY 5 2013**] (Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§206J-1, 206J-5, 206J-6)

§19-170-122 Conditional use of vacant land. The executive officer, in his sole discretion, may allow a conditional use of vacant land, provided:

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

- (7) The proposed uses in no way prevents or delays the future development of the facility. [Eff MAY 5 2013] (Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§206J-1, 206J-5, 206J-6)

§19-170-123 Flood hazard district. The applicable provisions of Article 7 of the land use ordinance relating to flood hazard districts shall apply to all affected activities and properties within the Aloha Tower complex area. [Eff MAY 5 2013] (Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§206J-1, 206J-5, 206J-6)

§19-170-124 Applications. (a) Prior to submitting an application for a development permit, applicants shall be required to have complied with section 19-170-59 of this chapter.

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

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

- (1) Location map showing the project in relation to the surrounding area;
- (2) Site plan showing:
 - (A) Property lines and easements with dimensions and area;
 - (B) The proposed building location, elevations, dimensions, sections, and floor plan and site sections to clearly define the character of the project;
 - (C) Location of existing buildings, site features and conditions; and

- (D) Location and dimensions of existing and proposed easements, utilities, and rights-of-way;
- (3) A land use plan showing:
 - (A) The locations and uses of all buildings and structures, the general bulk and height of all buildings and their relationship to each other and to adjacent areas, the gross floor areas of buildings by type of uses, the ground coverage of all buildings, and the FAR of the project;
 - (B) The locations and size of vehicular and pedestrian circulation systems (both exterior and interior), identification of public and private areas and their dimensions, the location and dimensions of off-street loading areas and the location of points of access to the site and to public transportation facilities;
 - (C) The locations and dimensions of parking areas, with calculations of the number of parking spaces;
 - (D) The location of land to be dedicated for public facilities;
 - (E) The location of land which is intended for common quasi-public, or amenity use but not proposed to be in public ownership, and proposed restrictions, agreements or other documents indicating the manner in which it will be held, owned, and maintained in perpetuity for the indicated purposes;
 - (F) Landscaping plan; and
 - (G) Location and amount of all open space and recreation areas;
- (4) A detailed statement describing the manner in which the development would conform to the Aloha Tower project area plan and the purposes and standards of this chapter;
- (5) A development program stating the sequence

- in which all structures, open and amenity spaces, vehicular and pedestrian circulation systems, and community recreational facilities are to be developed;
- (6) The relationship, if any, of the development program to the city and county of Honolulu's capital improvements program;
 - (7) Analyses of traffic, wind, sun, and noise impacts;
 - (8) An analysis of the shadows to be cast by all buildings;
 - (9) A three dimensional study model; and
 - (10) Any additional information which the executive officer may request.
- (d) The completed application shall be filed with the corporation. For a development not requiring a variance, the corporation shall
- (1) Approve the application as submitted;
 - (2) Approve subject to such modifications or conditions as the corporation may establish at its sole discretion; or
 - (3) Deny with reasons for denial within sixty days of receipt of the completed application. For a proposed development requiring a variance, the decision on the development permit application shall be rendered within sixty days of the order approving or disapproving the variance. Such decision shall be made in writing and sent to the applicant.
- (e) If a permit required by this chapter requires a public hearing, no request for postponement of the hearing shall be allowed after notice has been published; however, the applicant may withdraw the permit application. [Eff **MAY 5 2013**] (Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§206J-5)

§19-170-125 Determination by the corporation.
In reaching its determination on an application for a development permit, the corporation shall consider the following:

- (1) Conformance of the proposed development with the Aloha Tower project area plan and in particular, the proposed use, density, height, arrangement and design of structures;
- (2) Whether the maritime facilities meet the requirements and specifications established by the corporation;
- (3) Whether the setbacks, yards, pedestrian ways, and related open spaces are so located and of sufficient dimensions to provide for adequate light, air and audio/visual separation;
- (4) Whether the vehicular circulation system, including access and off-street parking and loading, is so designed as to provide an efficient, safe, and convenient transportation system;
- (5) Whether the pedestrian circulation system:
 - (A) Is so located, designed and of sufficient size as to conveniently handle pedestrian traffic efficiently and without congestion;
 - (B) Is separated, if necessary, from vehicular roadways so as to be safe, pleasing and efficient for movement of pedestrians; and
 - (C) Provides efficient, convenient and adequate linkages between the water's edge and public activity, on-site residential areas, commercial and employment areas, and adjacent downtown developments at all hours of the day and night;
- (6) The adequacy of landscaping and screening of parking, loading and service areas as well as lighting and signs in relation to adjacent uses and public byways;
- (7) The staging program and schedule of development;
- (8) Relationship of new structures to the historically significant structures

- remaining within the project area;
- (9) Surface treatments and overall quality of materials;
- (10) Design continuity and overall appearance of the development from the street, the water and adjacent developments;
- (11) Whether structures have an appropriate orientation to take advantage of winds, reduce direct sun exposure, and minimize shadow effect on adjacent buildings;
- (12) Preservation of internal and adjacent view corridors;
- (13) Whether the facades of buildings are properly articulated, colored, and, where appropriate, landscaped;
- (14) Any other matter relating to the development or its impact on affected properties or public facilities. [Eff **MAY 5 2013**]
(Auth: HRS §§206J-5, 206J-7) (Imp: HRS §206J-5)

§19-170-126 Lapse of development permit. (a)

Any planned development permit granted under the provisions of this subchapter shall automatically lapse if the initial building permit authorizing the construction of the foundation or superstructure of the project shall not have been issued within two years from the date of the permit.

(b) Should a development permit provide for phased construction, the phases shall be constructed in accordance with the time periods set forth therein; however, if no time is specified, the development permit shall lapse if the building permit for the subsequent phase shall not have been issued within one year of the issuance of the occupancy permit for the previous phase.

(c) The corporation may grant up to two extensions to the effective period of a development permit, not to exceed two years each, upon the applicant's request and justification in writing for an extension, provided the request and justification

are received by the corporation at least one hundred days in advance of the automatic termination date of the development permit and there are no material changes in circumstances which may be cause for denial of the extension. The corporation shall hold a public hearing on an extension request if a public hearing had been held on the development permit or any variance or modification granted as part of the development permit process. The request for extension shall be accompanied by a fee of \$200 plus the cost of publication of notice to defray the expenses of holding a hearing. The cost of the hearing notice shall be refunded only if the public hearing notice has not been submitted to the publishing agency. [Eff ~~MAY~~ 5 2013] (Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§206J-1, 206J-5)

§19-170-127 Modification of specific provisions. As a part of the development permit review process, the corporation may modify plan and rule requirements provided a public hearing is held. Except as otherwise specifically provided, modifications may be granted only to the following:

- (1) Building envelope requirements;
- (2) Yards;
- (3) Loading space;
- (4) Parking; and
- (5) Uses. [Eff ~~MAY~~ 5 2013] (Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§206J-1, 206J-5)

§19-170-128 Conditions for modification. (a) In order for the corporation to consider modification of the zoning requirements listed in section 19-170-127, the applicant must demonstrate that:

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

(3) The resulting development will be consistent with the intent of the Aloha Tower project area plan.

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

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

[Eff **MAY 5 2013**] (Auth: HRS §§206J-5, 206J-7)

(Imp: HRS §§206J-1, 206J-5)

§19-170-129 Rules review and amendment. The development plan for the Aloha Tower project area is subject to amendment as provided therein. These Aloha Tower project area rules may be modified or amended in the same manner as they were promulgated, or through such other procedure as may be authorized by the corporation's rules of practice and procedure or by applicable law. All such changes shall be subject to approval by the corporation's board.

[Eff **MAY 5 2013**] (Auth: HRS §§206J-5, 206J-7)

(Imp: HRS §§206J-1, 206J-5)

§§19-170-130 to 19-170-149 (Reserved)

SUBCHAPTER 9

SUBDIVISION RULES OF THE ALOHA TOWER DEVELOPMENT

CORPORATION

§19-170-150 Title and authority. This

subchapter may be cited as the "Subdivision Rules of the Aloha Tower Development Corporation". These rules are adopted pursuant to chapter 206J, HRS.

