

A topographic map of the Hawaiian Islands, showing the main islands and surrounding smaller islands. The map uses a color gradient from green to brown to represent elevation, with blue indicating water. The islands are arranged in a diagonal line from the top left to the bottom right.

# **Introduction to Hawai‘i's Land Classification and Management System**

**A Manual for Residents**

**Hawai‘i Rural Development Council**

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**Hawaii Rural Development Council**

**February 2008**

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from the Hawaii Community Foundation to the Hawaii Rural  
Development Council and from the Department of Health and  
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Community Assistance Corporation*

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# **1. Introduction**

## **Introduction to the Hawaii Rural Development Council**

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

The HRDC is one of 37 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.

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 HRDC is focusing its resources in order to maintain and encourage the following in rural Hawaii:

- Agriculture
- Affordable Housing
- Sustainable Economic Development

One of the major challenges facing agriculture involves the availability of land. Often, speculators who price the land higher than agricultural producers can afford or are not willing to give long-term leases own rural lands. Agriculture does not return enough per acre to compete with

commercial or residents land uses. Preserving agriculture and rural lands will remain challenges as long as this competitive disadvantage exists.

The HRDC partnered with the State Land Use Commission and the Office of State Planning in 2006 to facilitate county level planning meetings to gather input on agriculture and rural land use designations. While community stakeholders in many rural areas did engage in these land use discussions, the HRDC recognizes the long-term nature of this issue and therefore, obtained a grant from the Hawaii Community Foundation to develop materials to educate community stakeholders about the land use planning process. This will help ensure that community members are empowered to shape their community now and in the future.

### **Overview of this Manual**

Most of Section 1 provides an overview of Hawaii's land classification and management system. Various aspects of the system are explained in greater detail throughout the remaining sections of the manual.

Section 2 outlines the legal and regulatory framework for land classification and management, including constitutional provisions, statutory provisions, and administrative rules.

Section 3 provides more detailed information about the key players involved in land classification and management in Hawaii, including duties related to land classification and management and contact information.

Sections 4 - 8 focus on five primary land use classification and management decision-making processes. Steps at which residents have an opportunity to become involved are indicated for each process. More detailed information on any of the processes may be obtained from the appropriate web page referenced in Section 3.

### **Overview of Hawaii's Land Classification and Management System**

The State of Hawaii has a unique system of classifying and managing lands within its jurisdiction. All lands in the state are classified into four land use districts: urban, rural, agricultural, and conservation. The land use commission (LUC), a unit within the department of business, economic development and tourism (DBEDT), is responsible for classifying lands into these four districts. HRS § 205-2 designates in general terms the types of uses permitted in the four districts. The state office of planning, also within DBEDT, is responsible for reviewing the classification of all lands in the state every five years and recommending adjustments. (Because the Legislature

has neglected to fund this effort, the OP has not conducted this review since 1992).

**Two tier land use regulation.** The LUC is responsible for processing land use district boundary amendment petitions for all lands in the conservation district, all lands delineated as important agricultural lands, and all lands of more than 15 acres in the urban, rural, and agricultural districts. Within these classifications, the County's land use permitting decisions are constrained by the state permissible uses within each district, pursuant to HRS § 205-2. Accordingly, each county zoning decision is only effective if it conforms to a permissible use. HRS § 205-12 requires the counties to enforce each district's restrictions in that statute, except that the Board of Land and Natural Resources has exclusive jurisdiction to regulate the uses within the Conservation District.

County planning commissions are 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. County planning commissions are also responsible 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.

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 be approved by the LUC, in addition to the county approval.

The board of land and natural resources (BLNR) and the department of land and natural resources (DLNR) share responsibility for designating permitted uses in the conservation district and managing conservation district lands. The BLNR classifies all conservation district lands into five sub zones: protective (most restrictive), limited, resource, general (least restrictive), and special (for unique projects). The BLNR also determines permitted uses within each sub zone.

The board and the department split responsibilities for approving conservation district use applications, depending on the scope of the proposed use. Land uses requiring comprehensive review by the board are processed as board permits, management plans, and temporary variances. Departmental permits and emergency permits are processed by the department and approved by the chairperson. 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 Hawaii Revised Statutes (HRS).

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 ordinance (zoning code)
  - Subdivision rules and regulations
  - Special management areas – major and minor permits
  - Shoreline setback areas
- County of Hawaii
  - General plan
  - Community development plans
  - Zoning code
  - Special management areas – major and minor permits
  - Subdivision code
  - Shoreline setback areas
- County of Kauai
  - General plan
  - Comprehensive zoning ordinance
  - Zoning code
  - Subdivision code
  - Special management areas
  - Shoreline setback areas
- County of Maui
  - General plan
  - Community plans
  - Zoning code
  - Subdivision code
  - Special management areas
  - Shoreline setback areas

## 2. The Framework

<b>Document</b>	<b>Key Provisions</b>
<b>Constitutional Framework (The Constitution of the State of Hawaii)</b>	
Article XI, Section 1: Conservation and Development of Resources	<i>...the State and its political subdivisions shall conserve and protect Hawaii'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 XII, Section 7: Agricultural Lands	<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 <a href="http://www.hawaii.gov/lrb/con/">http://www.hawaii.gov/lrb/con/</a> .	

