

Introduction to Hawai'i's Land Classification and Management System

A Manual for Residents

Disclaimer: This handbook attempts to provide information to the community on Hawai'i's land classification and management systems, and identifies areas within the law where individuals and organizations can participate in the state and county processes related to these systems. It does not attempt to give legal advice or suggest participation in support or opposition of certain projects or decisions. This handbook should not be considered legal advice. Individuals and organizations with legal questions and inquiries should consult with an attorney.

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Introduction

The Hawai‘i Rural Development Council

The Hawai‘i Rural Development Council (HRDC), incorporated in 2003, is a statewide nonprofit organization committed to promoting and supporting the rural-based economic welfare of Hawai‘i. The HRDC board of directors includes representatives from nonprofit and regional support organizations; federal, state and county governments; and private sector and community groups.

The HRDC is one of 28 remaining state rural development councils certified by the United States Department of Agriculture (USDA) through provisions of the 2002 Farm Bill that established the National Rural Development Partnership. The HRDC primarily exists to:

1. Facilitate collaboration among federal, state, and local governments and the private nonprofit sectors in the planning and implementation of programs and policies that have an impact on rural areas of the state;
2. Monitor, report, and comment on policies and programs that address, or fail to address, the needs of the rural areas of the state;
3. In conjunction with the National Rural Development Coordinating Committee (NRDCC), facilitate the development of strategies to reduce or eliminate conflicting or duplicative administrative or regulatory requirements of federal, state, and local governments.

The HRDC is focusing its resources in order to maintain and encourage the following in rural Hawai‘i:

- Agriculture
- Affordable Housing
- Sustainable Economic Development

Because the HRDC receives minimal funding from the USDA, the organization relies mainly on the volunteer time and resources donated by board members and other partners. The HRDC is a membership organization open to all interested parties.

The Office of Hawaiian Affairs

In 1978, with a desire to rectify historical injustices, the people of Hawai‘i amended the state constitution to specifically recognize the importance of Native Hawaiian traditional and cultural rights and values. As a part of these amendments, the Office of Hawaiian Affairs (OHA) was established to better the conditions of Native Hawaiians. The state legislature acknowledged the people’s “solemn trust obligation and responsibility” to Native Hawaiians and enacted Hawai‘i Revised Statutes (HRS) Chapter 10, which created OHA as a separate entity independent of the executive branch.

It is OHA’s mission “to mālama (protect) Hawai‘i’s people and environmental resources and OHA’s assets, toward ensuring the perpetuation of the culture, the enhancement of lifestyle and the protection of entitlements of Native Hawaiians, while enabling the building of a strong and healthy Hawaiian people and nation, recognized nationally and internationally.”

In 2010, OHA adopted a strategic plan, outlining the new direction it would take to accomplish its mission. With an understanding that “the well-being of our community rested upon the inter-relationship of how we conduct ourselves, steward the islands we call home, and fulfill the responsibility of caring for our families,” the strategic plan articulates priorities and results that OHA will strive to reach in the years ahead. To achieve these priorities and results, OHA will focus on the roles of advocate, researcher, and asset manager to improve conditions for all Native Hawaiians through systemic change. Two of the six strategic priorities are directly related to this educational project – ‘Āina (Land and Water), and Mo‘omeheu (Culture):

- ‘Āina – to maintain the connection to the past and viable land base, Native Hawaiians will participate in and benefit from responsible stewardship of Ka Pae ‘Āina O Hawai‘i.
- Mo‘omeheu – to strengthen identity, Native Hawaiians will preserve, practice, and perpetuate culture.

Background to this Manual

One of the major long-standing challenges facing agriculture in Hawai'i involves the availability of land. Speculators often price agricultural lands higher than local farmers can afford, and seldom offer long-term leases for rural lands necessary for sustained agriculture. Although its value to the overall health, culture, and security of the state is well-understood, agriculture in general does not return enough direct revenue per acre to compete financially with commercial or residential land uses. The HRDC recognized that reserving agricultural uses of rural lands will remain a challenge as long as this competitive disadvantage exists, and embarked on a long-term strategy to address this challenge.

Accordingly, in 2006, the HRDC partnered with the state Land Use Commission and the state Office of Planning to facilitate county-level planning meetings on agriculture and rural land use. Community stakeholders in many rural areas engaged in and contributed to these land use discussions. In order to foster greater sustained involvement of these community stakeholders, HRDC obtained a grant from the Hawai'i Community Foundation to develop educational materials on the land use planning process. These materials, including the present manual, help to ensure that community members are empowered to shape their communities both now and in the future.

OHA subsequently partnered with HRDC to assist with the editing and reprinting of this manual, in the hopes of further promoting its strategic priorities of 'Āina and Mo'omeheu.

Purpose of this Manual

This manual is intended to promote widespread awareness of Hawai'i's land use laws and processes and encourage public participation in land use policy and decision-making. Although many Native Hawaiians live in urban areas, cultural strongholds or kīpuka exist within Hawai'i's rural communities where many Native Hawaiian beliefs, traditions, customs, and management practices continue to thrive. Participation by the Native Hawaiian community in land use processes and community planning can help to achieve OHA's priorities of maintaining a connection with the 'āina and perpetuating Native Hawaiian culture. Moreover, Native Hawaiian cultural knowledge and understanding of Hawai'i's land and resources can be an invaluable planning tool to achieve a more sustainable future for all the people of Hawai'i.

Overview of this Manual

Chapter 1 of this manual provides a brief background on traditional land concepts in Hawai'i, and the transition of the traditional land use system to a more Westernized regime during the post-contact Kingdom period.

Chapter 2 provides an overview of Hawai'i's current land classification and management system. Various aspects of the system are explained in greater detail throughout the remaining sections of the manual.

Chapter 3 outlines the legal and regulatory framework for land classification and management, including constitutional provisions, statutory provisions, and administrative rules.

Chapter 4 provides more detailed information about the key players and agencies involved in land classification and management in Hawai'i, including their respective duties related to land classification and management. Contact information for these individuals and agencies is also provided.

Chapters 5 – 8 focus on significant state and county land use classification and management processes. Opportunities for community participation and involvement are indicated for each process. More detailed information on any of the processes may be obtained using the information provided in Chapter Four.

Chapter 9 provides a brief discussion on enforcement issues that have led to the misuse of agricultural lands under county jurisdiction.

An aerial photograph of a coastal landscape, likely in Hawaii, showing a winding road along a cliffside, a sandy beach, and the ocean. The image is overlaid with a semi-transparent green filter. The text is centered on the right side of the image.

CHAPTER ONE

**History and Evolution of
Land Use in Hawai'i**

Chapter One: History and Evolution of Land Use in Hawai‘i

Traditional Land Tenure

“Hānau ka ‘āina, hānau ke ali‘i, hānau ke kanaka.”
(Born was the land, born were the chiefs, born were the common people)

—MARY KAWENA PUKUI, ‘ŌLELO NOEAU: HAWAIIAN PROVERBS AND POETICAL SAYINGS (1983)

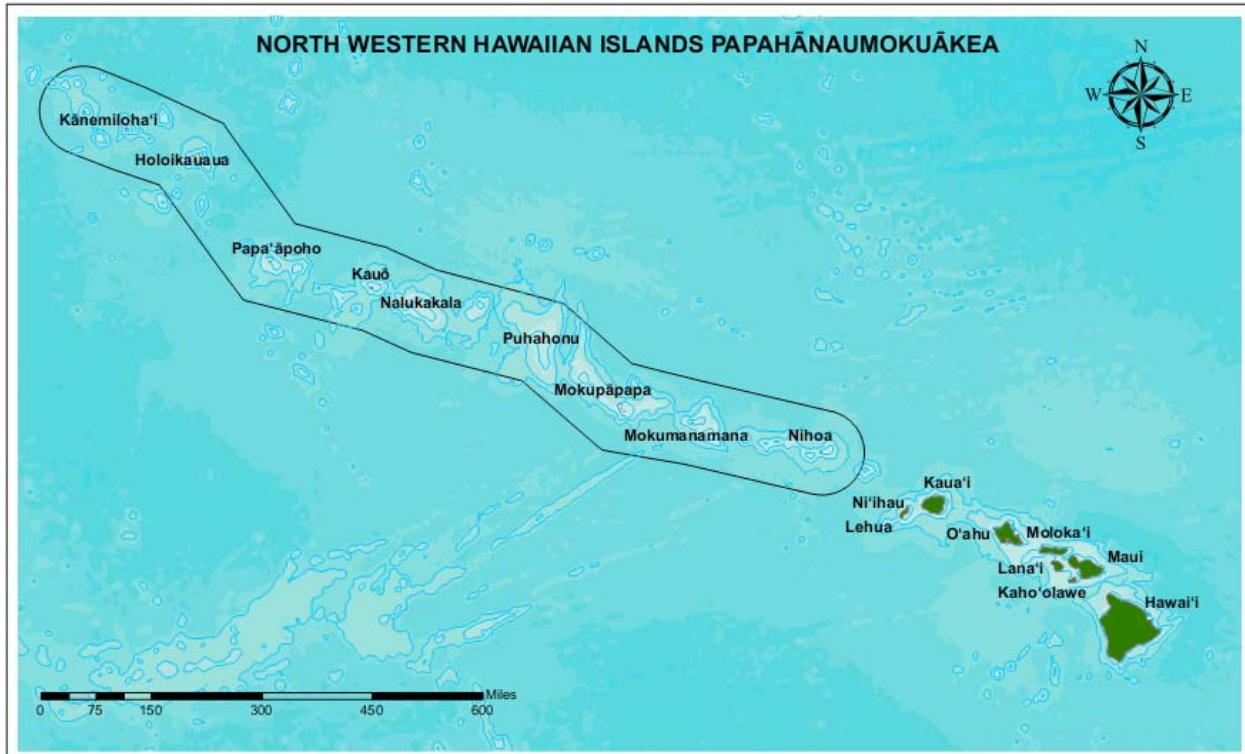
In traditional understanding, ‘āina (land) is the one hānau (sand or soil of birth) and kula iwi (plain of one’s bones) of Kānaka ‘Ōiwi (Native Hawaiians), and literally means “that which feeds.” ‘Ai, “to feed,” in this case specifically refers to kalo or taro, which was and in many cases continues to be masterfully propagated to serve as the staple food of Kānaka ‘Ōiwi.

In ancient times, Kānaka ‘Ōiwi were renowned mahi‘ai (agriculturists) and stewards of the ‘āina. Cultivation of the ‘āina was not just a practical necessity, but informed the inherent spiritual connection between Kānaka ‘Ōiwi, their way of life, and the land that sustained them. While ali‘i (chiefs) supervised the hoā‘āina (tenants) in their use and cultivation of lands, such authority was not exercised in a proprietary sense, but on behalf of the gods. A measure of the wealth of an ali‘i in this regard was the concept of ‘āina momona (literally, “fat land”), or of land which was abundant and plentiful in food and other resources. In cultivating kalo specifically, Kānaka ‘Ōiwi also honored their familial relationship with their older brother Hāloa, from whom sprouted the first kalo plant. Thus, the proper cultivation and stewardship of land was a foundation of Hawai‘i’s traditional physical, spiritual, and social systems.

‘Āina then, feeds much more than the belly, but was and is the source and tapestry of Native Hawaiian cosmologies and genealogies, history and future, spirituality and mana (supernatural power), and well-being and prosperity. In this light, it was and is the people’s kuleana (entwined privilege and obligation) to provide the means for the ‘āina to continue to flourish. The responsibility of the people to the land is not one of mere stewardship, but of kinship.

Land Division: ‘Ōiwi Wale Times

Before Hawaiians discovered Western visitors on their shores, they developed a complex society based upon their own values, resource management systems, and relationship with the ecosystems and resources of Ka Pae ‘Āina O Hawai‘i (the Hawaiian archipelago). Native Hawaiian resource management begins with an understanding of Ka Pae ‘Āina O Hawai‘i, which comprises mokupuni (islands) connected by the Moana Pākīpika (Pacific Ocean), and spans from Hawai‘i island to Kānemiloha‘i (Kure Atoll) of Papahānaumokuākea (Northwestern Hawaiian Islands). Of the many mokupuni within the archipelago, eight were permanently inhabited, and were managed along with their surrounding oceans, Nā Kai ‘Ewalu (the eight seas).



Ka Pae 'Āina O Hawai'i

The division of these lands lays the foundation for how the 'āina's resources were managed. Mokupuni were divided into large regional districts called moku, which were regions that generally ran from the mountains to the sea. Moku were further divided into ahupua'a, smaller, often pie-slice shaped divisions that also often extended from the mountains and into the sea. Ahupua'a varied in size and shape and were generally situated to include necessary resources from the up-land forests to the ocean fisheries. These divisions were sometimes subdivided into smaller parcels known as 'ili, which were often attached to the use of specific resources (crop variations; i.e. wet versus dry kalo, forest versus wetlands, etc.) and entailed place-specific management systems. It is believed that the moku and ahupua'a boundaries existed and were upheld and administered by a multitude of rulers before Kamehameha I united the islands.

Hawaiian society was ruled, and thus managed, according to a hierarchical chiefly system. High chiefs ruled the entire land and moku, while ahupua'a and smaller divisions were ruled by lesser chiefs and stewarded by konohiki (land agents who managed land and fishing kuleana). Using their intimate knowledge of the ecology, resources, and needs of their particular areas, konohiki worked with and directed the maka'āinana (commoners) to encourage effective and efficient use of the 'āina and bring productivity to the land. Konohiki developed mutually beneficial relationships with the maka'āinana and implemented a kapu (prohibition) system in a manner that was lōkahi (in balance) with natural cycles.

The initial result of the Māhele divided Hawai‘i’s estimated 4.1 million acres among three major groups:

- a. Approximately one million acres for the monarch, known as the king’s land or crown lands;
- b. Approximately 1.5 million acres to support the functions of the government, known as government lands; and
- c. Approximately 1.6 million acres for the ali‘i.

Although the maka‘āinana did not obtain ownership over as much of the lands as expected, land awards to the king, the government, and the ali‘i were made “subject to the rights of native tenants.” This was a particularly important recognition of hoā‘āina (tenant) rights, given the increasing pressures facing the maka‘āinana to abandon their traditional subsistence lifestyles.

The overall dispossession of Native Hawaiians’ ancestral lands did not end with the Māhele. Through foreclosure, adverse possession, and other means, by 1890, Westerners controlled over one million acres of all lands in Hawai‘i.

Coupled with the significant decline in the native population and their dispossession of ancestral lands by Western interests, the transition of Hawai‘i into a cash-based economy resulted in the further oppression of Native Hawaiian cultural beliefs and practices. The rise of Hawai‘i’s sugar and pineapple industries led to the clearing of large tracts of land, degradation of natural and cultural resources, and the engineering of enormous ditch systems that drained many of Hawai‘i’s streams dry. Despite the legal recognition of native tenants’ rights in the original Māhele deeds, tenants were often prevented by larger landowners from accessing their land-locked kuleana, or from obtaining firewood for cooking, water for growing food, and other resources necessary to maintain a traditional subsistence lifestyle.