[Eff ~~MAY~~ 5 2013] (Auth: HRS §§206J-5(5), 206J-7)
(Imp: HRS §206J-7)

§19-170-151 Purpose. The purpose of this subchapter is to regulate and control the subdivision and consolidation of land for the following purposes, all of which promote the general welfare and an environment that is safer, healthier, more convenient, efficient, and attractive:

- (1) To implement the purpose of chapter 206J, HRS, namely, to strengthen the international economic base of the community in trade activities, to enhance the beautification of the waterfront, and in conjunction with the state department of transportation, to better serve modern maritime uses, and to provide for public access and use of the waterfront property;
- (2) To serve as a stimulant to the commercial activities of the downtown business community and to help transform the waterfront into a "people place";
- (3) To insure and promote the observance of desirable planning and engineering design principles and practice;
- (4) To promote good civic planning and design and assure an arrangement of lots, streets, utilities, and other features so as to achieve an orderly layout and efficient use of the land;
- (5) To preserve, enhance, and improve the natural amenities, qualities, and environment of the community by securing a harmonious relationship between the subdivision and its environment;
- (6) To coordinate street improvements with relation to existing and planned street and highway systems and insure adequate

- provisions for traffic control, traffic safety, water supply, sewage, drainage, and electrical and other utility lines;
- (7) To prevent population congestion and to secure safety from fire and other dangers to persons and property; and
 - (8) To promote efficient expenditure of public money. [Eff **MAY 5 2013**] (Auth: HRS §§206J-5(5), 206J-7) (Imp: HRS §206J-7)

§19-170-152 Scope. (a) No person shall subdivide or consolidate land without complying with the provisions of these rules and receiving approval of the final map.

(b) No person shall designate an easement unless it conforms to the provisions of these rules and receives approval.

(c) No person shall submit a map of a subdivision or consolidation, for recordation or filing in the state registrar of conveyances or registrar of the land courts, unless a final map has been approved by the executive officer.

(d) No person shall sell or transfer any interest in land located in a subdivision or consolidation until the final map thereof has been approved by the executive officer and recorded in the state registrar of conveyances, registrar of the land courts, or office of the state surveyor.

(e) Within a subdivision, no roadway system shall be opened to the general public and no building shall be occupied for any use permitted in the land use zone until all improvements required by these rules have been constructed, installed, and approved by the executive officer. [Eff **MAY 5 2013**] (Auth: HRS §§206J-5(5), 206J-7) (Imp: HRS §206J-7)

§19-170-153 Administration. The board, through its executive officer, shall administer this subchapter. [Eff **MAY 5 2013**] (Auth: HRS §§206J-

5(5), 206J-7) (Imp: HRS §206J-7)

§19-170-154 Appeals. (a) The board shall hear and determine appeals from the actions of the executive officer in the administration of this subchapter. An appeal shall be sustained only if the board finds that the executive officer's action was based on an erroneous finding of a material fact, or that the executive officer acted in an arbitrary or capricious manner or committed a manifest abuse of discretion.

(b) All appeals shall comply with the provisions of this chapter. [Eff **MAY 5 2013**] (Auth: HRS §§206J-5(5), 206J-7) (Imp: HRS §206J-7)

§19-170-155 Violations and penalties. The development corporation may maintain an action for an injunction to restrain any violation of this subchapter, and may take any other lawful action to prevent or remedy any violation of this subchapter. [Eff **MAY 5 2013**] (Auth: HRS §§206J-5(5), 206J-7) (Imp: HRS §206J-7)

§19-170-156 Definitions. Except as otherwise stated in this subchapter, all of the definitions contained in the land use ordinance of the city and county of Honolulu, ordinance no. 86-96, as amended ("LUO"), are incorporated herein by reference and made a part hereof. As used in this subchapter, unless the context clearly requires otherwise:

"Approval" means that the subdivision or consolidation has met the standards and requirements of the board.

"Bikeway" means "bikeway" as defined in chapter 15, Revised Ordinances of Honolulu of 1969.

"Block" means an area bounded by streets.

"Board" means the board of directors of the Aloha Tower development corporation.

"Chief engineer" means the director and chief

engineer of the department of public works, city and county of Honolulu.

"City" means the city and county of Honolulu, whose geographical limits include the island of Oahu and all other islands in the State of Hawaii, not included in any other county and the waters adjacent thereto.

"Consolidation" means the combining of two or more lots into one lot. It includes reconsolidation, and when appropriate to the context, relates to the land consolidated and may include consolidation of unregistered land with registered land.

"Development plan" means the Aloha Tower project area development plan, effective December, 1991, as amended, as authorized pursuant to section 206J-7, HRS.

"Easement" means a grant of the right to use a strip of land for a specific purpose.

"Engineer" means a licensed professional engineer in the State of Hawaii.

"Frontage street" means a street parallel and adjacent to a major street providing access to abutting properties, but protected from heavy through traffic.

"Lot" means a parcel of land intended as a unit for transfer of ownership or interest therein or for development purpose.

"Major street" means a street of considerable continuity which can carry a large volume of traffic and used primarily as a route between communities, large urban areas, or from one section of the City to another.

"Manager" means the manager and chief engineer of the board of water supply, city and county of Honolulu.

"Minor street" means a street other than a major or secondary street providing access to abutting property and serving local traffic only.

"Pedestrian way" means a right-of-way or easement for pedestrian traffic. It may also be used as a utility easement, or for restricted vehicular traffic.

"Private street" means a street or easement

providing access to land, retained in private ownership, but subject to an easement for public use.

"Secondary street" means a street which carries or collects traffic from minor streets either directly or via other secondary streets.

"Street" means any public or private right-of-way primarily for vehicular use.

"Subdivider" means a person, firm, corporation, partnership, association, trust, or other legal entity or combination thereof causing land to be subdivided or consolidated, which is the owner of the land or the duly authorized agent or lessee of the owner.

"Subdivision" means the division of land into two or more lots, parcels, or other division of land, including designation of easements, for the purpose, whether immediate or future, of sale, lease, rental, transfer of title to or interest in, any or all of such lots or other division and shall include resubdivision.

"Surveyor" means a licensed professional land surveyor in the State of Hawaii.

"Traffic engineer" means the director of transportation services, city and county of Honolulu.

"Wastewater management director" means the director of the department of wastewater management, city and county of Honolulu. [Eff MAY 5 2013]
(Auth: HRS §§206J-5(5), 206J-7) (Imp: HRS §206J-7)

§19-170-157 Subdivision committee. (a) There shall be a subdivision committee which shall hold regular meetings and make recommendations to the executive officer on subdivision applications and such other matters pertaining to the subdivision of land as may be presented to it by the executive officer.

(b) The subdivision committee shall be composed of the executive officer, the mayor of the City, the chairpersons of the department of transportation and the department of land and natural resources, or their authorized representatives. [Eff MAY 5 2013]
(Auth: HRS §§206J-5(5), 206J-7) (Imp: HRS §206J-7)

§19-170-158 Consolidation. (a) The owner of any land subdivided into lots shall file an application under this subchapter if the owner wishes to consolidate two or more lots. Procedures in connection therewith shall conform to the requirements for approval of a subdivision. [Eff **MAY 5 2013**]
(Auth: HRS §§206J-5(5), 206J-7) (Imp: HRS §206J-7)

§19-170-159 Modifications. (a) The executive officer may modify provisions of this subchapter whenever the land to be subdivided or consolidated is of such size and shape or is affected by such location, or topographical condition, or is devoted to such uses that it is impractical in the particular case to conform fully to this subchapter; or if the subdivision or consolidation is by a public agency and in the public interest.

(b) Modification from specific compliance may be granted where a plan provides adequate public spaces and improvements for circulation, recreation, light, air, and all other needs of the development when fully constructed and populated, and covenants or other legal provisions are provided as will assure continued conformity to and achievement of the development.

(c) Modification requests must be in writing and substantiated by facts presented with the request, indicating that the modification is reasonably necessary and not contrary to the intent and purpose of this subchapter.

(d) Before granting any modifications, the executive officer may refer the request to the chief engineer, traffic engineer, wastewater management director, manager, or other appropriate agency for consideration, comments, or recommendations.