<b>Document</b>	<b>Key Provisions</b>
<b>Statutory Framework (Hawaii Revised Statutes and County Ordinances)</b>	
Chapter 183C: Conservation District	<ol style="list-style-type: none"> <li>1. Requires BLNR and DLNR to maintain an accurate inventory of lands classified within the conservation district</li> <li>2. Requires BLNR and DLNR to identify and appropriately zone lands classified within the conservation district</li> <li>3. Requires BLNR and DLNR to establish categories of uses or activities on conservation lands</li> <li>4. Permits DLNR to allow a temporary variance from a zoned use</li> </ol>

Document	Key Provisions
<b>Statutory Framework (Hawaii Revised Statutes and County Ordinances)</b>	
Chapter 183C may be viewed at <a href="http://www.capitol.hawaii.gov/hrscurrent/Vol03_Ch0121-0200D/HRS0183C/HRS_0183C-.HTM">http://www.capitol.hawaii.gov/hrscurrent/Vol03_Ch0121-0200D/HRS0183C/HRS_0183C-.HTM</a> .	
Chapter 205: Land Use Commission	<ol style="list-style-type: none"> <li>1. Establishes the land use commission</li> <li>2. Establishes the urban, rural, agricultural, and conservation districts and directs that all lands in the state be placed in these districts</li> <li>3. Provides a procedure for amending district boundaries</li> <li>4. Designates permissible uses within the agricultural district</li> <li>5. Authorizes counties to govern the zoning within all districts except the conservation district</li> <li>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</li> <li>7. Authorizes counties to require environmental assessments for agricultural tourism uses and activities</li> <li>8. Establishes criteria the land use commission must, during review of boundary amendment petitions, assure compliance with Hawaii State Plan, and consider <ol style="list-style-type: none"> <li>(A) Preservation or maintenance of important natural systems or habitats;</li> <li>(B) Maintenance of valued cultural, historical, or natural resources;</li> <li>(C) Maintenance of other natural resources relevant to Hawaii's economy, including agricultural resources;</li> <li>(D) Commitment of state funds and resources;</li> <li>(E) Provision for employment opportunities and economic development; and</li> <li>(F) Provision for housing opportunities for all income groups, particularly the low, low-moderate, and gap groups;</li> </ol> </li> <li>9. Provides for a review of the classification and districting of all lands in the state by the office of planning every five years</li> <li>10. Establishes/authorizes policies, procedures, incentives for designation, protection, and reclassification or rezoning of important agricultural lands</li> </ol>
Chapter 205 may be viewed at <a href="http://www.capitol.hawaii.gov/hrscurrent/Vol04_Ch0201-0257/HRS0205/HRS_0205-.HTM">http://www.capitol.hawaii.gov/hrscurrent/Vol04_Ch0201-0257/HRS0205/HRS_0205-.HTM</a> .	

Document	Key Provisions
<b>Statutory Framework (Hawaii Revised Statutes and County Ordinances)</b>	
Chapter 205A: Coastal Zone Management	<ol style="list-style-type: none"> <li>1. Establishes special management areas within all coastal zones and county "authorities" for regulating uses within SMA</li> <li>2. Prescribes special procedures and permit requirements for "developments" within special management areas</li> <li>3. Provides for special county regulation of uses within SMA to avoid substantial adverse impacts on resources</li> </ol>
HRS chapter 205A may be viewed at: <a href="http://www.capitol.hawaii.gov/hrscurrent/Vol04_Ch0201-0257/HRS0205A/">http://www.capitol.hawaii.gov/hrscurrent/Vol04_Ch0201-0257/HRS0205A/</a>	
Chapter 343: Environmental Impact Statements	<ol style="list-style-type: none"> <li>1. Requires an environmental assessment for actions that propose any use within any land classified as a conservation district</li> <li>2. Requires an environmental assessment for actions that propose any reclassification of any land classified as a conservation district, use of state or county lands, or areas within shoreline area</li> </ol>
Chapter 343 may be viewed at <a href="http://www.capitol.hawaii.gov/hrscurrent/Vol06_Ch0321-0344/HRS0343/HRS_0343-.HTM">http://www.capitol.hawaii.gov/hrscurrent/Vol06_Ch0321-0344/HRS0343/HRS_0343-.HTM</a> .	
HRS §46-4 County zoning.	<ol style="list-style-type: none"> <li>1. Requires that county zoning must 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."</li> <li>2. Zoning is one of the tools available to the county to put the general plan into effect in an orderly manner.</li> <li>3. Zoning must 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.</li> </ol>
HRS § 46-4 may be viewed at <a href="http://www.capitol.hawaii.gov/hrscurrent/Vol02_Ch0046-0115/HRS0046/HRS_0046-0004.htm">http://www.capitol.hawaii.gov/hrscurrent/Vol02_Ch0046-0115/HRS0046/HRS_0046-0004.htm</a>	
City and County of Honolulu Revised Ordinances of Honolulu Chapter 26 State Land Use Classification	<ol style="list-style-type: none"> <li>1. Specifies requirements for petitions for state land use district boundary amendments and procedures for processing petitions</li> </ol>
Chapter 26 may be viewed at <a href="http://www.honolulu.gov/refs/roh/26.htm">http://www.honolulu.gov/refs/roh/26.htm</a> .	
County of Hawaii Hawaii County Code Chapter 28	<ol style="list-style-type: none"> <li>1. Specifies requirements for petitions for state land use district boundary amendments and procedures for processing petitions</li> </ol>
Chapter 28 may be viewed at <a href="http://www.hawaii-county.com/countycode/chapter28.pdf">http://www.hawaii-county.com/countycode/chapter28.pdf</a> .	