Finally, in 1893, American and European businessmen, with the support of the United States military, illegally overthrew the Hawaiian monarchy. Under protest, Queen Lili‘uokalani yielded her authority until such time that the United States would undo the actions of its representatives and reinstate her. U.S. President Cleveland recommended the Queen’s restoration; however, the businessmen who had overthrown her instead formed the Republic of Hawai‘i, seizing control of approximately 1.8 million acres of crown and government lands. One year after the end of President Cleveland’s term, the Republic of Hawai‘i, seeking annexation to the United States, “ceded” most of these lands along with the “sovereignty” of Hawai‘i to the United States.

Upon statehood in 1959, the United States “ceded” the crown and government lands it had received, with some exceptions, to the State of Hawai‘i. As a condition of statehood, these lands are to be held as a public trust for enumerated public purposes, including the “betterment of the conditions of native Hawaiians.”

The Current State of Hawai‘i

Despite the dramatic changes in Hawai‘i throughout the last two centuries, Native Hawaiians have continued to maintain and cultivate their relationship with the ‘āina. Under Hawai‘i’s constitution, statutes, and case law, the State of Hawai‘i and its agencies must now reasonably protect Native Hawaiians’ rights to exercise their traditional and customary practices, even on lands that may be privately owned. Title to all lands in Hawai‘i also remain subject to the “rights of native tenants,” a provision that has been more formally recognized as protecting cultural and subsistence rights. This unique aspect of Hawai‘i’s laws has facilitated the survival of the Hawaiian culture, through the continuation of fishing, gathering, cultivating, spiritual, and religious practices.

Looking to the time-tested wisdom of Native Hawaiians – embodied in Native Hawaiian traditional and customary practices, ahupua‘a and place-based resource management concepts, agricultural sciences, and social and cultural values, including a deep relationship with the ‘āina – provides a foundation to sustainably address Hawai‘i’s rapid and sprawling development, lack of affordable housing, overpopulation, increasing number of endangered and invasive species, lack of food and energy self-sufficiency and security, tourism dependency, and vulnerability to climate change. To adapt to the many conflicting pressures and socioeconomic realities of our modern times, Hawai‘i’s people may want to continue renewing and empowering those values and traditions that have given our island communities their resilience, dignity, and strength.

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CHAPTER TWO

**Overview of Hawai‘i’s
Land Classification
and Management System**

Chapter Two: Overview of Hawai'i's Land Classification and Management System

Disclaimer: This handbook attempts to provide information to the community on Hawai'i's land classification and management systems, and identifies areas within the law where individuals and organizations can participate in the state and county processes related to these systems. It does not attempt to give legal advice or suggest participation in support or opposition of certain projects or decisions. This handbook should not be considered legal advice. Individuals and organizations with legal questions and inquiries should consult with an attorney.

The Two-Tiered Land Classification System: State and County Roles and Responsibilities

The State of Hawai'i has a unique system of classifying and managing its lands, in which both state and county agencies hold distinct responsibilities.

State land use districts

All lands in the state, including submerged lands, are classified into four land use districts: urban, rural, agricultural, and conservation. The state Land Use Commission (LUC) is responsible for classifying lands into these four districts. Hawai'i Revised Statutes (HRS) § 205-2 designates the general types of uses permitted in each of these four districts. The state Office of Planning (OP) is responsible for reviewing the classification of all lands in the state every five years, and recommending adjustments to the LUC.

The LUC is also responsible for processing land use district boundary amendment petitions for any lands in the conservation district, any lands delineated as important agricultural lands, and any lands totaling more than 15 acres in the urban, rural, and agricultural districts.

The state Department of Land and Natural Resources (DLNR) is responsible for zoning and managing uses within the conservation district; further discussion of the DLNR administration of uses within the conservation district is contained in Chapter Eight of this manual.

County administration and enforcement

Under HRS § 46-4 and § 205-12, the counties administer and enforce land uses in all districts other than the conservation district. HRS § 46-4 also places within the counties the responsibility for zoning all lands within the urban, rural, and agricultural districts. Zoning must be consistent with state policy, laws, and regulations, including generally permitted uses designated by the LUC, pursuant to HRS § 205-2. Similarly, county land use permits must generally comply with these zoning requirements, with the exception of certain uses evaluated on a case-by-case basis.

County planning commissions are also responsible for processing land use district boundary amendment petitions for all lands of 15 acres or less in the urban, rural, and agricultural districts within their jurisdiction.

Certain unusual and reasonable uses may be allowed in the rural and agricultural districts. County planning commissions are responsible for approving and permitting such uses. Unusual and reasonable uses on lands of more than 15 acres must also be approved by the LUC, in addition to the county.

Finally, counties also exercise jurisdiction over shoreline management area permits and shoreline setback variances, for uses that occur on or adjacent to coastal shoreline areas.

Counties use a variety of plans, ordinances, and permits to manage land uses, including the following:

City and County of Honolulu

- General plan
- Development plans and sustainable communities plans
- Land use ordinances (the zoning code)
- Subdivision rules and regulations
- Special management areas – major and minor permits
- Shoreline setback areas

County of Hawai'i

- General plan
- Community development plans
- Zoning code
- Special management areas – major and minor permits
- Subdivision code
- Shoreline setback areas

County of Kaua'i

- General plan
- Comprehensive zoning ordinance
- Zoning code
- Subdivision code
- Special management areas
- Shoreline setback areas

County of Maui

- General plan
- Zoning code
- Subdivision code
- Special management areas
- Shoreline setback areas

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An aerial photograph of a coastal area, showing a road that curves along a bay. The image is overlaid with a semi-transparent green filter. The sky is filled with clouds, and the land is covered in vegetation. The water in the bay is a light blue-green color.

CHAPTER THREE

The Framework

Chapter Three: The Framework

The following tables provide a reference guide for the constitutional, statutory, and administrative laws setting the framework for land uses in Hawai'i. Brief subject matter summaries and information on how to view these laws and regulations are also provided.

Document	Key Provisions
Constitutional Framework (The Constitution of the State of Hawai'i)	
Article XI, Section 1: Conservation and Development of Resources	<i>...[T]he State and its political subdivisions shall conserve and protect Hawai'i's natural beauty and all natural resources, including land...and shall promote the development and utilization of these resources in a manner consistent with their conservation and in furtherance of the self-sufficiency of the State.</i>
Article XI, Section 3: Agricultural Lands	<i>The State shall conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self-sufficiency and assure the availability of agriculturally suitable lands. The legislature shall provide standards and criteria to accomplish the foregoing.</i> <i>Lands identified by the State as important agricultural lands needed to fulfill the purposes above shall not be reclassified by the State or rezoned by its political subdivisions without meeting the standards and criteria established by the legislature and approved by a two-thirds vote of the body responsible for the reclassification or rezoning action.</i>
Article XI, Section 9: Environmental Rights	<i>Each person has the right to a clean and healthful environment, as defined by laws relating to environmental quality, including control of pollution and conservation, protection and enhancement of natural resources. Any person may enforce this right against any party, public or private, through appropriate legal proceedings, subject to reasonable limitations and regulation as provided by law.</i>
Article XII, Section 7: Traditional and Customary Rights	<i>The State reaffirms and shall protect all rights, customarily and traditionally exercised for subsistence, cultural and religious purposes and possessed by ahupua'a tenants who are descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778, subject to the right of the State to regulate such rights.</i>
The entire Constitution may be viewed at http://www.hawaii.gov/lrb/con/	

Document	Key Provisions
Statutory Framework (Hawai‘i Revised Statutes)	
HRS § 1-1 Common Law of State; Exceptions	Establishes the common law of the State of Hawai‘i as the common law of England, as ascertained by English and American judicial decisions, except: <ul style="list-style-type: none"> • As otherwise expressly provided by the Constitution or laws of the United States, or by the laws of the State of Hawai‘i; or • As fixed by Hawaiian judicial precedent, or established by Hawaiian usage.
HRS § 1-1 may be viewed at http://www.capitol.hawaii.gov/hrscurrent/Vol01_Ch0001-0042F/HRS0001/HRS_0001-0001.htm	
HRS § 46-4 County Zoning	<ol style="list-style-type: none"> 1. Requires that county zoning be accomplished “within the framework of a long-range, comprehensive general plan prepared or being prepared to guide the overall future development of the county.” 2. Explains that “[z]oning is one of the tools available to the county to put the general plan into effect in an orderly manner.” 3. Requires zoning district establishment and regulations to consider “all available data as to soil classification and physical use capabilities of the land to allow and encourage the most beneficial use of the land consonant with good zoning practices.”
HRS § 46-4 may be viewed at http://www.capitol.hawaii.gov/hrscurrent/Vol02_Ch0046-0115/HRS0046/HRS_0046-0004.htm	
Chapter 183C: Conservation District	<ol style="list-style-type: none"> 1. Requires the Board of Land and Natural Resources (BLNR) and the Department of Land and Natural Resources (DLNR) to maintain an accurate inventory of lands classified within the conservation district. 2. Requires BLNR and DLNR to identify and appropriately zone lands classified within the conservation district. 3. Requires BLNR and DLNR to establish categories of allowable uses or activities on conservation lands “consistent with the conservation of necessary forest growth, the conservation and development of land and natural resources adequate for present growth and future needs, and conservation and preservation of open space areas for public use and enjoyment.” 4. Permits DLNR to allow a temporary variance from a zoned use.
Chapter 183C may be viewed at http://www.capitol.hawaii.gov/hrscurrent/Vol03_Ch0121-0200D/HRS0183C/	

<p>Chapter 205: Land Use Commission</p>	<ol style="list-style-type: none"> 1. Establishes the Land Use Commission (LUC). 2. Establishes the urban, rural, agricultural, and conservation districts and directs that all lands in the state be placed in these districts. 3. Provides a procedure for amending district boundaries. 4. Designates permissible uses within the agricultural district. 5. Authorizes counties to govern the zoning within all districts except the conservation district, and to act on district boundary amendment petitions involving less than fifteen acres of land in the rural, urban, or agricultural districts (other than designated important agricultural lands). 6. Authorizes county planning commissions to permit certain unusual and reasonable uses within agricultural and rural districts other than those for which the district is classified. 7. Authorizes counties to require environmental assessments for agricultural tourism uses and activities. 8. Establishes criteria for LUC review of boundary amendment petitions, in order to assure compliance with the Hawai'i State Plan, and consideration for: <ol style="list-style-type: none"> (A) Preservation or maintenance of important natural systems or habitats; (B) Maintenance of valued cultural, historical, or natural resources; (C) Maintenance of other natural resources relevant to Hawai'i's economy, including agricultural resources; (D) Commitment of state funds and resources; (E) Employment opportunities and economic development; and (F) Housing opportunities for all income groups, particularly the low, low-moderate, and gap groups. 9. Provides for a review of the classification and districting of all lands in the state by the Office of Planning every five years. 10. 10. Establishes and authorizes policies, procedures, incentives for designation, protection, and reclassification or rezoning of important agricultural lands.
<p>Chapter 205 may be viewed at http://www.capitol.hawaii.gov/hrscurrent/Vol04_Ch0201-0257/HRS0205/</p>	
<p>Chapter 205A: Coastal Zone Management</p>	<ol style="list-style-type: none"> 1. Establishes special management areas (SMAs) within all coastal zones and designates county "authorities" (county planning commissions or the county council when planning commissions are only advisory, as in the case of Honolulu) to regulate uses within an SMA. 2. Prescribes special procedures and county permit requirements for "development" within special management areas. 3. Requires that permitted uses within an SMA avoid or minimize substantial adverse environmental or ecological impacts.
<p>Chapter 205A may be viewed at: http://www.capitol.hawaii.gov/hrscurrent/Vol04_Ch0201-0257/HRS0205A/</p>	
<p>Chapter 343: Environmental Impact Statements</p>	<ol style="list-style-type: none"> 1. Requires an environmental assessment for actions that propose the use of state or county lands, or any use within the conservation district, the shoreline area, or registered historic sites. 2. Requires an environmental assessment for actions that propose any reclassification of any land classified as a conservation district. 3. Requires an environmental impact statement, including an assessment of cultural impacts, for any of the above actions that are found likely to have a significant environmental impact.
<p>Chapter 343 may be viewed at http://www.capitol.hawaii.gov/hrscurrent/Vol06_Ch0321-0344/HRS0343/</p>	

Document	Key Provisions
Statutory Framework (County Ordinances)	
County of Hawai'i Hawai'i County Code Chapter 28	<ol style="list-style-type: none"> 1. Specifies requirements for petitions to amend state land use district boundaries. 2. Establishes procedures for processing boundary amendment petitions.
Chapter 28 may be viewed at http://www.hawaii-county.com/countycode/chapter28.pdf	
County of Hawai'i County Council Rules of Procedure	<ol style="list-style-type: none"> 1. Establishes policies and procedures of the county council. 2. Establishes procedures for introducing and processing bills and resolutions.
County council rules of procedure may be viewed at http://www.hawaiicounty.gov/lb-file-review/files/rules_of_procedure.pdf	
City and County of Honolulu Revised Ordinances of Honolulu Chapter 26: State Land Use Classification	<ol style="list-style-type: none"> 1. Specifies requirements for petitions to amend state land use district boundaries. 2. Establishes procedures for processing boundary amendment petitions.
Chapter 26 may be viewed at http://www.honolulu.gov/cms-ocs-menu/site-ocs-sitearticles/18276-roh-chapter-26.html	
City and County of Honolulu County Council Council Rules	<ol style="list-style-type: none"> 1. Establishes the policies and procedures of the county council (Art. III). 2. Establishes procedures for introducing and processing bills and resolutions (section 3-201-205).
Charter of Honolulu and the county council rules may be viewed at http://www.honolulu.gov/cor/rch.html	
County of Kaua'i Comprehensive Zoning Ordinance Chapter 8	Specifies procedural requirements for petitions to amend state land use district boundaries (chapter 8-22).
Chapter 8 may be requested by contacting the County of Kaua'i County Clerk at (808) 241-4188	
County of Kaua'i County Council	Establishes the policies and procedures of the county council.
County council rules may be obtained by contacting the County of Kaua'i Council Services Division at (808) 241-4188	
County of Maui County Code Title 19: Zoning	<ol style="list-style-type: none"> 1. Specifies procedural requirements for petitions to amend state land use district boundaries (chapter 19.68). 2. Specifies procedures for the filing and processing of applications for special use permits (chapter 19.510.070).
Maui County code may be viewed at http://library.municode.com/index.aspx?clientId=16289	
County of Maui County Council Rules	<ol style="list-style-type: none"> 1. Establishes policies and procedures of the county council. 2. Specifies format requirements for bills and resolutions, procedures relating to public testimony, and council voting procedures.
County council rules may be viewed at http://mauicounty.us/rules	