[Eff **MAY 5 2013**] (Auth: HRS §§206J-5(5), 206J-7)
(Imp: HRS §206J-7)

§19-170-160 Fees. Filing fees shall be as determined by the executive officer.
[Eff **MAY 5 2013**] (Auth: HRS §§206J-5(5), 206J-7)

(Imp: HRS §206J-7)

§19-170-161 Public utility easements. Where only the designation of easements for the construction, installation or maintenance of cables, lines, anchors, guys, poles, pipelines, conduits, and similar installations with their associated facilities, of public utilities subject to the provisions of chapter 269, HRS, are involved, it shall be sufficient compliance with this subchapter if the utility company files fifteen copies of a map with the executive officer showing the name of the owner, tax map key, the purpose of the easement, street and street names, and property lines and existing and proposed easements clearly identified with areas, dimensions, and other data to definitely locate and identify the easements, without otherwise complying with the requirements for preliminary or final maps as herein set forth, and such map shall be deemed approved thirty days after filing, subject to disapproval by the executive officer by written notice to the one so filing, given within thirty days of the filing, if the executive officer finds that the easements so designated will result in a condition likely to be harmful or dangerous to the health, safety, or welfare of the neighborhood or community, or not in accordance with the development plan.
[Eff MAY 5 2013] (Auth: HRS §§206J-5(5), 206J-7)
(Imp: HRS §206J-7)

§19-170-162 Preliminary map; requirements. (a) A preliminary map filed with the executive officer shall be prepared by or under the supervision of an engineer or surveyor.

(b) The preliminary map shall be of one of the following sizes, in inches: 10 x 15, 15 x 21, 21 x 32, 30 x 36, 36 x 42, or 42 inches wide without restriction as to length. The map shall be prepared and drawn according to one of the following scales: 10, 20, 30, 40, 50, 60, 100, 200, 300, 400, 500, 1000,

2000, 3000, 4000, or 5000 feet to an inch. When more than one sheet is required, an index sheet of the same size as the other sheets shall be filed showing the entire subdivision on one sheet with block and lot numbers.

(c) The preliminary map shall include the requirements set forth below and shall clearly show all or as much of the following information as the executive officer may require:

- (1) Name, address, and signature of owner or owners of the land to be subdivided, the subdivider, and signature and stamp of the engineer or surveyor. If the preliminary map is not signed by the owner or owners, the preliminary map shall be accompanied by a certificate or letter from the owner stating that the subdivider is an authorized agent of the owner of the land.
- (2) Date, north arrow, scale, tax map key, geographic locations, and subdivision description. The proposed name of the subdivision shall not duplicate nor resemble the name of another subdivision in the City. The subdivision name shall be subject to approval by the executive officer.
 - (A) Where a subdivision is otherwise difficult to locate by tax map key or existing streets, the location of the subdivision shall be shown in relation to the entire tract and the surrounding area and the names and locations of subdivisions immediately adjacent to it.
 - (B) In an area which is subdivided in increments, the preliminary map shall be accompanied by an overall development plan of the total area showing general data of future streets and topography.
 - (C) In a subdivision which may reasonably be expected to be resubdivided in whole or in part at some future time, there

shall be shown in dotted lines on the preliminary map a plan of any possible future subdivision and street extensions.

- (D) If the preliminary map covers a larger tract or parcel of land than shown on the final map, the preliminary map shall constitute only that portion in conformity with the final map approved by the executive officer. Each portion of a preliminary map shall constitute a separate and distinct map in conformity with each and every final map submitted for approval to the executive officer and each final map so submitted shall be considered a new application.
- (3) Lot layout and approximate dimensions, lot width, lot number of each lot, area of each lot, total number of lots, and total area of the proposed subdivision.
- (4) The features of the development plan, the ATDC Land Use Zone designation, as defined in subchapter 7, and the existing zoning designation, in accordance with the LUO, on and adjacent to the subdivision.
- (5) Locations, names, dimensions, approximate gradients, and radius of curves of existing and proposed streets within and adjacent to the subdivision; approximate location, area, dimensions of existing and proposed easements; existing drainage facilities; method of sewage disposal; and source of water supply.
- (6) Approximate location of areas subject to inundation or storm water overflow, and of all areas covered by waterways, including ditches, streams, and drainage courses within or abutting the subdivision and dangerous areas or features likely to be harmful to the proposed subdivision or the surrounding area, and possible Flood Area designation in accordance with the LUO.

- (A) Existing contours at vertical intervals of one foot, and the finished condition to be achieved by the proposed grading to be shown by contours, cross sections, spot elevations or other means. Elevations shall be marked on such contours based on city and county datum.
- (B) Approximate location and general description of any historical, or significant landmarks or other natural features, and trees with a trunk diameter of six inches or more at five feet above ground, and an indication as to the proposed retention or disposition of such features.
- (7) Existing improvements including buildings and their locations in relation to existing and proposed street and lot lines, the dimensions to street and lot lines, and the uses and height of existing buildings or structures, if they are to be retained. Indicate if the buildings or structures are to be demolished.
- (8) Proposed use of the lots whether for parks, open spaces, multi-family dwellings, hotel, commercial, maritime or other purposes, and existing parks, and other public places or spaces within adjoining properties.
- (9) Location, with notations, and the sizes of all parcels of land, including streets, improvements, facilities, and easements proposed to be dedicated to the City or State, or whether the streets, improvements, facilities, and easements are to remain private.
- (10) Other information such as existing and proposed sewers, water, drainage facilities, street trees, street lights, gas, electric, and telephone conduits or lines and other utilities within and adjacent to the subdivision to be dedicated to the City or

State, together with invert elevations based on City datum, or reports such as a soils report, traffic report, or drainage study, as may be required by the executive officer or upon recommendation of the chief engineer, traffic engineer, wastewater management director or manager, shall be furnished. Information not practical to be shown on maps shall be furnished in a written statement accompanying the maps.
[Eff **MAY 5 2013**] (Auth: HRS §§206J-5(5), 206J-7) (Imp: HRS §206J-7)

§19-170-163 Preliminary map; procedures. (a) The subdivider shall file with the executive officer twenty copies of the preliminary map and filing fee.
(b) The executive officer shall act on the preliminary map within thirty days after filing.
(c) The time of filing is the time at which the preliminary map and filing fee are received by the executive officer who shall indicate the date and time of filing on one copy of the preliminary map.
[Eff **MAY 5 2013**] (Auth: HRS §§206J-5(5), 206J-7)
(Imp: HRS §206J-7)

§19-170-164 Preliminary map; action. Upon review and report by the subdivision committee and other governmental agencies as required, the executive officer shall act upon the preliminary map as follows:

- (1) Tentative approval of the preliminary map is subject to the following:
 - (A) Tentative approval of the preliminary map means that the preliminary map conforms to all the requirements of this subchapter. It authorizes the subdivider to proceed with preparation of construction plans for streets, utilities, and other improvements and requirements as may be required by the executive officer and to proceed with

preparation of the final map.

- (B) In the case of a subdivision which does not involve construction or widening of streets or highways, or construction of utilities, including sewer and water mains, the subdivider, after obtaining tentative approval of the preliminary map, may prepare a final map of the proposed subdivision. Approval of the final map may be granted upon certification of the chief engineer and manager that, where required, an adequate deposit or deposits for installation of necessary service laterals have been made for water and sewer service connections.
 - (C) Any proposed subdivision at the time tentative approval of the preliminary map is granted, shall be required to conform to any changes or amendments to this subchapter or other applicable laws, rules, standards, and policies in effect at the time. New or amended standards shall be required to be met as a condition of permitting an extension of time.
- (2) Disapproval by the executive officer means the preliminary map does not conform to all or portions of the requirements of this subchapter.
 - (3) Deferral by the executive officer means the preliminary map requires further consideration, study or consultation, or additional reports or data are required from the subdivider, or minor changes to the preliminary map are required. The deferral shall be for a period of ninety days. A request for an extension of the deferral may be made by the subdivider in writing to the executive officer stating the reasons therefor, prior to the expiration of the ninety-day period. One 180-day extension

may be granted by the executive officer. Failure to receive tentative approval of the preliminary map within the ninety-day or 180-day deferral period shall automatically terminate all proceedings, and the application shall become null and void. To reactivate an application, a new application and a new preliminary map shall be filed with the required filing fee.