<b>Document</b>	<b>Key Provisions</b>
<b>Statutory Framework (Hawaii Revised Statutes and County Ordinances)</b>	
County of Maui County Code Title 19: Zoning	<ol style="list-style-type: none"> <li>Chapter 19.68 of the code covers the filing and processing of petitions for amendment of state land use district boundaries.</li> <li>Chapter 19.510.070 covers the filing and processing of applications for special use permits.</li> </ol>
Maui County code may be viewed at <a href="http://ordlink.com/codes/maui/index.htm">http://ordlink.com/codes/maui/index.htm</a> .	

<b>Document</b>	<b>Key Provisions</b>
<b>Administrative Framework (Hawaii Administrative Rules and County Rules)</b>	
Title 13: DLNR Subtitle 1: Administration Chapter 5: Conservation District	<ol style="list-style-type: none"> <li>Establishes the following subzones within the conservation district: protective, limited, resource, general, special</li> <li>Specifies criteria for classifying lands into the various subzones</li> <li>Identifies uses permitted within each subzone and requirements for site plans, departmental permits, board permits, management plans, and public hearings</li> </ol>
Chapter 5 may be viewed at <a href="http://www.hawaii.gov/dlnr/occl/rules/13_5.pdf">http://www.hawaii.gov/dlnr/occl/rules/13_5.pdf</a> .	
Title 15: DBEDT Subtitle 3: State Land Use Commission Chapter 15: Land Use Commission Rules	<ol style="list-style-type: none"> <li>Establishes standards for determining boundaries of the urban, rural, agricultural, and conservation districts</li> <li>States in general terms the uses permitted within each of the four districts</li> <li>Specifies application and public hearing procedures and decision-making criteria for district boundary amendments</li> <li>Establishes procedures for special permits for unusual and reasonable uses within the agricultural and rural districts, and guidelines for determining such uses</li> </ol>
Chapter 15 may be viewed at <a href="http://www.hawaii.gov/dbedt/main/about/admin-rules/15-15.pdf">http://www.hawaii.gov/dbedt/main/about/admin-rules/15-15.pdf</a> .	
County of Hawaii Planning Commission Rules of Practice and Procedure	<ol style="list-style-type: none"> <li>Rule 6 specifies procedures to be followed for filing and processing state land use district boundary amendment petitions for parcels under 15 acres</li> <li>Rule 13 specifies procedures to be followed for filing and processing applications for special permits</li> </ol>
Planning commission rules of practice and procedure may be viewed at <a href="http://www.hawaii-county.com/planning/rules/PC%20Rules.pdf">http://www.hawaii-county.com/planning/rules/PC%20Rules.pdf</a> .	
County of Hawaii County Council Rules of Procedure and Organization	<ol style="list-style-type: none"> <li>Rule 25 specifies procedures for introducing and processing bills and resolutions</li> </ol>
County council rules of procedure may be viewed at <a href="http://www.hawaii-county.com/council/rules/rules_of_procedure.pdf">http://www.hawaii-county.com/council/rules/rules_of_procedure.pdf</a> .	

Document	Key Provisions
<b>Administrative Framework (Hawaii Administrative Rules and County Rules)</b>	
County of Maui County Council Rules	1. The rules cover format of bills, conduct of public hearings, and voting on matters before the council
County council rules may be viewed at <a href="http://www.co.maui.hi.us/county/pdf/2007_2009councilrules.pdf">http://www.co.maui.hi.us/county/pdf/2007_2009councilrules.pdf</a> .	
County of Maui Maui Planning Commission Rules of Practice and Procedure	1. The rules prescribe how the commission conducts its business, including time limits for decision-making
County of Maui Lanai Planning Commission Rules of Practice and Procedure	1. The rules prescribe how the commission conducts its business, including time limits for decision-making
Lanai Planning Commission rules may be viewed at <a href="http://www.co.maui.hi.us/boards/pdf/LPC_Practice.pdf">http://www.co.maui.hi.us/boards/pdf/LPC_Practice.pdf</a> .	
County of Maui Molokai Planning Commission Rules of Practice and Procedure	1. The rules prescribe how the commission conducts its business, including time limits for decision-making
Molokai Planning Commission rules may be viewed at <a href="http://www.co.maui.hi.us/boards/pdf/MoPC_Practice_Rules.pdf">http://www.co.maui.hi.us/boards/pdf/MoPC_Practice_Rules.pdf</a> .	
County of Maui Molokai Planning Commission Rules Relating to Special Uses	1. The rules specify procedures related to special use permits in the agricultural and rural land use districts.
Molokai Planning Commission rules may be viewed at <a href="http://www.co.maui.hi.us/boards/pdf/MoPC_Sup_Rules.pdf">http://www.co.maui.hi.us/boards/pdf/MoPC_Sup_Rules.pdf</a> .	