Document	Key Provisions
Administrative Framework (State Administrative Rules)	
Title 4: Department of Agriculture Subtitle 8: Agricultural Resource Management Chapter 153: Agricultural Park Program Rules	Specifies the application process for agricultural park program leases. Specifies criteria for lease eligibility requirements.
Chapter 4-153 may be viewed at http://hdoa.hawaii.gov/wp-content/uploads/2012/12/AR-153.pdf	
Title 11: Department of Health Chapter 200: Environmental Impact Statement Rules	<ol style="list-style-type: none"> 1. Specifies the applicability, process, and requirements for environmental assessments and environmental impact statements.* 2. Allows the categorical exclusion of certain activities that may be otherwise subject to the environmental assessment process, and provides procedures for departments to establish and utilize categorical exclusions for certain projects. <p>*Note: As of the publication of this manual, Chapter 11-200, Hawai'i Administrative Rules, is currently undergoing revision. These revised rules are anticipated to be promulgated in 2014.</p>
Chapter 11-200 may be viewed at http://health.hawaii.gov/opppd/department-of-health-administrative-rules-title-11	
Title 13: DLNR Subtitle 1: Administration Chapter 5: Conservation District Rules	<ol style="list-style-type: none"> 1. Establishes the following subzones within the conservation district: protective, limited, resource, general, and special. 2. Specifies criteria for classifying lands into the various subzones. 3. Identifies uses permitted within each subzone and establishes requirements for site plans, departmental permits, board permits, management plans, and public hearings.
Chapter 13-5 may be viewed at http://dlnr.hawaii.gov/rules	
Title 15: Department of Business, Economic Development, and Tourism Subtitle 3: State Land Use Commission Chapter 15: Land Use Commission Rules	<ol style="list-style-type: none"> 1. Establishes standards for determining boundaries of the urban, rural, agricultural, and conservation districts. 2. States, in general terms, the uses permitted within each of the four districts. 3. Specifies application procedures, public hearing requirements, and decision-making criteria for district boundary amendments. 4. Establishes application procedures for special permits allowing unusual and reasonable uses within the agricultural and rural districts, and guidelines for permitting such uses.
Chapter 15-15 may be viewed at http://dbedt.hawaii.gov/overview/administrative-rules	

Document	Key Provisions
Administrative Framework (County Planning Department and Planning Commission Rules)	
County of Hawai'i Planning Commission Rules of Practice and Procedure	<ol style="list-style-type: none"> 1. Prescribes how the county planning commission conducts its business, including public notice and hearing requirements. 2. Specifies procedures to be followed for filing and processing state land use district boundary amendment petitions for parcels under 15 acres (rule 13). 3. Specifies procedures to be followed for filing and processing applications for special permits (rule 6) and zoning use permits (rule 7).
Planning commission rules of practice and procedure may be viewed at http://records.co.hawaii.hi.us/weblink/1/doc/56155/Page1.aspx	
County of Hawai'i Planning Department Rules of Practice and Procedure	<ol style="list-style-type: none"> 1. Specifies procedures to be followed for applying for and processing general plan amendments (rule 4). 2. Specifies procedures to be followed for filing and processing zoning classification amendments (rule 5). 3. Specifies procedures to be followed for filing and processing zoning variance petitions (rule 6).
Planning department rules of practice and procedure may be viewed at http://records.co.hawaii.hi.us/weblink/1/doc/56245/Page1.aspx	
City and County of Honolulu Planning Commission Rules of Practice and Procedure	<ol style="list-style-type: none"> 1. Prescribes how the county planning commission conducts its business. 2. Specifies procedures for filing and processing state special use permits (subchapter 4). 3. Specifies procedures for filing and processing state land use district boundary amendment petitions for parcels under 15 acres (subchapter 6).
Planning commission rules may be viewed at http://www.honoluludpp.org/AboutDPP/WhatWeDo/AdministrativeRules.aspx	
City and County of Honolulu Department of Planning and Permitting Rules of Practice and Procedure	<ol style="list-style-type: none"> 1. Prescribes how the county department of planning and permitting department conducts its business. 2. Specifies procedures for filing and processing zoning variance petitions (chapter 9).
Department of planning and permitting rules may be viewed at http://www.honoluludpp.org/Portals/0/AboutDPP/administrativerules/DppRules11PlanningC.pdf	
County of Kaua'i Planning Commission Rules of Practice and Procedure	Prescribes how the county planning commission conducts its business.
A copy of the Kaua'i Planning Commission rules may be requested by contacting the commission at 808-241-4050.	
County of Maui Maui Planning Commission Rules	<ol style="list-style-type: none"> 1. Prescribes how the Maui planning commission conducts its business, including time limits for decision-making (chapter 201). 2. Specifies procedures for filing and processing special management area permits (chapter 202). 3. Specifies procedures for establishing and permitting certain structures and activities in the shoreline and shoreline setback areas (chapter 203).
Maui Planning Commission rules may be viewed at http://www.co.maui.hi.us/index.aspx?nid=191	

<p>County of Maui Lāna‘i Planning Commission Rules of Practice and Procedure</p>	<ol style="list-style-type: none"> 1. Prescribes how the Lāna‘i planning commission conducts its business, including time limits for decision-making (chapter 401). 2. Specifies procedures for filing and processing special management area permits (chapter 402). 3. Specifies procedures for establishing and permitting certain structures and activities in the shoreline and shoreline setback areas (chapter 403).
<p>Lāna‘i Planning Commission rules may be viewed at http://www.co.maui.hi.us/index.aspx?NID=184</p>	
<p>County of Maui Moloka‘i Planning Commission Rules of Practice and Procedure Rules Relating to Special Uses</p>	<ol style="list-style-type: none"> 1. Prescribes how the Moloka‘i planning commission conducts its business, including time limits for decision-making (chapter 301). 2. Specifies procedures related to special use permits in the agricultural and rural land use districts (chapter 3). 3. Specifies procedures for establishing and permitting certain structures and activities in the shoreline and shoreline setback areas (chapter 4). 4. Specifies procedures for filing and processing special management area permits (chapter 302).
<p>Moloka‘i Planning Commission rules may be viewed at http://www.co.maui.hi.us/index.aspx?NID=193</p>	
<p>County of Maui Planning Department County Code, Zoning Administration and Enforcement</p>	<ol style="list-style-type: none"> 1. Specifies general manner by which permits and approvals are processed and approved, including zoning changes and special use permits (chapter 19.510). 2. Specifies procedures and standards for filing and processing variances and appeals (chapter 19.520).
<p>Maui Planning Department rules may be viewed at http://library.municode.com/index.aspx?clientId=16289</p>	

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An aerial photograph of a coastal landscape, overlaid with a semi-transparent green filter. The image shows a winding road along a coastline, a sandy beach, and a body of water. In the background, there are rolling hills or mountains under a cloudy sky.

CHAPTER FOUR

Key Players in Land Use Management

Chapter Four: Key Players in Land Use Management

The following tables list offices and agencies involved in land use management policymaking, describe their land use-related roles and functions, and provide contact information for these “key players” available as of the date of this publication.

State of Hawai'i

Governor of Hawai'i			
How Constituted:		The governor is elected to a four-year term, with a limit of two consecutive terms.	
Duties:		<ol style="list-style-type: none"> 1. Appoint cabinet members, including leadership for the following departments: Agriculture; Business, Economic Development, and Tourism; and Land and Natural Resources. 2. Appoint members of the Land Use Commission, the Board of Land and Natural Resources, and the Environmental Council. 3. Approve, object to, or veto laws governing land use, classification, and management. 	
Contact Information (August 2015):			
Mail Address:		Executive Chambers, Hawai'i State Capitol, Honolulu, HI 96813	
Phone:		Fax:	
808-586-0034; for neighbor island office numbers see http://governor.hawaii.gov/about/governors-neighbor-island-liaison-offices/		808-586-0006	
E-mail:		E-mail the governor via the website below.	
Web Site:		http://governor.hawaii.gov	

Hawai'i Legislature			
How Constituted:		The 25 senators are elected to four-year terms; the 51 representatives are elected to two-year terms.	
Duties:		<ol style="list-style-type: none"> 1. Enact and amend laws governing land classification, management, and use. 2. Provide standards and criteria to conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self-sufficiency, and assure the availability of agriculturally suitable lands. 	
Contact Information (August 2015):			
Mail Address:		Obtain from web site below.	
Phone:		Fax:	
Obtain from web site below.		Obtain from web site below	
E-mail:		Obtain from web site below.	
Web Site:		http://www.capitol.hawaii.gov/members/legislators.aspx?chamber=all	

Department of Business, Economic Development and Tourism (DBEDT), Land Use Commission (LUC)			
How Constituted:	The LUC is composed of nine members appointed by the governor and confirmed by the Senate to four-year terms, with a limit of two consecutive terms. One member must have substantial experience or expertise in traditional Hawaiian land usage and knowledge of cultural land practices.		
Duties:	<ol style="list-style-type: none"> 1. Establish boundaries of conservation, agricultural, rural, and urban land use districts. 2. Act on petitions for land use district boundary amendments involving lands in the conservation district. 3. Act on petitions for land use district boundary amendments involving lands delineated as important agricultural lands. 4. Act on petitions for land use district boundary amendments involving lands greater than 15 acres in area in the agricultural, rural, and urban districts. 5. Act on requests for special permits for unusual and reasonable uses on lands greater than 15 acres within the agricultural and rural districts. 		
Contact Information (August 2015):			
Mail Address:	PO Box 2359, Honolulu, HI 96804-2359		
Phone:	808-587-3822	Fax:	808-587-3827
E-mail:	luc@dbedt.hawaii.gov		
Web Site:	http://luc.hawaii.gov		

Department of Land and Natural Resources (DLNR), Board of Land and Natural Resources (BLNR)			
How Constituted:	The DLNR is headed by the BLNR, which consists of seven members appointed by the governor and confirmed by the Senate to four-year terms, with a limit of two consecutive terms.		
Duties:	<ol style="list-style-type: none"> 1. Maintain an accurate inventory of public lands. 2. Classify conservation district lands into five subzones (protective, limited, resource, general, and special) and determines permitted uses. 3. Approve Conservation District Use Permits (board permits, management plans, and temporary variances). 4. Approve changes in district subzone boundaries and land uses. 		
Contact Information (August 2015):			
Mail Address:	PO Box 621, Honolulu, HI 96809		
Phone:	808-587-0400	Fax:	808-587-0390
E-mail:	dlnr@hawaii.gov		
Web Site:	http://dlnr.hawaii.gov		

Department of Land and Natural Resources (DLNR), Office of Conservation and Coastal Lands (OCCL)			
How Constituted:		OCCL is a division of the DLNR.	
Duties:	<ol style="list-style-type: none"> 1. Maintain an accurate inventory of lands classified within the conservation district by the LUC. 2. Identify and appropriately zone (i.e., create subzones for) those lands classified within the conservation district. 3. Establish categories of uses or activities on conservation lands, including allowable uses or activities for which no permit shall be required. 4. Establish and enforce land use regulations, restrictions, requirements, and conditions on the use of conservation lands. 		
Contact Information (August 2015):			
Mail Address:		1151 Punchbowl St., Room 131, Honolulu, HI 96813	
Phone:	808-587-0377	Fax:	808-587-0322
E-mail:	dlnr.occl@hawaii.gov		
Web Site:	http://dlnr.hawaii.gov/occl		

Department of Business Economic Development and Tourism (DBEDT), Office of Planning (OP)			
How Constituted:		The OP is an office within DBEDT.	
Duties:	<ol style="list-style-type: none"> 1. Appear and make recommendations at public hearings on boundary amendment petitions. 2. Review petitions for special permits for unusual and reasonable land uses within the agricultural and rural districts. 3. Review county recommendations and maps delineating lands eligible to be designated important agricultural lands, and provide comments to the Land Use Commission. 4. Review the classification and districting of all lands in the state every five years and make recommendations for adjustments to the Land Use Commission. 		
Contact Information (August 2015):			
Mail Address:		PO Box 2359, Honolulu, HI 96804	
Phone:	808-587-2846	Fax:	808-587-2824
E-mail:	leo.asuncion@dbedt.hawaii.gov		
Web Site:	http://planning.hawaii.gov		

Department of Health (DOH), Office of Environmental Quality Control (OEQC)			
How Constituted:	The OEQC is an office within the DOH.		
Duties:	<ol style="list-style-type: none"> 1. Make available all statements, environmental assessments, and other documents prepared under the Hawai'i Environmental Policy Act (HEPA). 2. Inform public of notices filed by agencies regarding the availability of EAs and EISs for review and comments, and determinations made throughout Hawai'i's environmental review process (section 343-3, HRS). 3. Review petitions for special permits for unusual and reasonable land uses within the agricultural and rural districts. 4. Review county recommendations and maps delineating lands eligible to be designated important agricultural lands, and provide comments to the Land Use Commission. 5. Produce the <i>Environmental Notice</i> announcing the availability of environmental assessments and impact statements under public review. 		
Contact Information (August 2015):			
Mail Address:	235 South Beretania St., Suite 702, Honolulu, HI 96813		
Phone:	808-586-4185 (O'ahu); see website below for neighbor island numbers.	Fax:	808-586-4186
E-mail:	oeqchawaii@doh.hawaii.gov		
Web Site:	http://health.hawaii.gov/oeqc		

Department of Health (DOH), Environmental Council			
How Constituted:	The Environmental Council is composed of 15 members appointed by the governor and confirmed by the Senate to four-year terms, with a limit of two consecutive terms.		
Duties:	<ol style="list-style-type: none"> 1. Promulgate rules to implement the Hawai'i Environmental Policy Act (HEPA). 2. Review lists of specific types of actions that may be declared exempt from Hawai'i's environmental review process. 3. Serve as liason between the director of the OEQC and the general public. 4. Publish an annual report with recommendations to the governor, the legislature, and the public on environmental goals and achievements. 		
Contact Information (August 2015):			
Mail Address:	c/o OEQC, 235 South Beretania St., Suite 702, Honolulu, HI 96813		
Phone:	808-586-4185 (O'ahu); see website below for neighbor island numbers.	Fax:	808-586-4186
E-mail:	oeqchawaii@doh.hawaii.gov		
Web Site:	http://health.hawaii.gov/oeqc		

Department of Agriculture (DOA), Board of Agriculture (BOA)			
How Constituted:	The DOA is headed by the BOA, which is comprised of 10 members, appointed by the governor and confirmed by Senate to four-year terms, with a limit of two consecutive terms.		
Duties:	<ol style="list-style-type: none"> 1. Review petitions for special permits for unusual and reasonable land uses within the agricultural and rural districts. 2. Review county recommendations and maps delineating lands eligible to be designated important agricultural lands (IAL). 3. Set policies related to the certification of IAL. 4. Assist with the identification of state-owned lands that should be designated as IAL. 		
Contact Information (August 2015):			
Mail Address:	1428 South King St., Honolulu, HI 96814-2512		
Phone:	808-973-9560	Fax:	
E-mail:	hdoa.info@hawaii.gov		
Web Site:	http://hdoa.hawaii.gov		