- (4) Actions of the executive officer shall be reported in writing directly to the subdivider stating or describing reasons, requirements, or any conditions of action on the preliminary map.
- (5) Tentative approval of the preliminary map shall not be entered in writing on the map or be construed to mean approval of the subdivision for recordation or any other purpose.
- (6) If the proposed subdivision covers only a portion of a large tract or parcel of land, the action of the executive officer shall be directed to only that portion of the large tract or parcel. Each and every other portion shall constitute a separate action, and each portion shall be submitted as a new application.
- (7) If the preliminary map is disapproved, the stamp of disapproval shall be issued on a copy or print of the preliminary map.
- (8) In a subdivision which involves no streets, drainage, or other improvements, the preliminary map may be approved by the executive officer as a final map, provided the preliminary map meets requirements of a final map. [Eff MAY 5 2013] (Auth: HRS §§206J-5(5), 206J-7) (Imp: HRS § 206J-7)

§19-170-165 Final map; requirements. (a) A final map filed with the executive officer shall be prepared by or under the supervision of a surveyor.

(b) Size and scale of the final map shall be as required under section 19-170-162. A final map which affects land court lands shall comply with requirements of the land court.

(c) The final map shall include the requirements set forth below and any additional information which the executive officer may require:

- (1) Name of the owner or owners, and stamp and signature of the surveyor.
- (2) Date, north arrow, scale, tax map key, geographic location, and subdivision description.
- (3) Subdivision boundary lines, right-of-way lines, lot lines with true azimuths and distances, radii, points of curvature, and the lot area with lot identification and total area of the subdivision.
- (4) Easements, denoted by fine broken lines, clearly identified with area, widths, lengths, and azimuths, and sufficient title thereto to definitely locate and identify the easement.
- (5) The map shall be accurately surveyed, coordinated to City street monuments and government survey triangulation stations and permanently monumented on the ground with adequate monuments of a permanent nature.
- (6) Reference points of existing surveys and all other monuments found or established in making the survey of the subdivision shall be identified.
- (7) Approved street names.
- (8) Setback lines and minimum floor elevations for structures.
- (9) Possible flood area designation and encumbrances in accordance with the LUO.

(d) The final map shall conform substantially to the preliminary map given tentative approval and the executive officer may disapprove a final map which does not so conform. At any stage of the subdivision application, any proposed revision to the preliminary map shall be submitted in writing to the executive

officer for approval. [Eff **MAY 5 2013**] (Auth: HRS §§206J-5(5), 206J-7) (Imp: HRS §206J-7)

§19-170-166 Final map; procedures. (a) Within two years after tentative approval of the preliminary map, the subdivider shall file with the executive officer fifteen copies of the final map.

(b) The time limit specified may be extended not exceeding one year as may be granted in writing by the executive officer. Request for extension of time for filing of the final map shall be made by the subdivider in writing to the executive officer stating the reasons therefor, prior to expiration of the two-year period. Only two such time extensions shall be granted by the executive officer, except in cases where the construction plans have been approved by the executive officer and construction of improvements has commenced.

(c) Failure to file a final map within the required period shall automatically terminate all proceedings and the subdivision shall become null and void. Before a final map may thereafter be approved, the subdivider shall recommence proceedings by filing a new application with the required filing fee.

(d) The time of filing a final map shall be taken to mean the time at which the same together with all required data are received by the executive officer, who shall indicate the date and time filing upon one copy of the final map. [Eff **MAY 5 2013**] (Auth: HRS §§206J-5(5), 206J-7) (Imp: HRS §206J-7)

§19-170-167 Final map; action. Upon review and report by the subdivision committee, the executive officer shall act upon the final map within forty-five days after filing as follows:

- (1) Approval of the final map means the subdivision has met all requirements of this subchapter. Approval of the subdivision shall be issued in writing to the subdivider, and the stamp of approval shall

be placed on a copy or print of the final map. The approval of the final map by the executive officer shall not be deemed to constitute or effect an acceptance by the State of any easement shown on the map and shall not relieve the subdivider of responsibility for errors or other discrepancies in the subdivision. Errors or discrepancies shall be revised or corrected to the satisfaction of the executive officer. No approval shall be granted unless any and all assessment liens outstanding to the City or to the State have been paid in full or ratably reallocated between or among the lots resulting from the subdivision. After approval, the executive officer shall submit the final map to the department of land utilization of the City for filing. The approved final map on file with the development corporation and with the department of land utilization of the City shall be an official record for the purpose of administering laws, ordinances, and other regulations.

- (2) Disapproval of the final map means the final map does not conform to all or portions of the requirements of this subchapter. The reasons for disapproval shall be stated in a letter to the subdivider and a stamp of disapproval shall be placed on a copy or print of the final map.

[Eff **MAY 5 2013**] (Auth: HRS §§206J-5(5), 206J-7) (Imp: HRS § 206J-7)

§19-170-168 Conformance to development plan.

Each subdivision shall conform to and implement the intent and purpose of the development plan.

[Eff **MAY 5 2013**] (Auth: HRS §§206J-5(5), 206J-7)
(Imp: HRS §206J-7)

§19-170-169 Conformance to other laws. Each subdivision shall conform to the Aloha Tower Complex Project Area Rules, federal and state laws, regulations and standards of the board of water supply, and other requirements and standards of other agencies. The subdivider shall be responsible for securing required approvals and permits for subdivisions regulated by law or regulations other than this subchapter, except to the extent that such laws or regulations have been superseded by these rules. [Eff ~~MAY~~ 5 2013] (Auth: HRS §§206J-5(5), 206J-7) (Imp: HRS §206J-7)

§19-170-170 Land suitability. (a) No subdivision shall be granted tentative approval of the preliminary map or approval of the final map if the land is found by the executive officer, upon consultation with the chief engineer or other government agencies, to be unsuitable for the proposed use by reason of propensity to flooding, bad drainage, geological conditions, unstable subsurface, ground water or seepage conditions, inundation or erosion by sea water, adverse earth or rock formation or topography, or other features or conditions likely to be harmful or dangerous to the health, safety, or welfare of future users of the proposed subdivision or of the surrounding neighborhood or community, unless satisfactory protective improvements or other measures have been proposed or taken by the subdivider and approved by the executive officer.

(b) No subdivision shall be granted approval of the final map until protective measures or improvements to make the land suitable for the proposed uses have been constructed and certified in writing to be complete and acceptable by the executive officer. [Eff ~~MAY~~ 5 2013] (Auth: HRS §§206J-5(5), 206J-7) (Imp: HRS §206J-7)

§19-170-171 Design review. (a) The authority to approve, approve with conditions, or to disapprove

the design of a subdivision shall be vested in the executive officer. The subdivider shall revise, delete, amend, and comply with the design requirements of the executive officer.

(b) Design review shall be conducted consistent with the intent and purpose of this subchapter and shall consider adequate provisions for street pattern, street alignment, street width, and geometric design; lot layout, dimensions, areas, and uses; location, alignment, and width of easements and utilities; traffic safety, traffic circulation, traffic control, street capacity, and vehicular and pedestrian access including bikeways to and within the subdivision; grading work and any alternative designs that could be utilized to minimize the extent of grading; public and emergency services; effect on surrounding area and environment; and effect on area wide traffic.

[Eff MAY 5 2013] (Auth: HRS §§206J-5(5), 206J-7)

(Imp: HRS §206J-7)

§19-170-172 Streets and highways. (a) The standards for street rights-of-way shall be consistent with the standards approved by the City planning commission, but subject to approval only by the executive officer.

(b) Rights-of-way and alignments are subject to the following:

- (1) The right-of-way and alignment of all streets shall conform to and implement the intent and purpose of the development plan. Where the development plan does not indicate street right-of-way or alignment, subdivision streets shall be laid out in the most advantageous design for the subdivision as well as for the surrounding area, and coordinated so as to compose a convenient system and subject to approval of the executive officer upon consultation with the traffic engineer and chief engineer.
- (2) The rights-of-way and alignments of all streets and highways shall be considered in

their relation to existing and planned streets, topographical conditions, and to public convenience and safety, and in their appropriate relation to the proposed uses, surrounding zoning and development plan of the land to be served.