### 3. Key Players

#### State of Hawaii

<b>Governor of Hawaii</b>	
<b>How Constituted:</b> Elected to four year term; two term limit	
<b>Duties:</b> <ol style="list-style-type: none"> <li>1. Appoint members of the land use commission and the board of land and natural resources</li> <li>2. Select a chairperson of the board of land and natural resources from among the board's members</li> </ol>	
<b>Contact Information (June 2007):</b>	
<b>Mail Address:</b> The Honorable Linda Lingle Governor, State of Hawai'i Executive Chambers State Capitol Honolulu, HI 96813	
<b>Phone:</b> 808-586-0034	<b>Fax:</b> 808-586-0006
<b>E-mail:</b> <a href="mailto:governor.lingle@hawaii.gov">governor.lingle@hawaii.gov</a>	
<b>Web Site:</b> <a href="http://www.hawaii.gov/gov">http://www.hawaii.gov/gov</a>	

#### Hawaii Legislature

**How Constituted:** 25 Senators elected to four year terms; 51 Representatives elected to two year terms

**Duties:** 1. Adopt 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 (June 2007):**

**Mail Address:** Obtain from web site below

**Phone:** Obtain from web site below

**Fax:** Obtain from web site below

**E-mail:** Obtain from web site below

**Web Site:** <http://www.capitol.hawaii.gov/>

### **Land Use Commission (LUC), Department of Business, Economic Development and Tourism (DBEDT)**

**How Constituted:** Nine members appointed by governor and confirmed by senate to four year terms, with two term limit (Section 205-1, HRS). One member must have substantial experience or expertise in traditional Hawaiian land usage and knowledge of cultural land practices.

**Duties:** 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 in area within the agricultural and rural districts

**Contact Information (June 2007):**

**Mail Address:** PO Box 2359  
Honolulu, HI 96804-2359

**Phone:** 808-587-3822

**Fax:** 808-587-3827

**E-mail:**

**Web Site:** <http://luc.state.hi.us/>

### **Board of Land and Natural Resources (BLNR)**

**How Constituted:** Seven members appointed by governor and confirmed by senate to four year terms, with two term limit (Section 171-4, HRS)

**Duties:** 1. Maintain an accurate inventory of lands classified within the conservation district by the land use commission  
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 (June 2007):**

**Mail Address:** PO Box 621  
Honolulu, HI 96809

**Phone:** 808-587-0404

**Fax:** 808-587-0390

**E-mail:** [dlnr@hawaii.gov](mailto:dlnr@hawaii.gov)

**Web Site:** <http://www.hawaii.gov/dlnr/Board.html>

## **Department of Land and Natural Resources (DLNR), Office of Conservation and Coastal Lands (OCCL)**

### **How Constituted:**

- Duties:**
1. Maintain an accurate inventory of lands classified within the conservation district by the land use commission
  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 (June 2007):**

**Mail Address:** PO Box 621

Honolulu, HI 96809

**Phone:** 808-587-0377

**Fax:** 808-587-0322

**E-mail:** [dlnr.occl@hawaii.gov](mailto:dlnr.occl@hawaii.gov)

**Web Site:** <http://www.hawaii.gov/dlnr/occl/>

## **Office of Planning (OP), DBEDT**

### **How Constituted:**

- Duties:**
1. Appear and make recommendations at public hearing on every boundary amendment petition
  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 (June 2007):**

**Mail Address:** PO Box 2359

Honolulu, HI 96804

**Phone:**

**Fax:**

**E-mail:**

**Web Site:** <http://www.hawaii.gov/dbedt/op/>

## **Department of Agriculture**

### **How Constituted:**

- Duties:**
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, and provide comments to the land use commission

### **Contact Information (June 2007):**

**Mail Address:** 1428 South King St.

Honolulu, HI 96814-2512

**Phone:** 808 973-9560

**Fax:**

**E-mail:** [hdoa.info@hawaii.gov](mailto:hdoa.info@hawaii.gov)

**Web Site:** <http://www.hawaii.gov/hdoa>

## City and County of Honolulu

### Mayor

**How Constituted:** Elected to four year term; two term limit

**Duties:** 1. Appoint members of planning commission

**Contact Information (June 2007):**

**Mail Address:** 530 S King St.  
Honolulu, HI 96813

**Phone:** 808-523-4141

**Fax:** 808- 527-5552

**E-mail:** mayor@honolulu.gov

**Web Site:** <http://www.co.honolulu.hi.us/mayor/index.htm>

### Council

**How Constituted:** Nine members elected from nine districts to four year terms; two term limit

**Duties:** 1. Confirm mayoral appointments to planning commission  
2. Enact land use district boundary amendment ordinances and compatible zoning and rezoning  
3. Approve special management area permits consistent with Coastal Zone Management laws