Department of Agriculture (DOA), Agricultural Resource Management Division (ARMD)			
How Constituted:	ARMD is an office within the DOA.		
Duties:	<ol style="list-style-type: none"> 1. Operate the state's Agricultural Park Program, which leases reasonably priced farm land. 2. Manage the state's irrigation systems. 3. Oversee produce processing and marshaling facilities. 		
Contact Information (August 2015):			
Mail Address:	1428 South King St., Honolulu, HI 96814-2512		
Phone:	808-973-9473	Fax:	808-973-9467
E-mail:	hdoa.info@hawaii.gov		
Web Site:	http://hdoa.hawaii.gov/arm		

County of Hawai'i

Mayor			
How Constituted:		The mayor is elected to a four-year term, with a limit of two consecutive terms.	
Duties:	<ol style="list-style-type: none"> 1. Appoint director of the county planning department. 2. Appoint members of planning commission. 3. Adopt, object to, or veto ordinances enacted by the county council. 		
Contact Information (August 2015):			
Mail Address:		East Hawai'i: 25 Aupuni St., Hilo, HI 96720 West Hawai'i: 74-5044 Ane Keohokalole Hwy, Kailua-Kona, HI 96740	
Phone:	East Hawai'i: 808-961-8211 West Hawai'i: 808-323-4444	Fax:	East Hawai'i: 808-961-6553 West Hawai'i: 808-323-4440
E-mail:	cohmayor@hawaiicounty.gov		
Web Site:	http://www.hawaiicounty.gov/office-of-the-mayor/		

Council			
How Constituted:		The nine council members are elected from nine districts to two-year terms, with a limit of four consecutive two-year terms.	
Duties:	<ol style="list-style-type: none"> 1. Confirm mayoral appointments to planning commission. 2. Enact land use district boundary amendment ordinances and compatible zoning and rezoning. 		
Contact Information (August 2015):			
Mail Address:		East Hawai'i: 25 Aupuni St., Suite 1402/2402, Hilo, HI 96720 West Hawai'i: 74-5044 Ane Keohokalole Hwy, Building A, Kailua-Kona, HI 96740 Puna: 15-2662 Pahoia Village Road, Room 304, Pahoia, HI 96778 Waimea: 64-1067 Māmalahoa Hwy, Suite C-5, Kamuela, HI 96743	
Phone:	East Hawai'i: 808-961-8225 West Hawai'i: 808-323-4261 Puna: 808-965-2712 Kona (District 7): 808-323-4275 Kona (District 8): 808-323-4278 Waimea: 808-887-2069 Also see http://www.hawaiicounty.gov/council/ for individual council members' contact information.	Fax:	East Hawai'i: 808-961-8912 West Hawai'i: 808-329-4768 Puna: 808-965-2707 Kona (Districts 7 & 8): 808-329-4786 Waimea: 808-887-2072 Also see http://www.hawaiicounty.gov/council/ for individual council members' contact information.
E-mail:	See http://www.hawaiicounty.gov/council		
Web Site:	http://www.hawaiicounty.gov/lb-council-home/		

Planning Commission (Windward and Leeward)			
How Constituted:	The planning commission's responsibilities are carried out by two commissions, the Windward and Leeward planning commissions, each composed of seven members appointed by the mayor and confirmed by the council, for five-year terms.		
Duties:	<ol style="list-style-type: none"> 1. Appear and make recommendations at public hearings on every land use district boundary amendment involving more than 15 acres. 2. Process petitions for land use district boundary amendments for lands of 15 acres or less in the agricultural (except important agricultural lands), rural, and urban districts. 3. Issue special permits for unusual and reasonable uses on lands in the agricultural and rural districts. 4. Control the use of land in the urban, rural, and agricultural districts through recommended zoning and subdivision approvals, consistent with state policy, laws, and regulations. 5. Process and issue special management area permits subject to Coastal Zone Management Act laws. 		
Contact Information (August 2015):			
Mail Address:	East Hawai'i: Aupuni Center, 101 Pauahi St., Suite 3, Hilo, HI 96720 West Hawai'i: 74-5044 Ane Keohokalole Highway, Kailua-Kona, HI 96740		
Phone:	East Hawai'i: 808-961-8288 West Hawai'i: 808-323-4770	Fax:	East Hawai'i: 808-961-8742 West Hawai'i: 808-327-3563
E-mail:	planning@co.hawaii.hi.us		
Web Site:	http://www.cohplanningdept.com/		

County of Maui

Mayor			
How Constituted:		The mayor is elected to a four-year term, with a limit of two consecutive terms.	
Duties:	<ol style="list-style-type: none"> 1. Appoint the planning director. 2. Appoint members of the planning commissions. 3. Adopt, object, or veto ordinances enacted by the council. 		
Contact Information (August 2015):			
Mail Address:		200 South High St., 9th Floor, Wailuku, HI 96793	
Phone:	808-270-7855	Fax:	808-270-7870
E-mail:	Mayors.Office@mauicounty.gov		
Web Site:	http://www.co.maui.hi.us/index.aspx?NID=1894		

Council			
How Constituted:		The nine council members are elected at-large to two-year terms, with a limit of five consecutive two-year terms. Each of the nine residency areas must be represented by one council member.	
Duties:	<ol style="list-style-type: none"> 1. Confirm mayoral appointments to planning commissions. 2. Enact land use district boundary amendment ordinances. 		
Contact Information (August 2015):			
Mail Address:		200 South High St., 8 th Floor, Wailuku, HI 96793	
Phone:	Wailuku: 808-270-7838 Hāna: 808-248-7513 Moloka'i: 808-553-3888 Lāna'i: 808-565-7094 See also individual council member contact information here: http://www.co.maui.hi.us/Directory.aspx?did=377	Fax:	Wailuku: 808-270-7686 Hāna: 808-248-7514 Moloka'i: 808-553-3055 Lāna'i: 808-565-6436
E-mail:	county.clerk@mauicounty.us		
Web Site:	http://www.co.maui.hi.us/index.aspx?NID=66		

Maui Planning Commission			
How Constituted:	The nine planning commission members are appointed by the mayor and approved by council. The director of the Department of Public Works and waste management and the director of the Department of Water Supply are non-voting ex-officio members.		
Duties:	<ol style="list-style-type: none"> 1. Appear and make recommendations at the public hearing on every land use district boundary amendment involving more than 15 acres. 2. Process petitions for land use district boundary amendments for lands of 15 acres or less in the agricultural (except important agricultural lands), rural, and urban districts. 3. Issue special permits for unusual and reasonable uses on lands in the agricultural and rural districts. 4. Control the use of land in the urban, rural, and agricultural districts through recommended zoning and subdivision approvals, consistent with state policy, laws, and regulations. 5. Issue special management area permits subject to Coastal Zone Management Act laws. 		
Contact Information (August 2015):			
Mail Address:	2200 Main St., Suite 315, Wailuku, HI 96793		
Phone:	808-270-7735	Fax:	808-270-7634
E-mail:	planning@mauicounty.gov		
Web Site:	http://www.co.maui.hi.us/index.aspx?nid=191		

Lānaʻi Planning Commission			
How Constituted:	The nine planning commission members are appointed by the mayor and approved by council. The director of the Department of Public Works and waste management and the director of the Department of Water Supply are non-voting ex-officio members.		
Duties:	<ol style="list-style-type: none"> 1. Appear and make recommendations at the public hearing on every land use district boundary amendment involving more than 15 acres. 2. Process petitions for land use district boundary amendments for lands of 15 acres or less in the agricultural (except important agricultural lands), rural, and urban districts. 3. Issue special permits for unusual and reasonable uses on lands in the agricultural and rural districts. 4. Control use of land in the urban, rural, and agricultural districts through recommended zoning and subdivision approvals, consistent with state policy, laws, and regulations. 		
Contact Information (August 2015):			
Mail Address:	2200 Main St., Suite 315, Wailuku, HI 96793		
Phone:	808-270-7735	Fax:	808-270-7634
E-mail:	planning@mauicounty.gov		
Web Site:	http://www.co.maui.hi.us/index.aspx?NID=184		

Moloka'i Planning Commission			
How Constituted:	The nine planning commission members are appointed by the mayor and approved by council. The director of the Department of Public Works and waste management and the director of the Department of Water Supply are non-voting ex-officio members.		
Duties:	<p>Appear and make recommendations at the public hearing on every land use district boundary amendment involving more than 15 acres.</p> <p>Process petitions for land use district boundary amendments for lands of 15 acres or less in the agricultural (except important agricultural lands), rural, and urban districts.</p> <p>Issue special permits for unusual and reasonable uses on lands in the agricultural and rural districts.</p> <p>Control use of land in the urban, rural, and agricultural districts through recommended zoning and subdivision approvals, consistent with state policy, laws, and regulations.</p>		
Contact Information (August 2015):			
Mail Address:	P.O. Box 526, Kaunakakai, HI 96748		
Phone:	Moloka'i: 808-553-3221 Maui: 808-270-7735	Fax:	808-270-7634
E-mail:	planning@mauicounty.gov		
Web Site:	http://www.co.maui.hi.us/index.aspx?NID=193		

Hāna Advisory Committee to the Maui Planning Commission			
How Constituted:	The seven commission members are residents of Hāna district appointed by the mayor and confirmed by the county council.		
Duties:	Advise the Maui planning commission on matters within its jurisdiction and carry out such duties as may be delegated to it by the Maui planning commission.		
Contact Information (August 2015):			
Mail Address:	2200 Main St., Suite 315, Wailuku, HI 96793		
Phone:	808-270-7735	Fax:	808-270-7634
E-mail:	planning@mauicounty.gov		
Web Site:	http://www.co.maui.hi.us/index.aspx?NID=182		

City and County of Honolulu

Mayor			
How Constituted:		The mayor is elected to a four-year term, with a limit of two consecutive terms.	
Duties:	<ol style="list-style-type: none"> 1. Appoint the director of Department of Planning and Permitting (with council approval). 2. Appoint members of planning commission. 3. Adopt, object, or veto ordinances enacted by the council. 		
Contact Information (August 2015):			
Mail Address:		530 South King St., Room 300, Honolulu, HI 96813	
Phone:	808-768-4141	Fax:	808-768-5552
E-mail:	mayor@honolulu.gov		
Web Site:	http://www.honolulu.gov/mayor		

Council			
How Constituted:		The nine council members are elected from nine districts to four-year terms, with a two-term limit.	
Duties:	<ol style="list-style-type: none"> 1. Confirm mayoral appointments to the planning commission. 2. Adopt development plans and sustainable communities plans. 3. Enact land use district boundary amendment ordinances and compatible zoning and rezoning ordinances. 4. Approve special management area permits consistent with Coastal Zone Management Act laws. 		
Contact Information (August 2015):			
Mail Address:		530 South King St., Room 203, Honolulu, HI 96813	
Phone:	See web site below for council member contact information.	Fax:	808-768-5011
E-mail:	See web site below for individual council member contact information.		
Web Site:	http://www.honolulu.gov/council		

Department of Planning and Permitting (DPP)			
How Constituted:		DPP is a department of the City and County of Honolulu.	
Duties:	<ol style="list-style-type: none"> 1. Prepare development plans and Sustainable Communities plans to guide long-term future planning. 2. Prepare, administer, and enforce ordinances and regulations governing development, land use, and zoning. 3. Oversee the planning commission and Zoning Board of Appeals. 4. Review and administer zoning and land use permits. 		
Contact Information (August 2015):			
Mail Address:		650 South King St., 7 th Floor, Honolulu, HI 96813	
Phone:	808-768-8000	Fax:	808- 768-6743
E-mail:	info@honoluluodpp.org		
Web Site:	http://www.honoluluodpp.org/		
Planning Commission			
How Constituted:		The nine planning commission members are appointed by the mayor and confirmed by the city council.	
Duties:	<ol style="list-style-type: none"> 1. Appear and make recommendations at the public hearing on every land use district boundary amendment involving more than 15 acres. 2. Process petitions for land use district boundary amendments for lands of 15 acres or less in the agricultural (except important agricultural lands), rural, and urban districts. 3. Issue special permits for unusual and reasonable uses on lands in the agricultural and rural districts. 4. Control the use of land in the urban, rural, and agricultural districts through recommended zoning ordinances and subdivision approvals, consistent with state policy, laws, and regulations. 5. Hold hearings and make recommendations on the adoption and amendment of development and sustainable communities plans. 		
Contact Information (August 2015):			
Mail Address:		650 South King St., Honolulu, HI 96813	
Phone:	808-768-8007	Fax:	808-768-6743
E-mail:	info@honoluluodpp.org		
Web Site:	http://www.honoluluodpp.org/		

Neighborhood Boards	
How Constituted:	As provided in the neighborhood plan prepared by the neighborhood commission.
Duties:	<ol style="list-style-type: none"> 1. Review and comment on proposed long range plans and special area planning. 2. Review and comment on proposed permit applications. 3. Review and comment on proposed changes to various land development codes, ordinances, and rules. 4. Testify at planning commission hearing on land use district boundary amendment if subject property is 15 acres or less. 5. Act as a liaison body between the department of planning and permitting and the community with respect to land use issues.
Contact Information (August 2015):	
E-mail:	Obtain from the web site below.
Web Site:	http://www.co.honolulu.hi.us/nco/boards.htm

County of Kaua‘i

Mayor			
How Constituted:		The mayor is elected to a four-year term, with a limit of two consecutive terms.	
Duties:	<ol style="list-style-type: none"> 1. Appoint members of Planning Commission. 2. Adopt, object, or veto ordinances enacted by the council. 		
Contact Information (August 2015):			
Mail Address:	4444 Rice St., Suite 235, Līhu‘e, HI 96766		
Phone:	808-241-4900	Fax:	808-241-6877
E-mail:	mayor@kauai.gov		
Web Site:	http://www.kauai.gov/mayor		

Council			
How Constituted:		The seven council members are elected at-large to two-year terms.	
Duties:	<ol style="list-style-type: none"> 1. Confirm mayoral appointments to Planning Commission. 2. Enact land use district boundary amendment ordinances and compatible zoning and rezoning districts. 		
Contact Information (August 2015):			
Mail Address:	4396 Rice St., Suite 209, Līhu‘e, HI 96766		
Phone:	808-241-4188	Fax:	808-241-6349
E-mail:	cokcouncil@kauai.gov		
Web Site:	http://www.kauai.gov/council		

Planning Commission			
How Constituted:		The seven planning commission members are appointed by mayor and confirmed by the county council.	
Duties:	<ol style="list-style-type: none"> 1. Appear and make recommendations at the public hearing for every land use district boundary amendment involving more than 15 acres. 2. Process petitions for land use district boundary amendments for lands of 15 acres or less in the agricultural (except important agricultural lands), rural, and urban districts. 3. Issue special permits for unusual and reasonable uses on lands in the agricultural and rural districts. 4. Control the use of land in the urban, rural, and agricultural districts through recommended zoning and subdivision approvals, consistent with state policy, laws, and regulations. 5. Issue special management area permits subject to Coastal Zone Management Act laws. 		
Contact Information (August 2015):			
Mail Address:	4444 Rice Street Suite A473, Līhu‘e, HI 96766		
Phone:	808-241-4050	Fax:	808-241-6699
E-mail:			
Web Site:	http://www.kauai.gov/planning		

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An aerial photograph of a coastal landscape, overlaid with a semi-transparent green filter. The image shows a winding road along a coastline, a sandy beach, and a body of water. In the background, there are rolling hills or mountains under a cloudy sky.