- (3) In order to provide public access or permit a satisfactory future subdivision of adjoining land and to preclude the creation of landlocked parcels, streets or access and utility easements shall extend to the boundary of the proposed subdivision and shall include the construction of facilities as required by the executive officer upon consultation with the chief engineer and traffic engineer.
- (4) Where a subdivision abuts or contains an existing or proposed major street the executive officer may require a frontage street or such other treatment as may be necessary for adequate protection of the lots.

(c) Future streets. Where the preliminary map covers only a part of the subdivider's tract, a sketch of the proposed future street system of the entire tract shall be furnished, and the street system of the part submitted shall be considered in connection with the street system of the part not subdivided. The action by the executive officer on the preliminary map shall in no way indicate any action or approval on the part not subdivided.

(d) Future subdivision. Where a tract is subdivided into larger parcels than for the minimum size lots provided for in this subchapter, the executive officer may require adequate streets to serve the future subdivision in conformity with the street and other requirements of this subchapter.

(e) Intersections. Street intersections shall be as near right angles as possible. Acute angles between street intersections are to be avoided. Intersections of more than four approaches shall not be allowed unless approved by the executive officer

upon consultation with the chief engineer and traffic engineer. Jogs and acute angles in a street shall be held to a minimum. When acute angles or jogs are necessary, the street intersection shall be designed with reasonably long radius as approved by the executive officer upon recommendation of the traffic engineer. At the street intersection, adjacent properties shall be so graded and developed that adequate right distance can be maintained. Streets entering upon opposite sides of any given street shall have their centerlines directly opposite each other, or said centerline shall be offset by at least three hundred feet, to eliminate close proximity of T-intersections, or as otherwise approved by the executive officer upon consultation with the traffic engineer. Intersection gradients, sight distances, offsets and design of the intersection shall be approved by the executive officer upon consultation with the traffic engineer.

(f) Gradients. Gradient of all streets shall be designed for adequate drainage and traffic requirements, and the development and grading of the subdivision. Gradients shall be a reasonable minimum and in conformity with the development plan, but shall in no case be less than four-tenths of one per cent, and shall not exceed seven per cent for major and secondary streets; ten per cent for minor streets; and fifteen per cent for dead-end streets of less than three hundred feet. Where a street has a grade in excess of twelve per cent, reinforced concrete pavement is required, in conformity with the standards of the chief engineer. Modifications may be permitted by the executive officer upon consultation with the chief engineer and traffic engineer when necessary to meet topographical conditions.

(g) Horizontal and vertical curves. Horizontal and vertical curves shall be designed to the standards of the traffic engineer. Modification may be permitted by the executive officer when necessary to conform to the development plan.

(h) Property line radius. The property line radius at a street intersection shall be a minimum of

twenty feet for secondary, minor, and dead-end streets, and thirty feet for major streets. Where streets of different widths intersect each other, the smaller radius shall govern. The executive officer may require a greater length of radius upon consultation with the traffic engineer when design of the subdivision indicates such need.

(i) Existing streets. Existing streets abutting or within the proposed subdivision which are of inadequate width or are not in conformity with the development plan shall be provided with the additional rights-of-way at the time of subdivision.

(j) Half streets. No half streets shall be developed except where essential to the reasonable incremental development of a subdivision, when it is in conformance with this subchapter and when the executive officer is given satisfactory evidence that the remaining half will be constructed.

[Eff **MAY 5 2013**] (Auth: HRS §§206J-5(5), 206J-7)
(Imp: HRS §206J-7)

§19-170-173 Access. (a) Land shall be subdivided so as to provide each lot with satisfactory access to an adequate public street by means of either a public street or private street of approved width and improvements. Permanent easement for access to a street may be established upon approval of the executive officer. Improvements for easements shall be provided as required by the executive officer.

(b) Reserve strips or nonaccess areas controlling the access to streets shall not be permitted except as required by the executive officer, as necessary for the public safety and welfare and where the control of such strip is definitely placed under conditions approved by the executive officer.

(c) Public and private streets and highways including pedestrian ways, bridges, structures, and facilities for adequate vehicular and pedestrian access to meet the needs and requirements of the proposed subdivision shall be provided subject to the approval of the executive officer upon consultation

with the traffic engineer and chief engineer. Factors to be considered are adequate width and improvements for adequate, proper, and safe vehicular and pedestrian traffic circulation for ingress and egress to the proposed subdivision. Where major access to a proposed subdivision crosses or connects to a major street or highway, such access shall be provided with acceleration lanes, deceleration lanes, turning lanes, traffic controls, overpass or underpass structures, off and on ramps and other traffic engineering improvements as required by the executive officer upon consultation with the traffic engineer and chief engineer in accordance with the requirements and standards of the department of transportation services, department of wastewater management and the state department of transportation.

(d) Private streets providing access to or within a proposed subdivision shall be improved to meet the requirements of this subchapter.

[Eff ~~MAY~~ 5 2013] (Auth: HRS §§206J-5(5), 206J-7)
(Imp: HRS §206J-7)

§19-170-174 Drainage, water, sewers, and utilities. (a) Drainage, water and sewer systems, and utility lines, including but not limited to those required for electric, communications, and street lighting, necessary for the general use of the occupants in the subdivision shall be installed by the subdivider.

(b) Utilities shall generally be located in accordance with the standards and requirements of each agency. The location of utilities shall not be contrary to any location provided by the development plan. If the location for any of the utilities, such as sewers, storm drains, water and gas pipes, electric and telephone lines and conduits, which are likely to be required within a subdivision, either for the service thereof or for the service to the surrounding areas, do not lie wholly within the street right-of-way, the executive officer, upon consultation with the chief engineer, wastewater management director and

manager, may require the location of such utilities on routes elsewhere than within said street right-of-way. The subdivider shall designate the required area or areas for all such utility locations and shall deliver proper easements for them.

(c) Adequate width shall be provided for easements for sewers, storm drains, water, public utilities, and government-owned facilities as required by the chief engineer, wastewater management director or manager, as appropriate. Easements for all government-owned utilities except those under the jurisdiction of the board of water supply, shall be conveyed to the development corporation and documents with supporting materials, such as maps, search of title or lien letter, transfer certificate of title, releases, consents, or other materials, as may be required, shall be delivered to the development corporation for acceptance. Easements for water facilities shall be conveyed for the use of the board of water supply and documents with all supporting materials shall be delivered to the board of water supply for acceptance. Whenever it is determined that future easements are necessary, the future easements shall be designated on the final map indicating that the development corporation or the City may accept such easements at any time. The location of all easements shall generally border the boundaries of lots. Easements traversing a lot shall not be allowed except when approved by the executive officer.

[Eff **MAY 5 2013**] (Auth: HRS §§206J-5(5), 206J-7)
(Imp: HRS § 206J-7)

§19-170-175 Pedestrian ways. The executive officer may require the designation and dedication of a right-of-way, easement, or easements of sufficient length and width to provide for a pedestrian way within a block; over or under streets, highways, or waterways; or to public shorelines, parks, or other facilities of a public nature and to serve the subdivision. [Eff **MAY 5 2013**] (Auth: HRS §§206J-5(5), 206J-7) (Imp: HRS §206J-7)

§19-170-176 Block; width and length.

Intersecting through streets shall determine the width and length of a block. The widths and lengths of blocks shall conform to the development plan. Where the subdivision is not covered by the development plan the widths and lengths of blocks shall be approved by the executive officer upon consultation with the traffic engineer and chief engineer.

[Eff ~~MAY~~ 5 2013] (Auth: HRS §§206J-5(5), 206J-7)
(Imp: HRS §206J-7)

§19-170-177 Lot area, width, and depth.

The lot areas, width, and pattern of lot lines shall comply with the requirements of the development plan.

[Eff ~~MAY~~ 5 2013] (Auth: HRS §§206J-5(5), 206J-7)
(Imp: HRS §206J-7)

§19-170-178 Grading.

Grading shall conform to the development plan. [Eff ~~MAY~~ 5 2013] (Auth: HRS §§206J-5(5), 206J-7) (Imp: HRS §206J-7)

§19-170-179 Street names.