**Contact Information (June 2007):**

**Mail Address:** 530 S King St., Room 202  
Honolulu, HI 96813

**Phone:** 808-547-7000

**Fax:** 808-523-4220

**E-mail:** See web site for member e-mail addresses

**Web Site:** <http://www.co.honolulu.hi.us/council/ccl.htm>

### Planning Commission

**How Constituted:** Nine members appointed by mayor and confirmed by city council

**Duties:** 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 ordinances and subdivision approvals, consistent with state policy, laws, and regulations

**Contact Information (June 2007):**

**Mail Address:** 650 S King St.  
Honolulu, HI 96813

**Phone:** 808- 523-4432

**Fax:** 808- 527-5041

**E-mail:** info@honoluludpp.org

**Web Site:** <http://www.honoluludpp.org/>

### Neighborhood Boards

**How Constituted:** As provided in the neighborhood plan prepared by the neighborhood commission

- Duties:**
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 (June 2007):**

**E-mail:** Obtain from the web site below

**Web Site:** <http://www.co.honolulu.hi.us/nco/boards.htm>

## County of Hawaii

### Mayor

**How Constituted:** Elected to four year terms; two term limit

**Duties:** 1. Appoint members of planning commission

**Contact Information (June 2007):**

**Mail Address:** East Hawaii: 25 Aupuni Street, Hilo, HI 96720  
West Hawaii: 75-5706 Kuakini Hwy., Suite 103, Kailua-Kona, HI 96740

**Phone:** East Hawaii: 808- 961-8211                      **Fax:** East Hawaii: 808- 961-6553  
West Hawaii: 808- 329-5226                              West Hawaii: 808- 326-5663

**E-mail:** See web site for member e-mail addresses

**Web Site:** <http://www.hawaii-county.com/directory/directory.htm>

### Council

**How Constituted:** One member elected from each of nine districts to two year terms; limit of four consecutive two-year terms

**Duties:** 1. Confirm mayoral appointments to planning commission  
2. Enact land use district boundary amendment ordinances and compatible zoning and rezoning

**Contact Information (June 2007):**

**Mail Address:** East Hawaii: 25 Aupuni Street, Hilo, HI 96720  
Kona: 75-5706 Hanama Place, Suite 109, Kailua-Kona, HI 96740  
Waimea: 64-1067 Mamalahoa Hwy, Suite C-5, Kamuela, HI 96743

**Phone:** East Hawaii: 808- 961-8225                      **Fax:** East Hawaii: 808- 961-8912  
Kona (District 7): 808- 326-5684                              Kona: 808- 329-4786  
Kona (District 8): 808-327-3642                              Waimea: 808- 887-2072  
Waimea: 808- 887-2043

**E-mail:**

**Web Site:** <http://www.hawaii-county.com/council/council.htm>

### Planning Commission

**How Constituted:** One member from each of nine council districts appointed by mayor and confirmed by council

- Duties:**
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
  5. Issue special management area permits subject to a coastal zone management laws

**Contact Information (June 2007):**

**Mail Address:** East Hawaii: 101 Pauahi Street, Suite 3, Hilo, HI 96720  
West Hawaii: 75-5706 Kuakini Hwy, Suite 109, Kailua-Kona, HI 96740

**Phone:** East Hawaii: 808- 961-8288                      **Fax:** East Hawaii: 808- 961-8742  
West Hawaii: 808- 327-3510                                      West Hawaii: 808- 327-3563

**E-mail:** [planning@co.hawaii.hi.us](mailto:planning@co.hawaii.hi.us)

**Web Site:** [http://www.hawaii-county.com/directory/dir\\_plan.htm](http://www.hawaii-county.com/directory/dir_plan.htm)

**Rules**                      <http://co.hawaii.hi.us/planning/rules/PC%20Rules.pdf>

## County of Kauai

### Mayor

**How Constituted:** Elected to four year term; two term limit

**Duties:** 1. Appoint members of planning commission

**Contact Information (June 2007):**

**Mail Address:** 4444 Rice St., Suite 235  
Lihue, HI 96766

**Phone:** 808-241-6300                                      **Fax:** 808-241-6877

**E-mail:** [mayor@kauai.gov](mailto:mayor@kauai.gov)

**Web Site:** <http://www.kauai.gov/Government/MayorsOffice/tabid/132/Default.aspx>

### Council

**How Constituted:** Seven members elected at-large to two year terms

**Duties:**

1. Confirm mayoral appointments to planning commission
2. Enact land use district boundary amendment ordinances and compatible zoning and rezoning

**Contact Information (June 2007):**

**Mail Address:** 4396 Rice Street, #206  
Lihue, HI 96766

**Phone:** 808-241-6371                                      **Fax:** 808-241-6349

**E-mail:** [cokcouncil@kauai.gov](mailto:cokcouncil@kauai.gov)

**Web Site:** <http://www.kauai.gov/Government/OfficeOfTheCountyClerk/CountyCouncil/tabid/88/Default.aspx>

### Planning Commission

**How Constituted:** Seven members appointed by mayor and confirmed by council

- Duties:**
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
  5. Issue special management area permits subject to a coastal zone management laws

**Contact Information (June 2007):**

**Mail Address:**

**Phone:** 808-241-6677

**Fax:**

**E-mail:**

**Web Site:** <http://www.kauai.gov/Government/Departments/PlanningDepartment/tabid/61/Default.aspx>

**County of Maui**

**Mayor**

**How Constituted:** Elected to four year term; two term limit

- Duties:**
1. Appoint planning director
  2. Appoint members of planning commissions

**Contact Information (June 2007):**

**Mail Address:** 200 South High St., 9<sup>th</sup> Floor  
Wailuku, HI 96793

**Phone:** 808-270-7855

**Fax:** 808-270-8073

**E-mail:** [mayors.office@mauicounty.gov](mailto:mayors.office@mauicounty.gov)

**Web Site:** <http://www.co.maui.hi.us/mayor/>

**Council**

**How Constituted:** Nine members elected at-large to two year terms; limit of five consecutive two year terms. Each of nine residency areas must be represented by one member.