CHAPTER FIVE

Hawai'i Environmental Review

Chapter Five: Hawai'i Environmental Review

Hawai'i's Environmental Review System

Soon after the passage of the 1970 National Environmental Policy Act (NEPA), the State of Hawai'i established its own framework for ensuring environmentally-conscious project planning and decision-making within state government. Today, environmental review laws are embodied in the Hawai'i Environmental Policy Act (HRS chapter 344), the Environmental Impact Statement Law (HRS chapter 343), their implementing regulations (HAR chapters 11-200 and -201), OEQC policy documents, and related judicial decisions. Cumulatively, these laws support government assessment of a project's impacts, alternatives, and proposed mitigation measures *before* project approvals or decision-making, as applicable.

Key agencies

The Office of Environmental Quality Control (OEQC) and the Environmental Council are key state agencies in the environmental review process. The OEQC has primary administrative oversight during the environmental review process, and publishes public notice of public review and consultation opportunities for environmental assessments (EA) and environmental impact statements (EIS). OEQC has also adopted guidelines for assessing cultural impacts (which are considered environmental impacts) within these documents, and declaring or requesting categories of government actions that may be found exempt from the environmental review process.

The Environmental Council plays a key role in establishing and amending rules implementing chapter 343, HRS, and in reviewing or providing recommendations for agency determinations whether or not to accept final environmental impact statements as legally sufficient. The Environmental Council also reviews and approves state agency requests to establish their own specific list of actions that may be classified as exempt from the environmental review process.

The EIS law

The EIS review law requires preparation of EAs and, for some projects, EIS's when certain types of "actions" are proposed. For example, proposed "actions" that trigger the environmental review process include the use of state or county lands or the use of state or county funds. A complete list of actions that trigger the EIS review law is provided below.

Generally, a proposed action triggering the EIS law requires the completion of an EA. An environmental assessment is subject to public review and input, and concludes with a finding that an action *may* have a significant effect on the environment, or in the alternative, that the action will have no significant impact. Such a finding must evaluate the cumulative, direct, and secondary effects of an action, in addition to its long- and short-term impacts. When a group of actions are part of an overall undertaking or larger project, such a determination must also consider the total potential impact from the entire undertaking or project. Guidelines for making an impact determination in an EA are found in HAR § 11-200-12.

If an agency properly concludes with a "Finding of No Significant Impact" (FONSI) for an action, then there is no need to do an EIS. However, if the agency determines that the action may have a significant effect on the environment, then the agency (for actions by an agency) or applicant (for third party actions requiring agency approval) must prepare an EIS. An EIS is a more detailed assessment of a project's effect on the environment, economic welfare, social welfare, and cultural practices of the community and the state. It also includes proposals to minimize adverse effects and identifies alternative actions. Like the EA, the EIS is also subject to a public review and comment period. The EIS is considered by the accepting agency in making a decision on whether to undertake or approve a proposed action.

Specific steps in the EA/EIS process and opportunities for public input are detailed in the table below.

Actions Triggering the Environmental Review Process

Many projects fall within the scope of the state EIS law. Generally, an EA is required for the following proposed actions, whether undertaken by a state agency, or by a third party who seeks an agency's approval to undertake such actions.

Actions triggering the environmental review requirements include the following:

1. The use of state or county lands;
2. The use of state or county funds;
3. Any use within the state conservation district;
4. Any use within the shoreline area;
5. Any use within an historic site, as designated by the National Register or Hawai'i Register;
6. Any use within the Waikiki Special District;
7. Any amendments to the county general plan, or community or development plan;
8. Any reclassification of lands in the state conservation district;
9. Any construction or modification of a helicopter facility that may affect conservation district lands, shoreline areas, or historic sites;
10. Certain wastewater treatment units;
11. Any waste-to-energy facility;
12. Any landfill;
13. Any oil refinery; or
14. Any power-generating facility.

**An EA may be required by other laws and ordinances, such as federal laws or an application for a Special Management Area Use Permit.*

Exemptions to the Process

Pursuant to the EIS law, the Environmental Council has established 10 "classes" of actions that, although falling within the categories listed above, are considered unlikely to have a significant impact and may therefore be declared exempt from completing an EA or EIS. Agencies may petition the Environmental Council to add a class to this list. Existing classes are currently listed under HAR § 11-200-8(A).

If an agency determines that a particular action falls within one of the classes of exempt actions, it may declare the action exempt from the preparation of an EA. However, an agency may not declare an action exempt even if it falls within the list, if the action either 1) is part of a planned series of actions with a cumulative significant impact, or 2) may have a significant impact because it occurs in a particularly sensitive environment.

Opportunities for Public Involvement

The state environmental review process guarantees the rights of community members to participate in the planning of their communities. There are many key opportunities for community participation in this process, as highlighted in the following table:

Event / Action	Deadline for Comment	Details	Authority
Pre-assessment consultation	N/A	<ul style="list-style-type: none"> Affected individuals and groups as well as agencies with expertise may participate and provide information regarding a proposed action. Written comments and responses should be included within the EA. 	HAR §11-200-9 §11-200-10 §11-200-15
Agency's decision that HEPA does not apply to a proposed action (through formal determination or action taken without a formal determination)	Within 120 days	<ul style="list-style-type: none"> The agency's decision may be challenged through court proceeding. Proceedings must begin within 120 days from the agency determination, or from the time the action is started (if the action is undertaken without an agency determination). 	HRS §343-7(a)
Completion and public notice of a draft EA	Within 30 days	<ul style="list-style-type: none"> Public notice of the availability of the draft EA and the 30-day public comment period is published by the OEQC in the periodic OEQC bulletin. The agency (for agency actions) or the applicant (for third-party applicant actions) is required to respond to public comments. Public comments and responses should be published in the final EA. 	HRS §343-5(b)(1) §343-5(c)(1); HAR §11-200-11.1
Completion and public notice of a final EA	Within 30 days (FONSI; no EIS required) or 60 days (EIS required)	<ul style="list-style-type: none"> A final EA conclusion regarding whether or not an EIS is required may be challenged through court proceeding. Proceedings must begin within 30 days from public notification of a final EA concluding with a FONSI (i.e. no EIS required), or within 60 days from public notification of a final EA concluding with a finding of possible significant impacts (requiring an EIS). 	HRS §343-7(b); HAR §11-200-11.2
EIS preparation notice	Within 30 days	<ul style="list-style-type: none"> After an EIS is determined necessary, an EIS preparation notice is published by the OEQC in the OEQC periodic bulletin. Members of the public may submit comments or requests to be a consulted party in the preparation of a draft EIS. Public comments should be responded to in writing, and may be incorporated as appropriate into the draft EIS. 	HAR §11-200-9.1 §11-200-15

<p>Completion and public notice of a draft EIS</p>	<p>Within 45 days</p>	<ul style="list-style-type: none"> ◦ Public notice of the availability of the draft EIS and the 45-day public comment period is published by the OEQC in the periodic OEQC bulletin. ◦ The agency (for agency actions) or the applicant (for third-party applicant actions) is required to respond to substantive public comments. ◦ Public comments and responses should be published in the final EIS. 	<p>HRS §343-5(b)(1) §343-5(c); HAR §11-200-15 §11-200-18</p>
<p>Public notice of an agency's acceptance of a final EIS</p>	<p>Within 60 days</p>	<ul style="list-style-type: none"> ◦ Public notice of an agency's acceptance of a final EIS and the availability of the EIS is published by the OEQC in the periodic bulletin. ◦ An agency's acceptance of a final EIS may be challenged in court proceedings. ◦ Court proceedings challenging an agency's acceptance of a final EIS must begin within 60 days from public notification of acceptance. 	<p>HRS §343-7(c); HAR §11-200-24</p>

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An aerial photograph of a coastal region, showing a road that curves along a beach and into a wooded area. The entire image is overlaid with a semi-transparent green filter. The text is centered in the upper half of the image.

CHAPTER SIX

**Land Use District
Boundary Amendments**

Chapter Six: Land Use District Boundary Amendments

As described in Chapter Two, the state and its counties share responsibilities in Hawai'i's land use management system. The *state* Land Use Commission (LUC) is responsible for the classification of land parcels into the urban, rural, agricultural, and conservation districts, and for processing certain district boundary amendment petitions to reclassify lands. The individual *counties*, through their planning commissions or county councils, zone parcels within all districts other than the conservation district, as a means of guidance for current and future development. Counties also process boundary amendment petitions for certain parcels of land in the urban, rural, and agricultural districts. As discussed further in Chapter Seven, the state Office of Conservation and Coastal Lands within the Department of Land and Natural Resources administers and manages uses within the conservation district

This chapter discusses in further detail the state LUC and county processes of amending land use district boundaries to reclassify parcels of land, with a particular focus on opportunities for public input and involvement. Chapter Six provides further details on the additional county processes for granting variance and special use permit requests. For further details on the processes described in this chapter, please use the information provided in Chapter Three and Chapter Four to contact the appropriate agency or obtain copies of the referenced rules.

State Land Use Commission District Boundary Amendment Actions

The LUC acts on land use district boundary amendment petitions involving the reclassification of lands:

- In the conservation district;
- Delineated as important agricultural lands; or
- Greater than 15 acres in area in the agricultural, rural, and urban districts.

Opportunities for public involvement in the LUC district boundary amendment process include:

- Public review and comment on the environmental assessment (EA) and/or the environmental impact statement (EIS) generally required for the reclassification of conservation district lands, per chapter 343, HRS;
- Intervention as a party in land use district boundary amendment proceedings; and
- Public input on boundary amendment petitions before the LUC.

Chapter Five discusses in detail the EIS process, including opportunities for public involvement, as would be required for changes to conservation district boundaries.

State District Boundary Amendments

The following discussion explains the general process of reclassifying lands through district boundary amendment proceedings before the state LUC, and includes information on public input as well as party intervention opportunities within this process.

1. **Applicant files a petition for reclassification.** Any person with a property interest in the land sought to be reclassified, or any state or county department or agency, may petition the LUC for a change in the classification. Any petition for reclassification of any land in the conservation district must also include an EIS, or an EA concluding with a "Finding of No Significant Impact" (FONSI).

As part of the petition requirements, the petitioner must prepare and deliver a "notification of petition filing" to a list of potential interveners (see below) maintained by the LUC.

2. **LUC schedules a public hearing, issues public notice.** If and when the LUC determines a reclassification petition was properly filed, a public hearing on the petition is scheduled. The hearing must take place on the island in which the land is situated, not less than 60 days and not more than 180 days after the proper filing of the petition. This process includes the following steps:
 - LUC publishes a public hearing notice once statewide, and once in the county where the land is situated, at least 30 days in advance of the hearing.
 - LUC gives written notice to the appropriate county planning commission, county planning department, all persons with a property interest in the land, and all persons who have made a timely written request for advance notice of boundary amendment proceedings.

- The LUC must also allow a representative of a citizen or community group to express the view of such group at the public hearing.
 - Anyone who desires to appear as a witness must submit a written application to be a witness prior to the hearing.
3. **Intervening parties may apply to intervene, request a contested case.** “Parties” to boundary amendment proceedings are granted certain procedural rights otherwise unavailable to the general public, such as the right to present evidence, examine and cross-examine witnesses, and agree to stipulated facts, conclusions of law, or conditions on the reclassification of land. In addition to the mandatory parties listed above, the LUC must allow the following entities to intervene as parties in boundary amendment proceedings, upon timely written application to the LUC:
- All state departments and agencies, and all county agencies in the county where the land is located;
 - All persons who lawfully reside on the land, or who have property interests in the land; and
 - All persons who can demonstrate they will be so directly and immediately affected by a proposed change that their interest is clearly distinguishable from that of the general public.
 - Any other person may also apply to the LUC or its designated hearings officer to intervene as a party in land use boundary amendment proceedings. Approval (or “leave”) to intervene in such a case “shall be freely granted,” but intervention may be denied if: 1) the petition of the prospective intervener is substantially the same as that of a party already admitted, or 2) admission of additional parties will render the proceedings inefficient and unmanageable.

Written applications to intervene as a party are subject to filing deadlines, content, and service requirements described in chapter 15-15, Hawai‘i Administrative Rules (HAR) (see Chapter Three for information on obtaining referenced statutes and rules).

Denial of an application to intervene may be appealed to the circuit court.

4. **LUC issues decision.** The LUC must reach a decision not more than 365 days after proper filing of the petition, unless otherwise ordered by a court or permitted through the agreement of two-thirds of the LUC. A time extension granted by the LUC may not exceed 90 days. The LUC may approve, deny, or modify the petition by imposing conditions necessary to uphold the intent and spirit of chapter 205, HRS; to support the policies and criteria established pursuant to section 205-17, HRS; or to assure substantial compliance with representations made by the petitioner in seeking a boundary change. There must be six affirmative votes (out of nine members) to approve a boundary amendment.

Per section 91-14, HRS, final LUC decisions may be appealed to the circuit court.

County Land Use Boundary Amendments

As described above, county planning commissions are the approving agencies for land use district boundary amendments involving lands under 15 acres in the agricultural, rural, and urban districts.

Opportunities for public involvement in county boundary amendment actions include:

- An informational presentation to the appropriate neighborhood board (in the City and County of Honolulu only);
- Public input at a hearing before the planning commission; and
- Public input at a hearing before the county council.

The following discussion explains the general process of reclassifying lands through district boundary amendment petitions before a county planning commission, and includes information on public input opportunities within this process. Each county has separate rules of procedure, and the information provided below is general in nature and may vary somewhat between counties. Please see Chapter Three for information on obtaining copies of the appropriate county council, planning commission, and county planning department rules.