The authority to approve or to disapprove street names shall be vested in the executive officer, upon consultation with the department of land utilization of the City. Street names may or may not conform to article 8 of chapter 22, Revised Ordinances of Honolulu, as amended.

[Eff ~~MAY~~ 5 2013] (Auth: HRS §§206J-5(5), 206J-7)
(Imp: HRS §206J-7)

§19-170-180 Requirements for improvements; in general.

(a) The subdivider shall improve all streets, highways, and easements and install drainage facilities, sewer, water, street lights, traffic control devices, street trees, and utilities within the subdivision. If it is determined by the executive officer that the subdivision has been submitted only for the purpose of clarifying records, or for

conveyance of large portions of land, the executive officer, upon consultation with the director of the department of parks and recreation of the City and County of Honolulu, the chief engineer, traffic engineer, wastewater management director and manager, may waive all or a portion of the improvements which otherwise would be required. The minimum improvements which the subdivider shall make prior to approval of the final map shall be as stated herein.

(b) The total cost of improvements and cost of maintenance, and providing the necessary services up to the date of acceptance by the development corporation of the dedication of the subdivision improvements, shall be borne by the subdivider. The construction of improvements shall comply with the standards, specifications, and plans on file with the various government agencies.

(c) The owner or owners of property or future owners or any person in control of such property shall be responsible to maintain and repair any private subdivision improvements, private drainage ways, or protective improvements located in such property which serves the property or adjoining properties.

[Eff MAY 5 2013] (Auth: HRS §§206J-5(5), 206J-7)
(Imp: HRS §206J-7)

§19-170-181 Streets and highways. (a) Streets and highways shall be on a grade to permit proper drainage and shall have sidewalks, gutters, curbs, pavements, bridges, and other improvements as required by the executive officer upon consultation with the chief engineer and traffic engineer.

(b) Streets shall be designed for the site soil conditions and shall contain water mains, sewers, storm drainage facilities, street survey monuments, utilities, traffic controls, and other improvements as herein specified. Streets and sidewalks shall be constructed under the supervision of and in accordance with standards and specifications of the executive officer, upon consultation with the chief engineer and traffic engineer.

(c) Streets within or abutting the subdivision shall be improved to the standards of this subchapter. Where the proposed subdivision abuts an existing substandard public or private street, improvements may be required to be constructed only on the lesser of one-half of the street or thirty feet abutting the proposed subdivision, as determined by the executive officer, upon consultation with the chief engineer, traffic engineer, and manager. Said improvements shall be constructed in conformance with the development plan and all improvements, bridges, structures, or road widening required shall be constructed and installed by the subdivider and may be required to be dedicated to the development corporation, as determined by the executive officer upon consultation with the chief engineer, traffic engineer, and manager. In calculating the area of each lot in the proposed subdivision, the area of such street widening shall be excluded.

(d) The location of a subdivision street connection to a state highway shall be subject to approval of the state department of transportation. The state department of transportation may require a traffic study where subdivision streets connect to a state highway. [Eff MAY 5 2013] (Auth: HRS §§206J-5(5), 206J-7) (Imp: HRS §206J-7)

§19-170-182 Private streets. (a) Private streets used as principal access, abutting, or within a subdivision, shall be improved to conform to the requirements of this subchapter. The subdivider shall bear responsibility for private streets including maintenance and regulating traffic.

(b) Private streets and private improvements shall be maintained by the subdivider or owners of property contiguous or adjacent thereto in such manner that adequate access by vehicular traffic and services is permitted at any time so that fire, police, health, and public utility vehicles can service the area. If private streets and improvements are not maintained, and the executive officer determines that the

maintenance is inadequate to provide necessary services for the subdivision, public services may be withheld from the area until adequate access is provided for such services.

(c) The subdivider and subsequent property owners shall be responsible for informing future owners of the affected properties that the development corporation is not responsible for any maintenance or repair work or any other services within the limits of the private subdivision and the private improvements.

(d) At or near the entrance of each private street, a sign shall be installed depicting the words "Private Street" or "Private Road." The type and location of the sign shall be subject to the approval of the executive officer and the subdivider shall bear the total cost of the purchase and installation of the sign.

(e) The board of water supply may be consulted regarding conditions under which the public water system may be extended into a private street.

[Eff ~~MAY~~ 5 2013] (Auth: HRS §§206J-5(5), 206J-7)
(Imp: HRS §206J-7)

§19-170-183 Drainage. Drainage and drainage structures and facilities including culverts and bridges, shall be installed in accordance with standards approved by the chief engineer.

[Eff ~~MAY~~ 5 2013] (Auth: HRS §§206J-5(5), 206J-7)
(Imp: HRS §206J-7)

§19-170-184 Street lighting. Street lights and related apparatus and appliances shall be installed by the subdivider, including street connections to public highways, in accordance with chapter 22, Revised Ordinances of Honolulu, or as otherwise approved by the executive officer. [Eff ~~MAY~~ 5 2013] (Auth: HRS §§206J-5(5), 206J-7) (Imp: HRS §206J-7)

§19-170-185 Underground utilities. Utility

lines shall be installed in accordance with chapter 22, Revised Ordinances of Honolulu, or as otherwise approved by the executive officer.

[Eff **MAY 5 2013**] (Auth: HRS §§206J-5(5), 206J-7)
(Imp: HRS §206J-7)

§19-170-186 Water supply and system. The subdivider shall provide an adequate and potable water supply and system including water mains and fire hydrants to and within the subdivision. The system shall conform to the requirements of the board of water supply. If a private water system is to be used, construction of the system shall conform to the requirements of the board of water supply.

[Eff **MAY 5 2013**] (Auth: HRS §§206J-5(5), 206J-7)
(Imp: HRS §206J-7)

§19-170-187 Sewers. (a) Each subdivision shall have an adequate and approved sewage disposal system. In every subdivision where connection to a sewer is practical and reasonable, the subdivider shall be required to install and connect an adequate sewerage system.

(b) Sewers shall be designed based on City standards and approved by the executive officer, and installed at the location specified by the executive officer as necessary to provide the subdivision with adequate sewage disposal; provided that this location shall not be contrary to the location fixed for utilities by the development plan.

(c) The executive officer may require construction of a sewage treatment plant. The sewage treatment plant shall be constructed to the standards of the executive officer and the state department of health.

(d) The executive officer may allow a sewage disposal plan. The sewage disposal system shall be designed in accordance with the standards of the executive officer and the state department of health.

[Eff **MAY 5 2013**] (Auth: HRS §§206J-5(5), 206J-7)

(Imp: HRS §206J-7)

§19-170-188 Street monuments. Street monuments shall be placed and properly coordinated with government survey triangulation stations at all street intersections and angle points and at such intermediate points and of such standards as required by the chief engineer. Street monuments and bench mark elevations based on City datum shall be recorded on construction plan tracings. Street monuments shall be installed with an accuracy of one to ten thousand for City property, as provided in the rules and procedure of the land court, State of Hawaii.

[Eff MAY 5 2013] (Auth: HRS §§206J-5(5), 206J-7)
(Imp: HRS §206J-7)

§19-170-189 Street name signs. Street name signs for all streets within a subdivision shall be installed by the subdivider coincident with the construction of street improvements and utilities to serve the subdivision or made a part of the contract for subdivision improvements. The type and location of street name signs are subject to approval of the executive officer and shall conform to standard specifications imposed by the City.

[Eff MAY 5 2013] (Auth: HRS §§206J-5(5), 206J-7)
(Imp: HRS §206J-7)

§19-170-190 Traffic controls. Traffic signs and markings for controlling, safeguarding, or expediting vehicular and pedestrian traffic shall be installed by the subdivider in each subdivision, coincident with construction of street improvements and utilities, before the roadways are open to public traffic, and before the first residential unit is occupied, and before a business enterprise or public or quasi-public agency commences operations, and shall be a part of the contract for subdivision improvements. Plans and specifications showing type, location, and

installation of traffic signs and markings shall be submitted for approval to the executive officer and shall conform to the standard specifications on file in the department of transportation services. The subdivider shall bear full responsibility for regulating traffic and the total cost of maintaining and regulating traffic signs and markings in a satisfactory condition until such time as the streets are accepted by the City, the State or the development corporation, or the development corporation acquires jurisdiction to regulate private streets within the subdivision. The subdivider may install other traffic control devices where it is determined by the executive officer that the devices are necessary for providing adequate access to a subdivision.