- Duties:**
1. Confirm mayoral appointments to planning commissions
  2. Enact land use district boundary amendment ordinances

**Contact Information (June 2007):**

**Mail Address:** Wailuku: 200 South High St., 7<sup>th</sup> Floor, Wailuku, HI 96793  
Hana: PO Box 877, Hana, HI 96713  
Lanai: PO Box 630647, Lana`i City, HI 96763  
Molokai: PO Box 889, Kaunakakai, HI 96748

**Phone:** Wailuku: 808-270-7838

**Fax:** Wailuku: 808-270-7686

Hana: 808-248-7513

Hana: 808-248-7883

Lanai: 808-565-7094

Lanai: 808-565-6436

Molokai: 808-553-3888

Molokai: 808-553-3055

**E-mail:**

**Web Site:** <http://www.co.maui.hi.us/county/>

### **Maui Planning Commission**

**How Constituted:** Nine members appointed by mayor and approved by council. Director of department of public works and waste management and director of department of water supply are non-voting ex-officio members.

- Duties:**
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
  5. Issue special management area permits subject to a coastal zone management laws

**Contact Information (June 2007):**

**Mail Address:** 250 South High St.  
Wailuku, HI 96793-2155

**Phone:** 808-270-7735

**Fax:** 808-270-7634

**E-mail:** [planning@mauicounty.gov](mailto:planning@mauicounty.gov)

**Web Site:** <http://www.co.maui.hi.us/departments/Planning/>

**Rules** <http://www.co.maui.hi.us/departments/Planning/pdf/rppmpc.pdf>

### **Lana'i Planning Commission**

**How Constituted:** Nine members appointed by mayor and approved by council. Director of department of public works and waste management and director of department of water supply are non-voting ex-officio members.

- Duties:**
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 (June 2007):**

**Mail Address:** 250 South High St.  
Wailuku, HI 96793-2155

**Phone:** 808-270-7735

**Fax:** 808-270-7634

**E-mail:** [planning@mauicounty.gov](mailto:planning@mauicounty.gov)

**Web Site:** <http://www.co.maui.hi.us/departments/Planning/>

### **Moloka'i Planning Commission**

**How Constituted:** Nine members appointed by mayor and approved by council. Director of department of public works and waste management and director of department of water supply are non-voting ex-officio members.

- Duties:**
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 (June 2007):**

**Mail Address:** 250 South High St.  
Wailuku, HI 96793-2155

**Phone:** 808-270-7735

**Fax:** 808-270-7634

**E-mail:** [planning@mauicounty.gov](mailto:planning@mauicounty.gov)

**Web Site:** <http://www.co.maui.hi.us/departments/Planning/>

**Hana Advisory Committee to the Maui Planning Commission**

**How Constituted:** Seven residents of Hana District appointed by mayor and confirmed by 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 (June 2007):**

**Mail Address:** 250 South High St.  
Wailuku, HI 96793-2155

**Phone:** 808-270-7735

**Fax:** 808-270-7634

**E-mail:** [planning@mauicounty.gov](mailto:planning@mauicounty.gov)

**Web Site:** <http://www.co.maui.hi.us/departments/Planning/>

## 4. Problems with Enforcement

**County enforcement.** HRS § 205-12 (emphasis added) provides that the “appropriate officer or agency charged with the administration of county zoning laws **shall** enforce” the LUC classifications and the restrictions in the Ag district. HRS § 205-2 and 205-4.5 specify what uses may be made of Ag District lands.

**The requirement for “farm dwellings.”** Despite rather clearly articulated permissible uses for the Agricultural District, the counties have regularly failed to enforce state land use laws which are designed to limit the power to approve land uses. Accordingly, in recent years, there has been a proliferation of residential subdivisions on Ag District lands, despite the clear prohibition against “residences”, except for “farm dwellings”, defined as “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 Legislature enacted this restriction in 1976 in recognition of the problem of residences being built on Ag District land, which was compromising the ability of farmers to farm.

This provision has been in the center of controversy over whether county-approved subdivisions of agricultural land sufficiently enforce the restriction of this requirement. 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 Ag District lands so they could legally offer residences for sale. Despite years of obligation to enforce the permissible uses in the Agricultural District, counties have repeatedly ignored their duties by allowing permits, and approving subdivisions, in total disregard of this requirement. The resulting proliferation of luxury residences on Ag District land has driven the speculative fever for land, driving prices up astronomically, 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 farm land from the speculative investments from outside wealthy home-buyers. Initially, the developer planned a more intensive use of the land, with plans to seek reclassification of the land from Agriculture to Urban. Ultimately, Hawaii County, in derogation of state land use law, approved plans for a 1500-acre, 750 unit luxury residential subdivision surrounding a golf course, members lodge, beach club and tennis club, without any thought 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 Ag District 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 on this point.