1. **Applicant files a petition for reclassification.** Any person with a property interest in the land sought to be reclassified, or any department or agency of the state or county, may petition the planning commission of the relevant county where the subject land is situated. Petitions are submitted to the county planning department per planning department rules. The planning director must forward a copy of each petition to the LUC and the state Department of Business, Economic Development, and Tourism (DBEDT) for review and comment.
2. **Applicant/petitioner presents plan to the appropriate neighborhood board (City and County of Honolulu only).** The petitioner is strongly encouraged to make an informational presentation to the appropriate neighborhood board, where public testimony may be received.
3. **Planning commission holds a public hearing.** The planning commission must hold a public hearing on each petition, and issue notice of the same. Any citizen may appear and testify at the hearing, subject to planning commission rules of procedure.
4. **Planning commission makes a recommendation.** After the public hearing, the planning commission makes a recommendation on the proposed boundary amendment and forwards its recommendation to the county council.
5. **County council takes action.** The county council must enact any boundary amendment by ordinance, following its own rules of procedure. Public input is provided for within the ordinance enactment process.
6. **Notification of action.** Within 60 days after the effective date of the boundary amendment ordinance, the planning director must transmit the description and a map of the affected land to LUC and to DBEDT.

An aerial photograph of a coastal region, overlaid with a semi-transparent green filter. The image shows a range of mountains in the background, a large bay or inlet in the middle ground, and a winding road that curves along the shoreline. The foreground shows a sandy beach and the edge of the water.

CHAPTER SEVEN

County Land Use Processes

Chapter Seven: County Land Use Processes

In addition to land use boundary amendments described in the previous chapter, the counties also primarily handle proceedings for the following land use categories:

- Special use permits;
- Zoning ordinances; and
- Special management area use permits.

The following discussion details the general processes involved in each of these land use management categories. As each county has separate rules of procedure, the information provided below is general in nature and may vary somewhat between counties. Please see Chapter Three for information on obtaining copies of county council, planning commission, and planning department rules.

Special Use Permits

Special use permits allow certain “unusual and reasonable uses” within the agricultural and rural districts, which do not fall under the established acceptable uses designated for agricultural and rural lands. The county planning commissions administer special use permits. Should a special use permit involve lands greater than 15 acres, or any lands designated as important agricultural lands, the state Land Use Commission (LUC) must also approve the permit, subject to additional conditions that it may impose.

Opportunities for public involvement in the county special use permitting process include:

- Informational presentation to the neighborhood board (City and County of Honolulu only);
- Party intervention in land use boundary amendment proceedings;
- Public input at a hearing before the planning commission; and
- When applicable (i.e. for lands greater than 15 acres), public input at a hearing before the LUC.

1. **Petitioner submits a special use permit application.** A person who desires a special use permit must first submit a petition to the planning department of the county where the subject land is located. The planning director reviews the application for completeness, and notifies the planning commission if and when the application has been accepted. Copies of the petition must be submitted to the LUC, the state Office of Planning, and the state Department of Agriculture for review and comment.
2. **Petitioner presents plan to the appropriate neighborhood board (City and County of Honolulu only).** The petitioner is strongly encouraged to make an informational presentation to the appropriate neighborhood board.
3. **Planning commission holds a public hearing.** Following public notice, the planning commission holds a public hearing on the permit application. Similar to state boundary amendments, interested individuals and groups may intervene as parties and request a contested case, usually by submitting an application prior to the public hearing. Specific contested case procedural requirements are established in county rules pursuant to chapter 91, HRS.
4. **County planning commission takes action.** After the hearing, the planning commission approves, approves with conditions, or disapproves the permit application. The county planning commission may approve a petition “only when the use would promote the effectiveness and objectives of this chapter; provided that a use proposed for designated important agricultural lands shall not conflict with any part of this chapter.” The deadline to act is set by county rule.
5. **LUC takes action (for important agricultural lands or lands greater than 15 acres).** A special use permit for an area of more than 15 acres or for land designated as important agricultural land requires approval of both the county planning commission and the state LUC. If a special use permit is approved for an area of more than 15 acres, or for land designated as important agricultural land, the county planning commission transmits the application, a complete record of its proceedings on the matter, and its decision to the state LUC. Within 45 days after receipt of the complete record from the county planning commission, the LUC then acts to approve, approve with modifications, or disapprove the application. Public witness testimony may be received at land use commission hearings on special permits, and interveners may be recognized as parties for contested case purposes.

Decisions by both the county planning commission and the LUC may be appealed to the circuit court of the circuit in which the land is located.

Zoning Ordinances

As discussed previously, county councils have jurisdiction to enact zoning ordinances to more specifically manage uses within the agricultural, rural, and urban districts as established by the LUC. The following discussion describes the general process for enacting or amending zoning ordinances; specific county procedures and requirements can be found in the rules of the relevant county (see Chapter Three).

Opportunities for public involvement in the county zoning process include:

- Informational presentation to the neighborhood board (City and County of Honolulu only);
- Public input at a hearing before the planning commission; and
- Public input at a hearing before the county council.

1. **Petitioner submits a rezoning application.** A zoning amendment affecting a parcel of land may be proposed by the county council, the director of the county planning department, the owner of the land, or any other person with the land owner's authorized consent. Zoning amendment petitions are generally filed with county planning departments pursuant to their respective rules of procedure.
2. **Petitioner presents plan to the appropriate neighborhood board (City and County of Honolulu only).** The petitioner is strongly encouraged to make an informational presentation to the appropriate neighborhood board.
3. **Planning commission holds a public hearing.** The planning commission must hold a public hearing on each proposed rezoning petition. Any citizen may appear and testify at the hearing, subject to planning commission rules of procedure. The property owner must normally notify adjacent landowners of any scheduled hearing on a proposed rezoning application.
4. **Planning commission makes a recommendation.** After the public hearing, the planning commission makes a recommendation on the zoning amendment proposal and forwards its recommendation to the county council, normally within 90 days.
5. **County council takes action.** The county council must enact any zoning amendment by ordinance, following its rules of procedure. Public input is provided for.

Special Management Area Use Permits

Under the Hawai'i Coastal Zone Management Act, established in chapter 205A, HRS, county planning commissions or county councils (in the case of the City and County of Honolulu) have primary responsibility in processing and issuing special management area use permits, for any development within the special management area (SMA). The SMA includes all shorelines and their adjacent land areas, with boundaries that may be amended by the counties. Permits must meet the guidelines contained within chapter 205A, HRS, and under any applicable county code or regulations.

Subject to exceptions for "minor" or emergency permits, opportunities for public involvement in the SMA permitting process include:

- Informational presentation to the neighborhood board (City and County of Honolulu only);
- Party intervention in a public hearing before the planning commission (except for the City and County of Honolulu);
- Public input at a hearing before the planning commission; and
- Public input at a hearing before the county council (City and County of Honolulu only).

1. **Petitioner submits an SMA permit application.** Any person who desires to develop his/her land within the SMA must submit an SMA permit application to the county planning department, pursuant to county rules and procedures.
2. **Petitioner presents plan to the neighborhood board (City and County of Honolulu only).** The petitioner is strongly encouraged to make an informational presentation to the appropriate neighborhood board.
3. **Planning commission holds a public hearing.** The planning commission must hold a public hearing on each application. Any citizen may appear and testify at the hearing, subject to planning commission rules of procedure. For all counties except for the City and County of Honolulu, interested individuals and groups may intervene as parties and request a contested case, usually by submitting a petition prior to the public hearing. Specific contested case procedural requirements are established in county rules pursuant to chapter 91, HRS.
4. **Planning commission takes action (except for City and County of Honolulu) or makes a recommendation.** After the public hearing, the county planning commission (except for Honolulu) may approve, approve with conditions, or deny the SMA permit application. For Honolulu, the planning commission makes a recommendation on the proposed boundary amendment, and forwards its recommendation to the county council for final action.
5. **City and County of Honolulu Council takes action.** In the City and County of Honolulu only, the city council must approve any SMA permit by ordinance, following its charter and rules of procedure. Public input at a city council hearing on the permit is provided for.

An aerial photograph of a coastal landscape, overlaid with a semi-transparent green filter. The image shows a winding road along a coastline, a sandy beach, and a body of water. In the background, there are rolling hills or mountains under a cloudy sky. The overall scene is natural and scenic, typical of a conservation area.

CHAPTER EIGHT

Conservation Lands

Chapter Eight: Conservation Lands

Whereas the counties share authority with the state in managing lands within the urban, rural, and agricultural districts, the management of conservation lands occurs wholly on the state level. Intended to conserve, protect, and preserve important natural resources, the conservation district encompasses nearly half of Hawai'i's lands, including all state sub-merged lands, and are subject to the most restrictive land use regulations.

The Board of Land and Natural Resources (BLNR) and the Department of Land and Natural Resources (DLNR) share responsibility for designating permissible uses in the conservation district, and promulgating other rules managing conservation lands. The BLNR classifies all conservation district lands into five subzones: protective (the most restrictive), limited, resource, general (the least restrictive), and special (for unique projects). The BLNR also determines permitted uses within each subzone. All conservation designated lands, both public and private, are governed by the BLNR's rules, which cover a broad range of land uses. The Office of Conservation and Coastal Lands (OCCL), a division within the DLNR, is the primary agency tasked with administrative oversight over these lands and uses.

Rules delineating the conservation district subzones, permissible uses within these subzones, and application requirements for such uses are found in chapter 13-5, Hawai'i Administrative Rules (HAR). Information on reviewing these rules may be found in Chapter Three.

Conservation District Use Permit Applications

Conservation district use applications (CDUAs) allow for certain uses within conservation lands. The BLNR and the DLNR split responsibilities for approving CDUAs, depending on the type of proposed use and the subzone in which it is proposed. Land uses requiring comprehensive review by the board are authorized through board permits, management plan approvals, and temporary variances. Land uses requiring departmental review and chairperson approval are authorized through departmental permits and emergency permits. Site plans are processed by the department and approved by the chairperson or the chairperson's designated representative. All permit applications must contain a draft environmental assessment or environmental impact statement consistent with Chapter 343, Hawai'i Revised Statutes (HRS).

In addition to the public review and input opportunities contained within the environmental review process under Chapter 343, HRS (see Chapter Four), opportunities for public involvement within the departmental and board permit processes include the following:

- Public input on departmental permit applications;
- Public input at hearings on applications for uses requiring BLNR approval; and
- Party intervention in contested cases over board action on a board permit, or over the chairperson's decision on a departmental permit in some cases.

1. **Landowner submits an application.** Applications for all conservation district use permits (board permits, departmental permits, emergency permits) are submitted to DLNR-OCCL. Every application must contain a draft environmental assessment or environmental impact statement, as applicable. OCCL reviews applications for completeness within 30 days after receipt, and notifies the applicant as to whether the application is complete or incomplete. No permit application may be processed until any violations pending against the subject property have been resolved.
2. **Public comments on departmental permits.** Notice of departmental permit applications is posted in the Office of Environmental Quality Control (OEQC) bulletin. Members of the public may submit comments on the application up to 30 days after the notice appears; "interested persons" may also request notification of the chairperson's decision on the permit application during this time.

Persons with a property interest in the land for which a CDUA departmental permit is sought, persons who lawfully reside on the land, and persons who can demonstrate they will be so directly and immediately affected by a proposed permit may appeal the chairperson's decision on a departmental permit to the BLNR. If the written appeal sets forth facts, law, or both, indicating that the chairperson's decision was arbitrary and capricious, the BLNR may affirm, amend, or reverse the chairperson's decision, or order a contested case hearing on the matter (see step 4 below).

3. **BLNR holds a public hearing.** BLNR holds public hearings on: a) all applications for a proposed use of land for commercial purposes; b) applications requiring a board permit in the protective subzone; c) departmental permit applications that also include uses requiring board approval; and d) all other departmental permit applications for

which the chairperson determines that the scope of proposed use or the public interest requires a public hearing. For these public hearings:

- The hearing is held in the county in which the land is located.
- Notice of the hearing is given not less than 20 days prior to the date set for the hearing.
- Notice of the hearing is published at least once in a newspaper of general circulation in the state and in the county in which the land is located.
- DLNR may summon witnesses and administer oaths.

4. **BLNR holds a contested case hearing.** Persons with a property interest in the land for which a CDUA board permit is sought, persons who lawfully reside on the land, persons who can demonstrate they will be so directly and immediately affected by a proposed permit may apply to intervene as parties, and request a contested case hearing over BLNR action on the permit. All other persons may apply to intervene as parties. Leave to intervene shall be freely granted, but the BLNR or hearing officer (if one is appointed) may deny intervention if: 1) the petition of the applicant is substantially the same as that of a party already admitted, or 2) admission of additional parties will render the proceedings inefficient and unmanageable. Denial of an application to intervene may be appealed to the circuit court.

Certain appeals of departmental permits to the BLNR may also be subject to a contested case hearing if so ordered by the BLNR.

5. **Decision and default approval.** If the chairperson or BLNR fails to make a decision on an application within 180 days after the DLNR's acceptance of the complete application the landowner may automatically put the land to the use or uses requested in the application, subject to the standard conditions listed in section 13-5-42, HAR.

Change of Conservation District Subzone Boundaries or Land Uses; Establishment of Subzones with Certain Land Uses

Conservation district subzone boundaries and permissible uses are established by rules promulgated by the BLNR. Amendments to these boundaries or uses require the BLNR to go through the rulemaking process outlined in chapter 91 and section 183C-4, HRS, and in chapter 13-1, HAR.

Opportunities for public involvement in the BLNR rulemaking process include:

- Public input at the BLNR meeting authorizing a public hearing on the proposed rule amendments; and
- Public input at the public hearing on the proposed rule amendments.

1. **Applicant submits an application to amend rules.** Any landowner or government agency whose property will be directly affected may apply to change the boundaries or land uses of any subzone, or establish a subzone with certain land uses. The change(s) must be put into the form of a proposed administrative rule, must include maps of the subject area, and is submitted to the DLNR-OCCL. There are 5 subzones in the conservation district: (a) protective; (b) limited; (c) resource; (d) general; and (e) special, with different levels of restrictions of use.
2. **BLNR approves a public hearing for the proposed rule amendments.** The BLNR must approve the rule amendment proposal for public hearing. The public may provide testimony on the proposed rules at this hearing.
3. **BLNR holds a public hearing.** The BLNR holds a public hearing on the proposed rule.
 - DLNR gives notice of the public hearing during three successive weeks statewide and in the county in which the property is located. The notice shall be given not less than 30 days prior to the date set for the hearing.
 - The proposed rule must be made available for public inspection.
 - The hearing is held in the county in which the property is located.
 - BLNR may summon witnesses, administer oaths, and require the giving of testimony.
 - The public may also comment on the proposed rules at the public hearing.
4. **BLNR renders a decision.** After the public hearing, BLNR makes a determination on the proposed administrative rule. Such a decision may be made at the public hearing, or at a subsequent BLNR meeting. Rules must be approved by the governor and filed with the lieutenant governor's office in order to take effect.

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An aerial photograph of a coastal area, showing a road that curves along a bay. The image is overlaid with a semi-transparent green filter. The sky is filled with clouds, and the land is covered in vegetation. The water in the bay is a dark blue-green color.