[Eff ~~MAY~~ MAY 5 2013] (Auth: HRS §§206J-5(5), 206J-7)
(Imp: HRS §206J-7)

§19-170-191 Planting. (a) To preserve and enhance scenic character and to prevent environmental problems in the subdivision and the surrounding community, subdivision construction plans shall include a planting plan to be reviewed and approved by the executive officer. Planting within the street right-of-way shall be subject to approval of the executive officer and maintained by the subdivider.

(b) Screen planting, landscaping, area and slope planting, shall be provided and maintained by the subdivider until the plant growth is established and as required by the executive officer. Planting shall be conducted in accordance with an approved schedule of planting. [Eff ~~MAY~~ MAY 5 2013] (Auth: HRS §§206J-5(5), 206J-7) (Imp: HRS §206J-7)

§19-170-192 Street trees. The subdivider shall develop a street tree planting plan for each subdivision indicating the quantities, locations, types, size, and planting specifications which shall be reviewed and approved by the executive officer. The subdivider shall plant the street trees in

conformance with the standards of the city department of recreation, or as otherwise approved by the executive officer. The subdivider shall plant and maintain the street trees to the acceptability of the executive officer. [Eff **MAY 5 2013**] (Auth: HRS §§206J-5(5), 206J-7) (Imp: HRS §206J-7)

§19-170-193 Pedestrian way. (a) Whenever a pedestrian way is designated for a subdivision, the minimum width shall be twelve feet except as otherwise approved by the executive officer.

(b) Pedestrian overpass or underpass structures and improvements shall be designed and constructed by the subdivider based upon plans approved by the executive officer. [Eff **MAY 5 2013**] (Auth: HRS §§206J-5(5), 206J-7) (Imp: HRS §206J-7)

§19-170-194 Construction plans. (a) After the subdivider has received tentative approval of the preliminary map from the executive officer, and before beginning construction of improvements, the subdivider shall prepare and submit construction plans and specifications showing details of grading, road construction, drainage structures, sewers, water, and all other utilities, improvements, landscaping and planting proposed to be installed in the proposed subdivision, in conformance with the approved preliminary map. The construction plans shall be drawn on acceptable tracing medium to City standards as to size and general drafting practice. Included with the construction plans shall be a general layout map showing the location of lots and streets and the location of water lines, sewer mains, drainage system, and other utilities.

(b) The subdivider shall submit copies of the construction plans to the executive officer or other agencies as required by the executive officer, for their consideration, comments, and recommendations. Plans submitted for approval shall bear the stamp of an engineer, or other licensed professional, as

appropriate, in accordance with the rules of the state department of commerce and consumer affairs.

(c) Construction plans shall be considered approved for construction purposes when the construction plans bear the approval signature of the executive officer. No construction work shall commence without the approved construction plans.

[Eff MAY 5 2013] (Auth: HRS §§206J-5(5), 206J-7)
(Imp: HRS §206J-7)

§19-170-195 Completion of improvements for final map approval. (a) After the subdivision has received tentative approval of the preliminary map and approval of the construction plans, the subdivider, as a condition to approval of the final map shall comply with either subsection (b) or (c).

(b) The subdivider may proceed with construction of required improvements, utilities, and facilities, and after completion of the same in accordance with the approved construction plans and approval of improvements by the executive officer, the executive officer shall take action on the final map.

(c) In lieu of completion of the required improvements, utilities, and facilities prior to final map approval, the subdivider may enter into an agreement with the development corporation, to assure the development corporation of the construction, installation, maintenance, and services of such improvements, utilities, and facilities as shown on the approved construction plans. The executive officer, after execution and acceptance of the agreement, shall take action on the final map.

(1) The agreement shall be approved by the development corporation as to form and legality. The agreement shall specify that the subdivider agrees to make, install, complete, and provide services for all required improvements, utilities, and facilities within a specified time to the satisfaction of the executive officer and shall provide that if the subdivider fails

to complete the work within the specified time or provide the necessary services, the development corporation may collect the full estimated cost from the subdivider, and complete the project. The development corporation shall be authorized in the event of any default in performance of work, services, or construction of improvements to use some or all of the bond or security to cause the required work or services, including engineering and administrative work to be done and for payment of all costs.

Failure of the subdivider to complete the work shall be a violation of this subchapter. The subdivider shall be firmly bound by the specified time of completion of all improvements. The time limit may be extended for one six-month extension period which may be granted by the executive officer upon recommendation of the subdivision committee.

The agreement may provide for partial withdrawal of the security, in money or bonds, as the work progresses, upon certification of the executive officer. When a substantial portion of required improvements has been completed to the satisfaction of the executive officer and completion of remaining improvements is delayed beyond control of the subdivider, the executive officer may consent to a reduction of the surety bond or security proportionate to an amount estimated to be adequate to assure completion of the remaining improvements. The agreement and bond to secure and guarantee construction of improvements shall be so conditioned that the surety executing the bond or making a deposit shall be firmly bound under continuing obligation for the payment of all necessary costs and expenses, including

- engineering and administrative expenses, incurred or expended by the development corporation in causing any work to be done.
- (2) The surety bond or other security that must be filed with the agreement shall be in an amount not less than the cost of all work and services required to be completed by the subdivider including engineering and other administrative costs and approved by the executive officer, and shall remain in effect until subdivision improvements are approved by the executive officer. Cost estimates prepared by the subdivider shall be delivered in writing to the executive officer for approval. No personal surety bond shall be accepted by the executive officer. The security bond or security shall be conditioned to be payable to the development corporation. Should the subdivider fail to complete all work required within the specified time, the development corporation may collect the moneys of the bond or security and require all unfinished work to be completed, and the parties executing the security bond shall be firmly bound to pay for all necessary cost therefor.

Securities shall be filed with the executive officer and deposited with the development corporation.

A performance guarantee to be filed with the agreement shall be one of the following:

- (A) A surety bond executed by the subdivider as principal, and a corporate surety company authorized to do business in the State, as surety.
- (B) A deposit of money made with the executive officer or a responsible escrow agent designated by the executive officer as the development corporation's agent.
- (C) Where the subdivider has entered into a

contract with a responsible contractor for construction of improvements and utilities, the subdivider shall file the following with the executive officer: (1) a certified copy of the contract; (2) a certified copy of the contractor's performance bond; and (3) a surety bond, other than personal surety, of a sum equal to at least fifty per cent of the cost of all the work, including engineering and administrative work required to be completed by the subdivider as estimated upon consultations with the chief engineer, traffic engineer, director of the city's department of parks and recreation, wastewater management director and manager. The surety bond shall be payable to the development corporation, and shall be conditioned as described above.

- (D) Negotiable bonds or other securities approved by the development corporation and the state director of finance for securing deposits of public money.

[Eff MAY 5 2013] (Auth: HRS §§206J-5(5), 206J-7)

§19-170-196 Construction procedures. (a) The subdivider shall notify the executive officer at least one week in advance of the date the subdivider will begin construction, of the contractor's name, contract price, construction schedule, and any other pertinent information, and shall file four sets of prints of the approved construction plans with each of the following: the division of engineering and division of sewers of the department of wastewater management, division of traffic planning and division of street lighting of the department of transportation services, the board of water supply, and the department of recreation; and one print with the executive officer.

(b) Every three months, the subdivider shall report the status of construction to the executive officer indicating progress and the work remaining.

(c) At any stage of construction and prior to approval of improvements, if the executive officer, or his or her designee, find that any of the work is likely to create problems jeopardizing property or public safety, they may require a temporary stopping of work, plan revisions, or remedial work procedure changes such as limiting the area which may be graded or developed at one time. [Eff ~~MAY~~ 5 2013] (Auth: HRS §§206J-5(5), 206J-7)

§19-170-197 Inspections. During construction, the work is subject to inspection at any time by the executive officer, or the executive officer's designee. [Eff ~~MAY~~ 5 2013] (Auth: HRS §§206J-5(5), 206J-7) (Imp: HRS §206J-7)

§19-170-198 Certification. (a) Upon completion of improvements, and prior to approval, the improvements shall be inspected by the executive officer, upon consultation with the chief engineer, traffic engineer, director of the city's department of parks and recreation, wastewater management director and manager. The cost of testing any improvement, if required by the executive officer, shall be borne by the subdivider.