Other residential subdivisions like Hokulia have emerged on Ag District land on every island with little scrutiny by the County, often generating controversy with little effect on county accountability for protecting agricultural land by enforcing these restrictions. 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.”

## **5. Land Use District Boundary Amendments**

The LUC acts on reclassification petitions involving Lands

- In the Conservation District;
- Delineated as Important Agricultural Lands;
- Lands Greater Than 15 Acres in Area in the Agricultural, Rural, and Urban Districts

### Opportunities for public involvement:

- Review and comment on the environmental impact statement required for reclassification of conservation district lands, per Chapter 343, HRS.
  - Intervene as a party in land use district boundary amendment proceedings (subject to LUC approval).
  - Apply to testify as a witness at the public hearing before the LUC.
1. Petition for reclassification. Any department or agency of the state or county in which the land sought to be reclassified is situated, or any person with a property interest in the land sought to be reclassified, may petition the land use commission (LUC) for a change in the

classification. Any petition for reclassification of any land in the conservation district must include an environmental impact statement or negative declaration.

2. Public hearing. When the land use commission determines the petition was properly filed, a public hearing is scheduled.
  - LUC publishes hearing notice once in the appropriate county and once statewide at least 30 days in advance of the hearing.
  - LUC gives written notice to the appropriate planning commission, 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.
  - LUC and staff may view and inspect the land.
  - LUC conducts hearing on the island on which the land is situated, not less than 60 days and not more than 180 days after proper filing of the petition.
  - The following parties must appear at the public hearing and provide recommendations: the petitioner, the state office of planning, and the county planning commission.
  - LUC must allow a representative of a citizen or community group to express the view of such group at the public hearing on a boundary amendment petition.
  - Anyone who desires to appear as a witness must submit written application to be a witness before the hearing.
  
3. Contested Case Hearing. The LUC must admit the following as parties to boundary amendment contested case proceedings upon timely written application to the LUC: state and county departments and agencies, persons with a property interest in the land sought to be reclassified, persons who lawfully reside on the land sought to be reclassified, 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.
  - All other persons may apply to intervene as parties in land use boundary amendment proceedings. Leave to intervene shall be freely granted, but the LUC 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.
  - LUC may subpoena witnesses it desires to hear at the hearing.
  - Other provisions of HRS chapter 91 apply to govern procedures.

3. Decision. LUC reaches a decision not more than 365 days after proper filing of the petition unless otherwise ordered by a court or unless two-thirds of LUC approve a time extension, which may not exceed 90 days. LUC may approve, deny, or modify the petition by imposing conditions necessary to uphold the intent and spirit of Chapter 205 HRS, 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 6 affirmative votes (out of 9 members) to approve a boundary amendment.

## **5. County Land Use Processes:**

Proceedings in this category are handled primarily by the counties. They fall in the following categories:

- Land Use District Boundary Amendments Involving Lands under 15 Acres in the Agricultural, Rural, and Urban Districts
- Special Use Permits for Unusual and Reasonable Uses in the Agricultural and Rural Districts
- Zoning ordinances
- Special Management Area Permits

*Note: Proceedings in this category are handled by the counties. The steps described below have been generalized; each county's process may vary somewhat.*

### **Boundary Amendments**

#### Opportunities for public involvement:

- Informational presentation to the neighborhood board (Honolulu only).
  - Public hearing before the planning commission.
  - Public hearing before the city/county council.
1. Petition for reclassification. Any department or agency of the state or county in which the land sought to be reclassified is situated, or any person with a property interest in the land sought to be reclassified, may petition the planning commission of the county in which the land sought to be reclassified is situated for a change in the classification. Petitions are submitted to the planning department. The planning director must forward a copy of each petition to the land use commission and the state department of business, economic development and tourism.

2. Neighborhood board (City and County of Honolulu only). The petitioner is strongly encouraged to make an informational presentation to the appropriate neighborhood board.
3. Public hearing. The planning commission must hold a public hearing on each petition. Any citizen may appear and testify at the hearing, subject to planning commission rules of procedure.
4. Planning commission action. After the public hearing, the planning commission makes a recommendation on the proposed boundary amendment and forwards its recommendation to the county council.
5. Council action. The city/county council must enact any boundary amendment by ordinance, following its rules of procedure. Public input is provided for.
6. Notification. 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.

## **Special Use Permits**

### Opportunities for public involvement:

- Informational presentation to the neighborhood board (Honolulu only).
  - Public hearing before the planning commission.
1. Permit application. Any person who desires to use his/her land within an agricultural or rural district other than for a permitted agricultural or rural use may petition the planning commission of the county in which the land sought to be so used is situated for permission to use the land in the manner desired. Permit applications are submitted to the planning department. The planning director reviews the application for completeness, then notifies the planning commission 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. Neighborhood board (City and County of Honolulu only). The petitioner is strongly encouraged to make an informational presentation to the appropriate neighborhood board.
  3. Public hearing. Following public notice, the planning commission holds a public hearing on the permit application.