CHAPTER NINE

Problems with Enforcement

Chapter Nine: Problems with Enforcement

The enforcement of laws is sometimes necessary to ensure their proper function. Unfortunately, numerous enforcement issues continue to persist with respect to Hawai'i's land use laws. Public participation in monitoring land uses and ensuring that land use laws are complied with may therefore be essential to ensure that Hawai'i's land management framework meets its goals of proper, fair, and careful stewardship of the 'āina.

The following discussion illustrates a common problem with the enforcement of agricultural land use laws; namely, the proliferation of residential housing development projects on agricultural district lands. As further discussed below, such blatant disregard for the established permissible uses of these lands has led to numerous problems further inhibiting the development of Hawai'i's local agriculture industry.

Enforcement responsibilities for agricultural land uses are largely given to the counties under Hawai'i Revised Statutes (HRS) § 205-12, which provides that the "appropriate officer or agency charged with the administration of county zoning laws *shall enforce*" the Land Use Commission's (LUC) classifications and the restrictions in the agricultural district (emphasis added).

The requirement for "farm dwellings." Despite clearly articulated permissible uses for the agricultural district, the counties have regularly failed to enforce state land use laws when authorizing development projects in these lands. Accordingly, in recent years, there has been a proliferation of residential subdivisions on agricultural district lands, despite the clear prohibition of "residences" other than "farm dwellings" on such lands. "Farm dwellings" are restricted to "a single-family dwelling located on and used in connection with a farm, including clusters of single-family farm dwellings permitted within agricultural parks developed by the State, or where agricultural activity provides income to the family occupying the dwelling." HRS § 205-4.5. The state legislature enacted this restriction in 1976, in recognition of the problem of residences being built on agricultural district land, which was compromising the ability of farmers to farm. However, this provision continues to be disregarded in county-approved subdivisions of agricultural land, and raises questions as to whether counties are sufficiently enforcing the law on behalf of local agriculture.

For example, in many instances, counties have been lax in assessing, in advance, the potential for true agricultural activity. As a result, developers, able to obtain county approvals, have regularly ignored the requirement to reclassify agricultural district lands in order to legally offer residences for sale. For years, counties have continually ignored their duties to enforce the law by allowing permits, and approving subdivisions, in total disregard of this requirement. The resulting proliferation of luxury residences on agricultural district land has driven the speculative fever for land, driving up agricultural land prices, discouraging farming, and pricing the land available for legitimate housing beyond the reach of most local residents.

Hokulia. The Hokulia luxury residential subdivision was a prime example of this abuse of the law designed to protect agricultural district farm lands from the speculative investments of wealthy home-buyers. Initially, Hokulia's developer planned a more intensive use of the land, with plans to seek reclassification of the land from agriculture to urban. Ultimately, Hawai'i County, in derogation of state land use law, approved plans for a 1,500 acre, 750 unit luxury residential subdivision surrounding a golf course, members lodge, beach club, and tennis club, without any consideration of whether the homes were "farm dwellings." Kona residents sued under a variety of environmental and cultural claims, but ultimately won on the claim that the project was incompatible with the permissible uses prescribed by statute for the agricultural land on which it would be situated. The judgment stopped construction of the project, which had proceeded under the false presumption that no land use reclassification was needed. The county planning director at the time assured the developer it did not need to seek LUC reclassification, without any consultation with the LUC.

The developer of the Hokulia project eventually filed for bankruptcy, citing debts of \$500 million to \$1 billion. In 2014, a bankruptcy judge approved the developer's plan to reorganize \$670 million in debt, which included commitments to establish agricultural and cultural preserves, among others. At the time of publication, construction activity has resumed, with the development still being advertised as a "1,350 acre golf community ... on the edge of the great Kona coffee plantations."

Other residential subdivisions like Hokulia have emerged on agricultural district land on every island with little scrutiny by the county, often generating controversy with little effect on county accountability for protecting and enforcing legitimate uses of agricultural land. The few residents who understand the scope of this restriction have been successful in stopping such development. In the case of the planned Keopuka agricultural subdivision, local residents succeeded in convincing the state LUC to rule that the project was not agricultural in nature, primarily because it separated the planned farming activity from the proposed house lots. This separation violated the statutory requirement that the farm dwelling be "located on and used in connection with a farm."

An aerial photograph of a coastal region, overlaid with a semi-transparent green filter. The image shows a winding road along a coastline, a bay or inlet, and a range of mountains in the distance under a cloudy sky. The text 'APPENDIX & MAPS' is centered in the upper right portion of the image.

APPENDIX & MAPS

Appendix A: Additional References

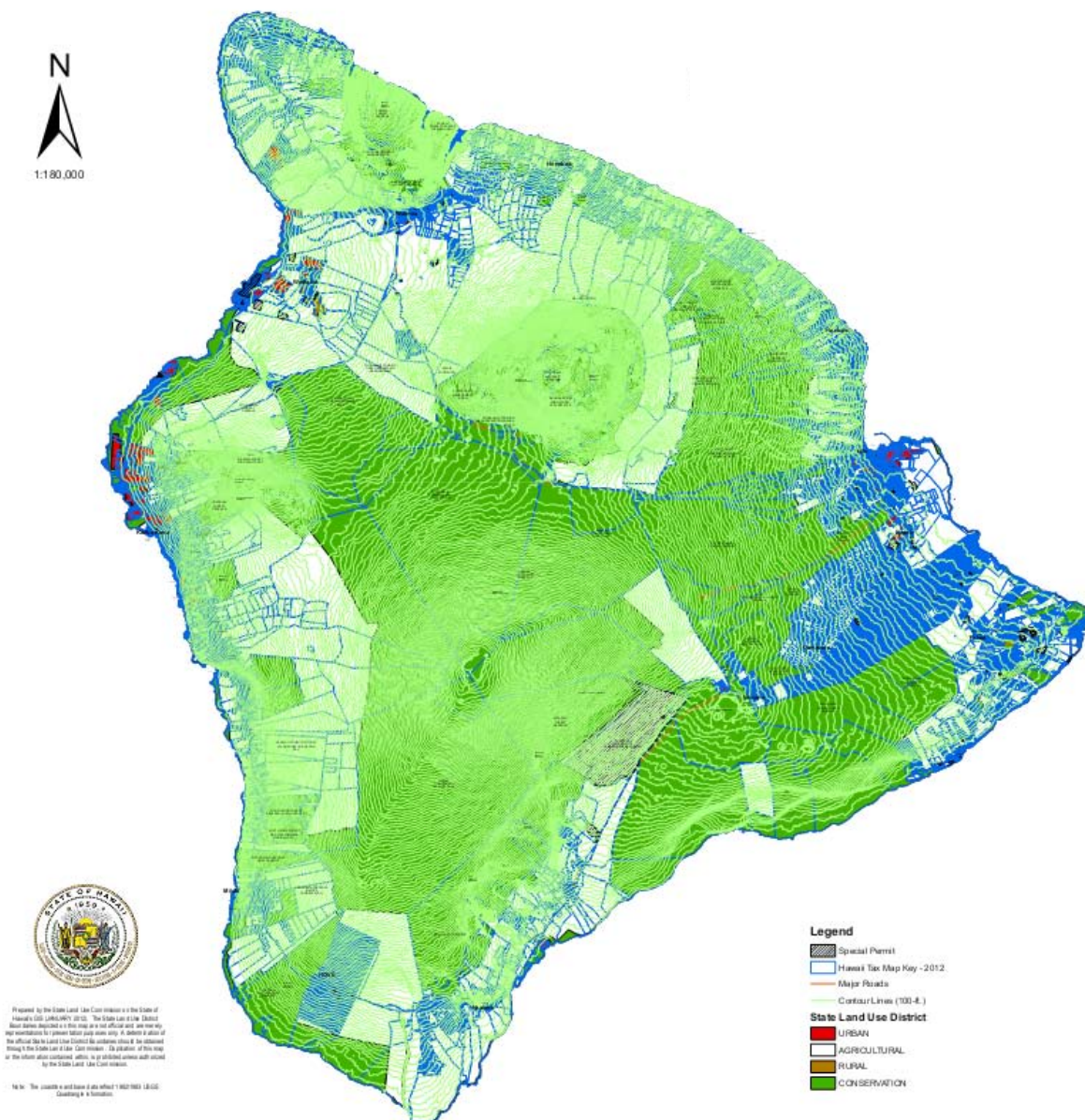
1. Land Use Commission, Land Use Maps, http://luc.state.hi.us/luc_maps.htm (last visited March 18, 2013).
2. Office of Environmental Quality Control, Guide to the Implementation and Practice of the Hawaii Environmental Policy Act (2012), available at http://oeqc.doh.hawaii.gov/Shared%20Documents/Misc_Documents/Guide%20to%20the%20Implementation%20and%20Practice%20of%20the%20HEPA.pdf.
3. David M. Forman & Susan K. Serrano, Ho'ohana Aku, a Ho'ōla Aku: A Legal Primer for Traditional and Customary Rights in Hawai'i (2012).
4. D. Kapua'ala Sproat, Ola I Ka Wai: A Legal Primer for Water Use and Management in Hawai'i (2010).
5. David Callies, Regulating Paradise: Land Use Controls in Hawai'i (2d ed. 2010).
6. Hawai'i County Planning Commission, Hawai'i's Land Use Regulatory System (2006) available at <http://records.co.hawaii.hi.us/weblink/DocView.aspx?dbid=1&id=56156>.
7. Casey Jarman, Making Your Voice Count: A Citizen's Guide to Contested Case Hearings (2002), available at <http://www3.hawaii.edu/ohelo/resources/MakingYourVoiceCount.pdf>.
8. David Kimo Frankel, Protecting Paradise: A citizen's guide to land & water use controls in Hawai'i (1997).

Appendix B: Land Use District Boundary Maps

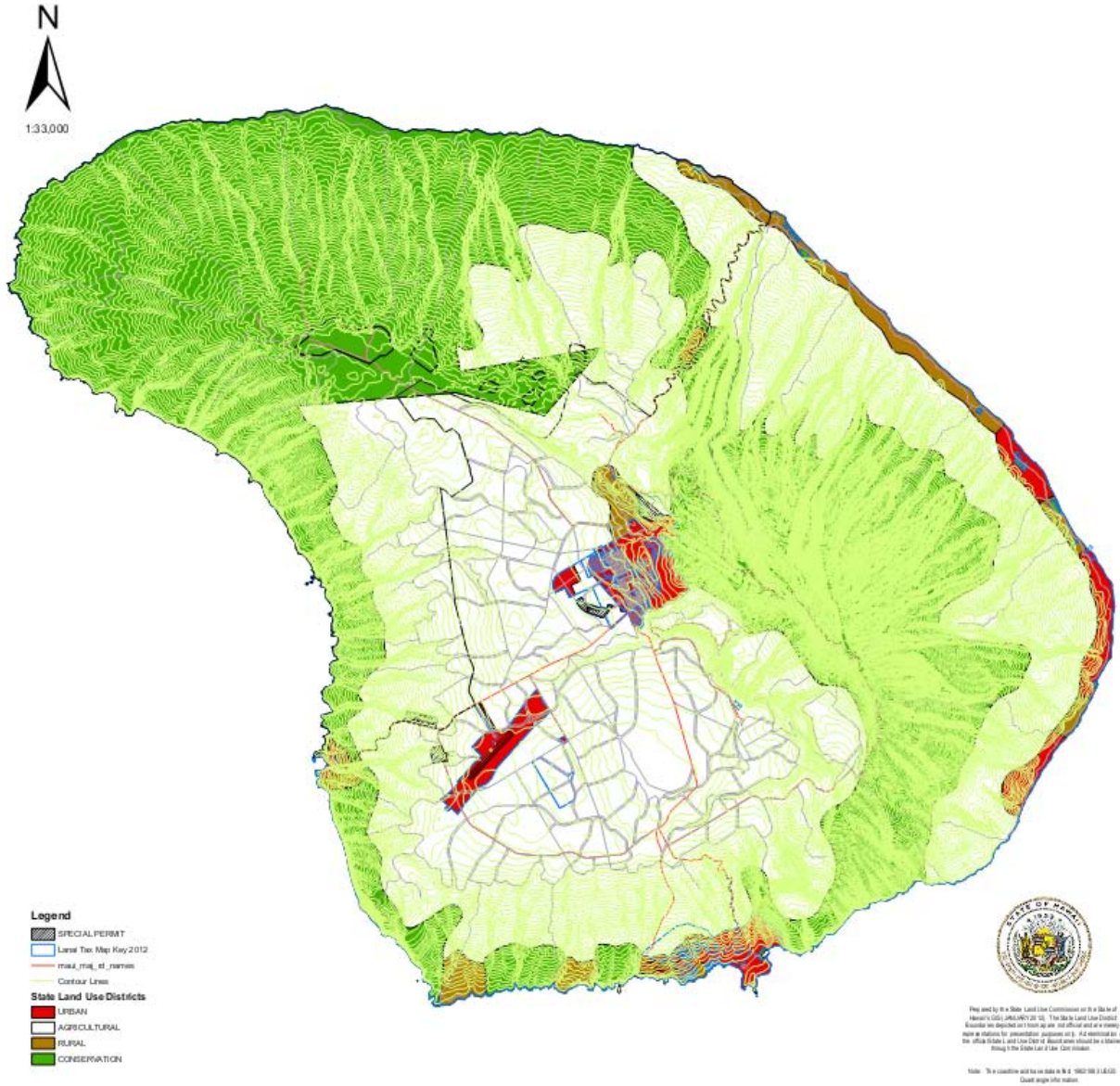
NOTE: The following maps are for illustrative purposes only, and are not meant to be determinative descriptions of land use boundaries. Boundary determinations can only be made using certified maps obtained from the State Land Use Commission.

The land use district boundary maps below have been reprinted from http://luc.state.hi.us/luc_maps.htm. The reprinting of these land use district boundary maps does not imply any official endorsement or approval of this manual by the State Land Use Commission or the State of Hawai'i.