(b) If the street lighting conforms to approved plans and specifications, and the installation is energized and continues in proper operating condition for a period of one week, the development corporation shall approve the installation and issue a certificate to the subdivider attesting to such inspection, test, and approval. The subdivider shall arrange with the public power company and bear the cost of arrangements and electrical energy used for the tests.

(c) Subdivision improvements shall not be approved by the executive officer until the subdivider has received written certification that they are

complete and acceptable to the development corporation. The subdivider must accomplish the following, in addition to the testing above, in order to obtain such certification:

- (1) File tracings of construction plans as actually constructed, showing all changes from the original plans, with the executive officer and the department of wastewater management.
 - (2) File duplicate tracings of the sewer system as actually constructed showing all changes from the original plans with the executive officer and the department of wastewater management.
 - (3) File tracings of the street lighting system and traffic control devices as actually constructed, showing all changes from the original plans, with the executive officer and the department of transportation services.
 - (4) File tracings of the street tree planting plans as planted, with the executive officer and the department of recreation.
 - (5) File tracings of the water system as actually constructed, showing all changes from the original plans, with the executive officer and the board of water supply.
- [Eff **MAY** 5 2013] (Auth: HRS §§206J-5(5), 206J-7) (Imp: HRS §206J-7)

§19-170-199 Repair and replacement of improvements. (a) The subdivider shall file with the development corporation such agreement and surety bonds as specified in this section to insure the adequacy and workability of provisions for repair and replacement of the subdivision improvements.

(b) Approval of improvements for dedication will not be given unless the subdivider enters into an agreement with the development corporation, wherein the subdivider agrees to pay costs of repairing and replacing the subdivision improvements and guarantees

their adequacy. The subdivider shall also file a surety bond or other security other than personal surety, with the development corporation as obligee, conditioned upon faithful performance of said agreement. The amount of the surety bond shall be ten per cent of the cost of construction as estimated by the executive officer upon consultation with the chief engineer, traffic engineer, director of recreation, and manager.

(c) The agreement shall specify that the subdivider agrees to repair and replace subdivision improvements, utilities, and facilities to the satisfaction of the development corporation and shall provide that if the subdivider fails to complete such work within the specified time, the development corporation may collect the moneys of the bond or security and complete the same. The development corporation shall be authorized in the event of default in the performance of any work for which bonds or securities were deposited, to use some or all of the bond or securities to cause the required work, including engineering and administrative work, to be done and for payment of costs therefor.

(d) The agreement and surety bond shall be for a period of one year from the date of acceptance by the development corporation of the dedication and shall be extended as required by the executive officer upon consultation with the chief engineer, traffic engineer, director of recreation, or manager.

(e) The form of the agreement and surety bonds shall be approved by the development corporation counsel as to form and legality and when fully executed, filed with the executive officer.

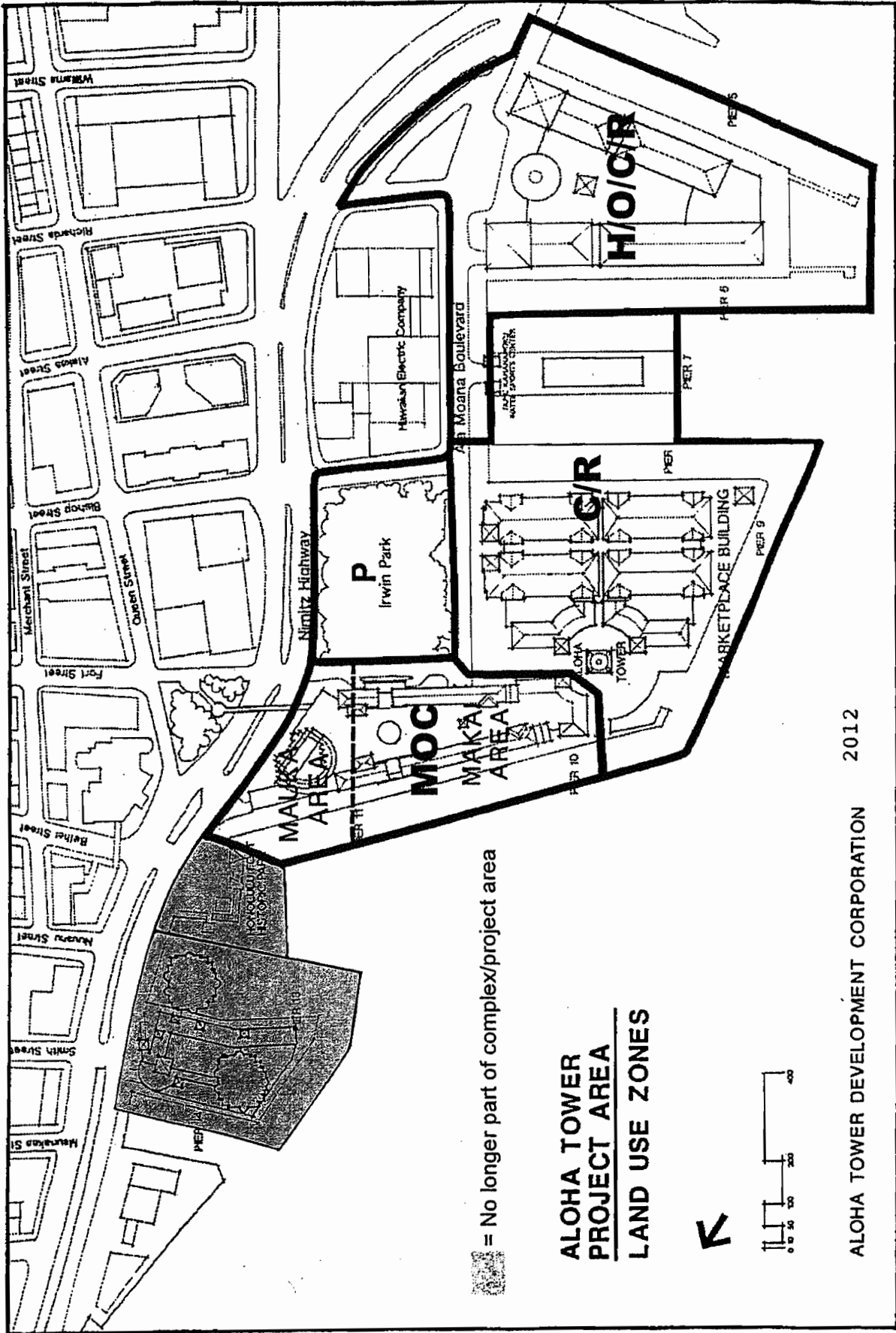
[Eff ^{MAY} 5 2013] (Auth: HRS §§206J-5(5), 206J-7)

§19-170-200 Approval of improvements. Upon receipt of certificates of completion of improvements from the required agencies and acceptance of the executed repair and replacement agreement and surety bond for dedication purposes, the executive officer

shall grant approval of improvements.

[Eff ~~MAY 5 2013~~] (Auth: HRS §§206J-5(5), 206J-7)

§19-170-201 Retroactive cure. Any defect in the approval of a subdivision or consolidation applied for or obtained pursuant to this subchapter prior to the effective date of this subchapter may be cured retroactively and effective as of the date of the original approval. [Eff] (Auth: HRS §§206J-5(5), 206J-7)



ALOHA TOWER PROJECT AREA LAND USE ZONES

ALOHA TOWER DEVELOPMENT CORPORATION 2012

DEPARTMENT OF TRANSPORTATION

Chapter 19-170, Hawaii Administrative Rules, on the Summary Page dated April 23, 2013, was adopted on November 21, 2012, following public hearings held on October 12, 2012, after public notice was given in the Honolulu Star-Advertiser on September 12, 2012.

The adoption of Chapter 19-170, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.



RICHARD C. LIM, Chair of the Board
Aloha Tower Development Corporation

APPROVED:



NEIL ABERCROMBIE
Governor
State of Hawaii

Date: 4.24.13

Filed

APPROVED AS TO FORM:



Deputy Attorney General