4. County decision. After the hearing, the planning commission approves, approves with conditions, or disapproves the permit application. However, 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.” HRS § 205-6(c). The deadline to act is set by county rule.
5. State decision. If the special use permit is for an area of more than 15 acres or for land designated important agricultural land, the planning commission, within 60 days from the date of its decision, transmits the application, a complete record of its proceedings on the matter, and its decision to the LUC. Within 45 days after receipt of the complete record from the county planning commission, the LUC acts to approve, approve with modifications, or disapprove the application. A special use permit for an area of more than 15 acres or for land designated important agricultural land requires approval of both the county planning commission and the LUC.

## **Zoning**

*Note: Different Counties may have variations in the requirements for notice or deadlines for action by county planning commissions and councils.*

### Opportunities for public involvement:

- Informational presentation to the neighborhood board (Honolulu only).
  - Public hearing before the planning commission.
  - Public hearing before the city/county council.
1. Petition for rezoning. A zoning amendment may be submitted by the council, the director, the owner of the property, or any other person with the property owner's authorized consent.
  2. Neighborhood board (City and County of Honolulu only). The petitioner is strongly encouraged to make an informational presentation to the appropriate neighborhood board.
  3. Public hearing. The planning commission must hold a public hearing on each proposed rezoning. 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 action. After the public hearing, the planning commission makes a recommendation on the proposed zoning and forwards its recommendation to the county council, normally within 90 days.
5. Council action. The city/county council must enact any zoning by ordinance, following its rules of procedure. Public input is provided for.

## **Special Management Area Permits**

*Note: Different Counties may have variations in the requirements for notice or deadlines for action by county planning commissions and councils.*

### Opportunities for public involvement:

- Informational presentation to the neighborhood board (Honolulu only).
  - Public hearing before the planning commission.
1. Permit application. Any person who desires to use his/her land within special management areas as designated by each county on maps must seek a special management area permit for any "development" within this area.
  2. Neighborhood board (City and County of Honolulu only). The petitioner is strongly encouraged to make an informational presentation to the appropriate neighborhood board.
  3. 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.
  4. Contested Case Hearing. The county (except Honolulu) planning commissions allow for interested parties to intervene as parties to in contested case proceedings upon timely written application to the commissions. : state and county departments and agencies, persons with a property interest in the land sought to be reclassified, persons who lawfully reside on the land sought to be reclassified, 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.
    - All other persons may apply to intervene as parties in land use boundary amendment proceedings. Leave to intervene shall be freely granted, but the LUC 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.

- LUC may subpoena witnesses it desires to hear at the hearing.
- Other provisions of HRS chapter 91 apply to govern procedures.

5. Planning commission action (except for City and County of Honolulu). After the public hearing, the planning commission makes a recommendation on the proposed boundary amendment and forwards its recommendation to the county council.
6. City and County of Honolulu Council action. In the City and County of Honolulu only, the city county council must enact approve any SMA permit by ordinance, following its rules of procedure. Public hearing input is provided for.

## **7. Change of Conservation District Subzone Boundaries or Land Uses; Establishment of Subzones with Certain Land Uses**

### Opportunities for public involvement:

- Public hearing on the proposed administrative rule.
1. Application. Any landowner or government agency whose property will be directly affected may apply to change the boundaries or land uses of any subzone, or to establish a subzone with certain land uses. The change(s) must be put into the form of a proposed administrative rule and submitted to the department of land and natural resources (DLNR). There are 4 subzones in a Conservation District: (a) Protective; (b) Limited; (c) Resource; (d) General; and (e) Special, with different levels of restrictions of use. The Office of Conservation and Coastal Lands regulates the district.
  2. Public hearing. The board of land and natural resources (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 and necessary maps 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.
3. Decision. After the public hearing, BLNR makes a determination on the proposed administrative rule.

## **8. Conservation District Use Permits**

Opportunities for public involvement:

- Public hearings on applications for board permits requiring public hearings
  - Intervene as a party in land use district boundary amendment proceedings (subject to LUC approval).
1. Application. Applications for all conservation district use permits (board permits, departmental permits, emergency permits) are submitted to DLNR. Every application must contain a draft environmental assessment or environmental impact statement, as applicable. DLNR reviews applications for completeness within 30 days after receipt. The applicant is notified 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 hearing. BLNR holds public hearings on: a) all applications for a proposed use of land for commercial purposes; b) changes of subzone or boundary, establishment of a new subzone, or changes in identified land use; c) applications requiring a board permit in the protective subzone; and d) all applications for which the chairperson determines that the scope of proposed use or the public interest requires a public hearing.
- 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.
3. Contested Case Hearing. The BLNR may admit persons with a property interest in the land for which the CDUA 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 that their interest is clearly distinguishable from that of the general public.

- 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.
- LUC may subpoena witnesses it desires to hear at the hearing.
- Other provisions of HRS chapter 91 apply to govern procedures.

4. Decision. If within 180 days after the department's acceptance of a completed application the department, the chairperson, or the board has failed to render a decision on the 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.