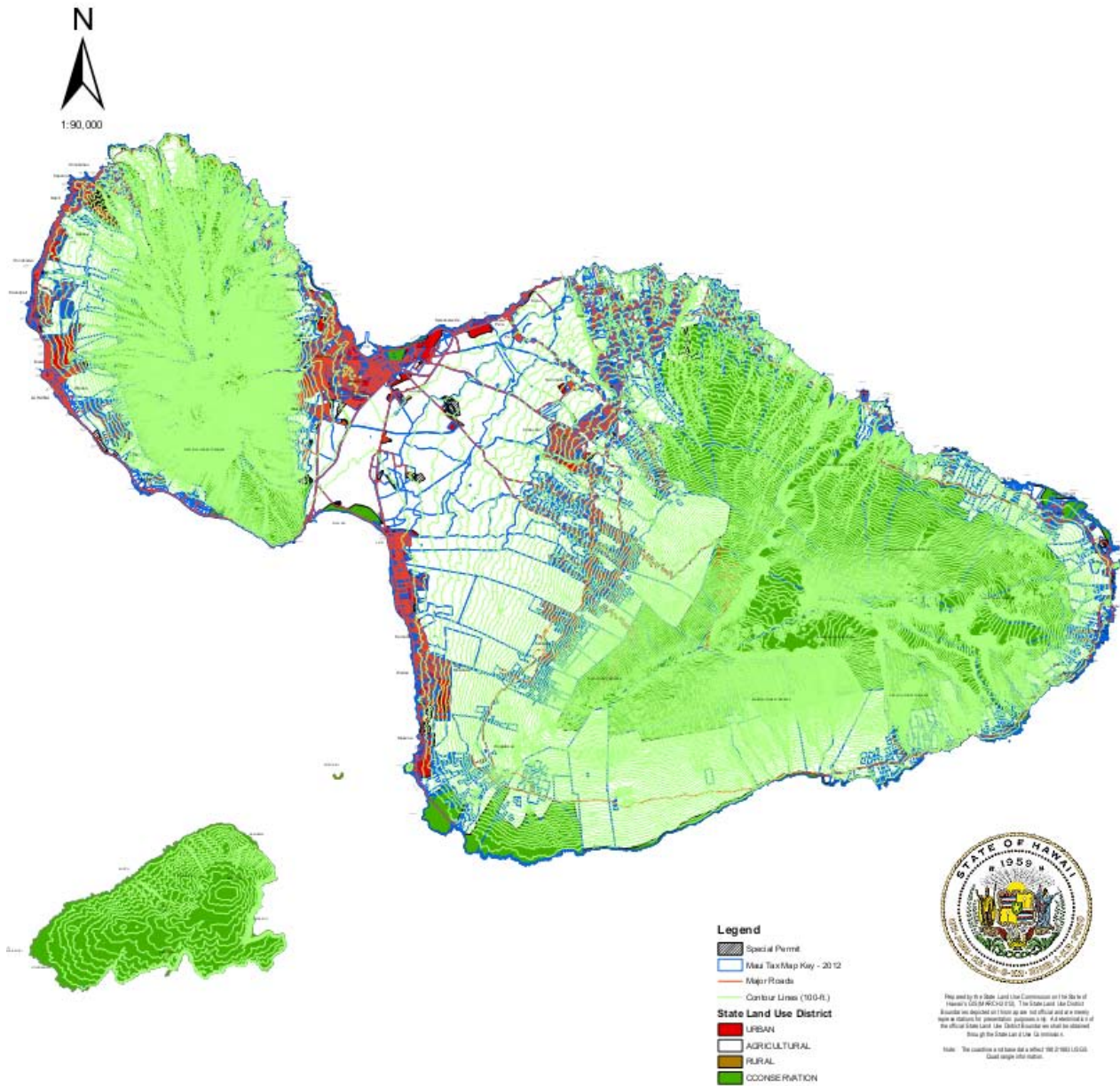
Island of Hawai'i State Land Use District Boundary Map



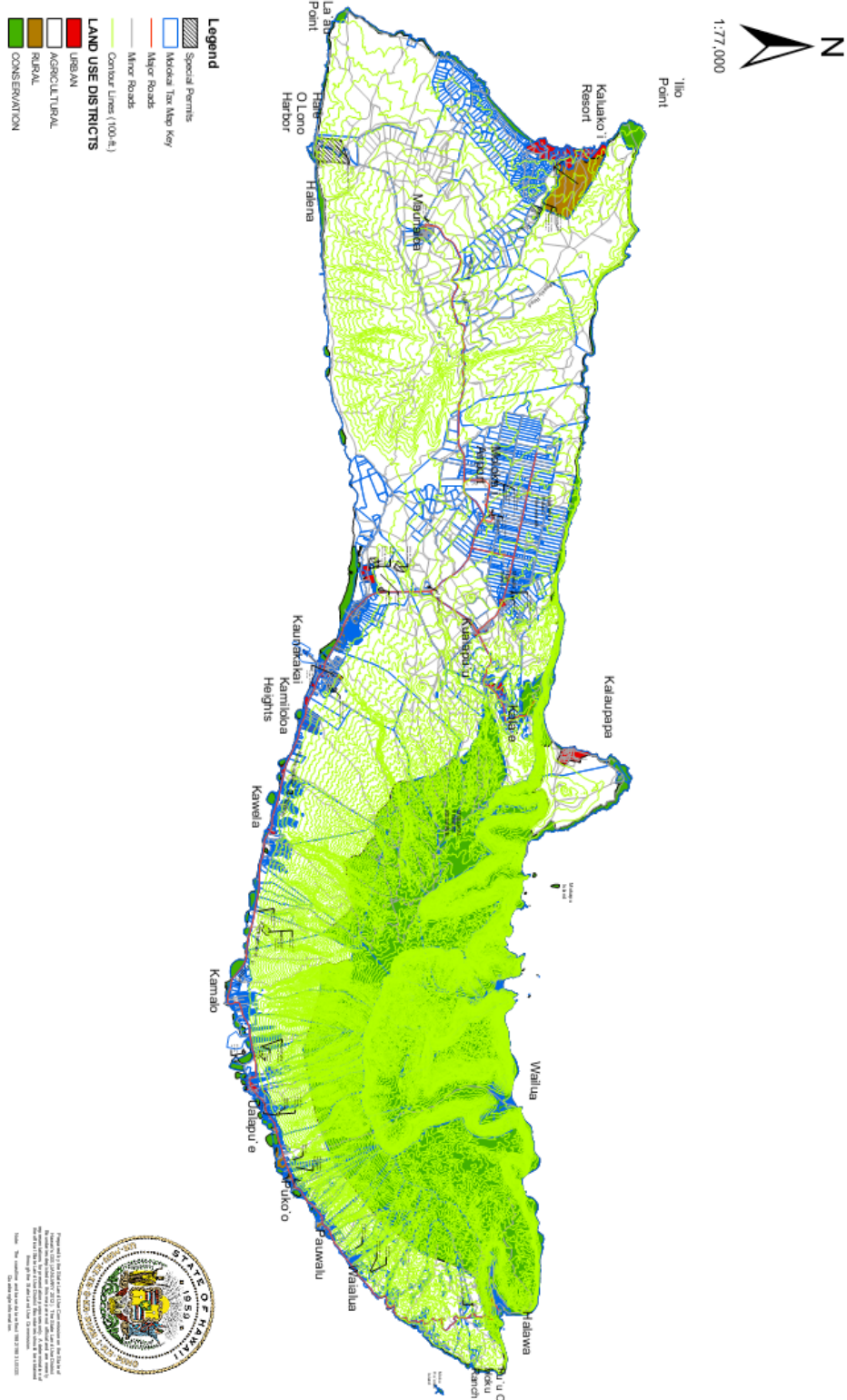
Island of Lāna‘i State Land Use District Boundary Map



Islands of Maui and Kaho'olawe State Land Use District Boundary Map



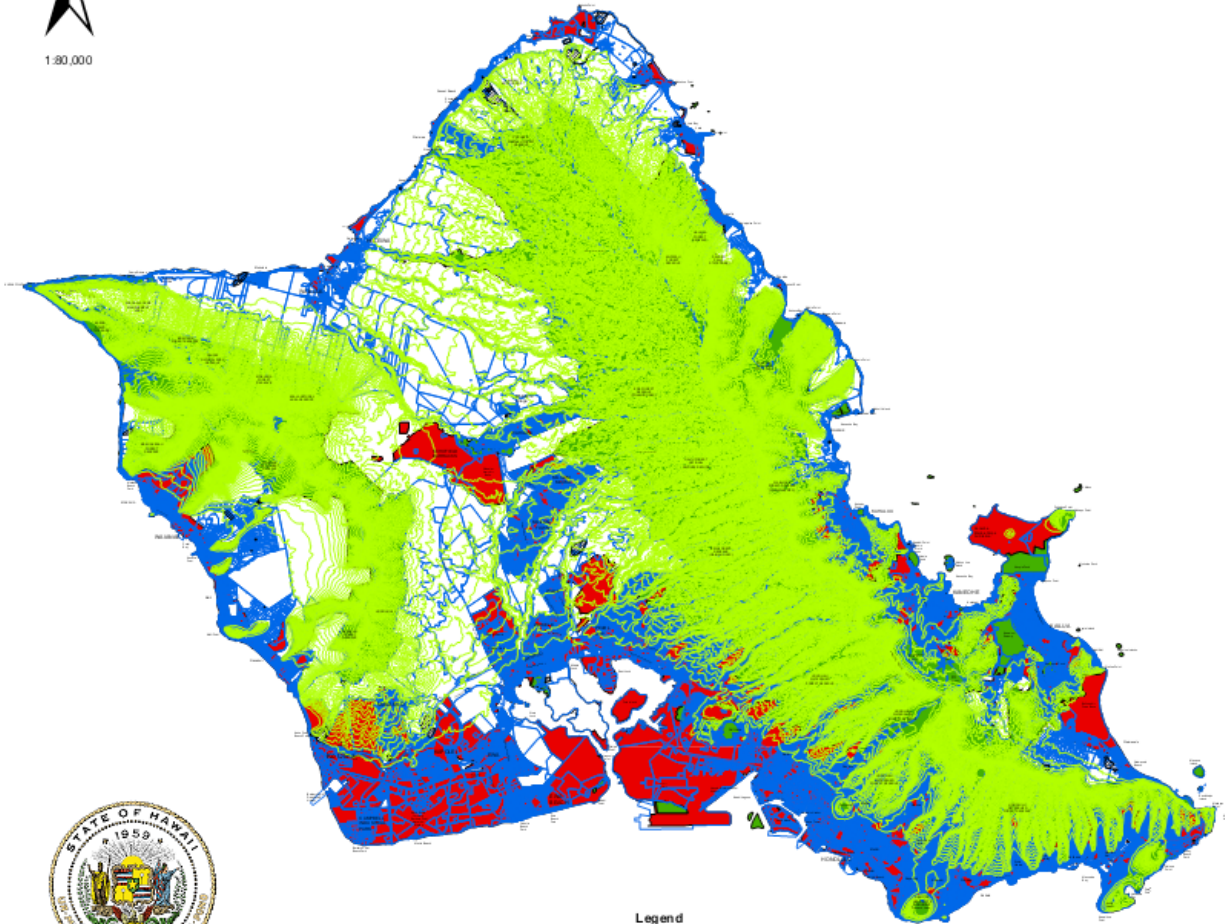
Island of Moloka'i State Land Use District Boundary Map



Island of O'ahu State Land Use District Boundary Map









1:80,000



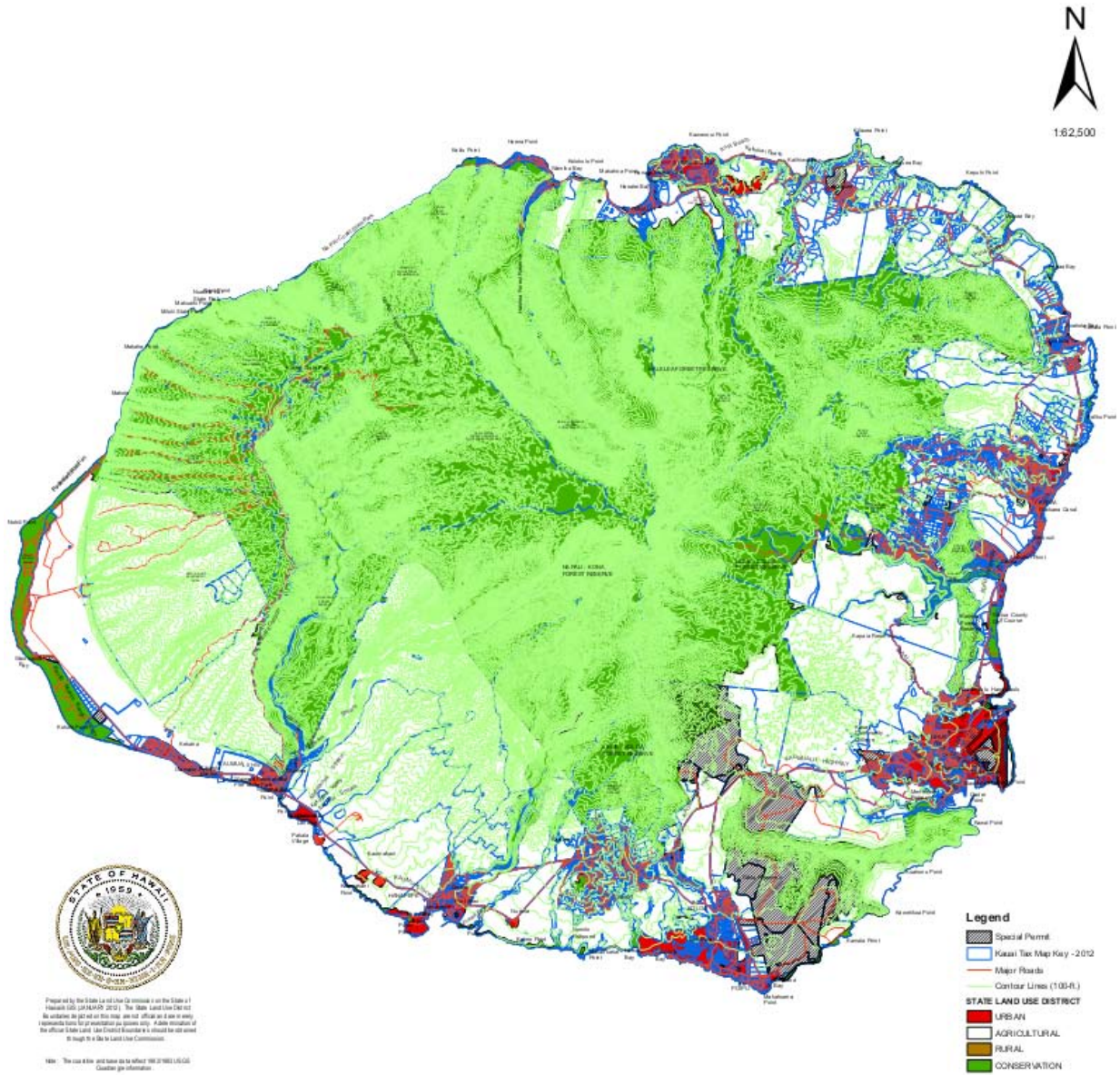
This map is to be used in conjunction with the State of Hawaii's GIS. The State Land Use District boundaries are depicted on this map are not official and are merely a guide for general reference only. All information of the State Land Use District boundaries are subject to change through the State Land Use District Commission.

Note: The coastline is not shown to reflect 1982/1983 USGS Coast change information.

Legend

-  Special Permits
-  Oahu Tax Map Key - 2012
-  Contour Lines (100-ft.)
- STATE LAND USE DISTRICT**
-  URBAN
-  AGRICULTURAL
-  CONSERVATION

Island of Kaua'i State Land Use District Boundary Map



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