

## **Zoning References**

### **Kauai**

Kauai Zoning Ordinances – Agriculture District rules and Special Use Permit Information:

<http://www.kauai-realtor.com/czo.htm#Article%204>

### **Maui**

Maui County Planning Commission:

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

Maui Special Use Applications:

<http://www.co.maui.hi.us/DocumentView.asp?DID=1664>

Maui County Code:

<http://ordlink.com/codes/maui/index.htm>

### **Hawaii**

Hawaii County Zoning Code:

<http://www.hawaii-county.com/countycode/chapter25.pdf>

Hawaii County Planning Commission Rules:

<http://www.hawaii-county.com/planning/rules/PC%20Rules.pdf>

Hawaii County Planning Department Rules of Practice and Procedure:

<http://www.hawaii-county.com/planning/rules/PD%20Rules.pdf>

Hawaii County Permissible Uses Table:

<http://www.hawaii-county.com/planning/rules/permitted%20uses%20table%20public.pdf>

Hawaii County Special Use Permit Application:

<http://co.hawaii.hi.us/forms/planning/Special%20Permit.pdf>

### **Honolulu**

Honolulu Permitting Information:

<http://www.honoluludpp.org/PermitInfo/>

Honolulu Special Use Permit Application:

<http://www.honoluludpp.org/downloadpdf/planning/SUPAPP.pdf>

A copy of the rules is available for purchase from the City Bookstore (\$2.00) – next to Honolulu Hale.

## HAWAII REVISED STATUTES

**§205-6 Special permit.** (a) Subject to this section, the county planning commission may permit certain **unusual and reasonable uses** within agricultural and rural districts other than those for which the district is classified. Any person who desires to use the person's land within an agricultural or rural district other than for an agricultural or rural use, as the case may be, may petition the planning commission of the county within which the person's land is located for permission to use the person's land in the manner desired. Each county may establish the appropriate fee for processing the special permit petition. Copies of the special permit petition shall be forwarded to the land use commission, the office of planning, and the department of agriculture for their review and comment.

(b) The planning commission, upon consultation with the central coordinating agency, except in counties where the planning commission is advisory only in which case the central coordinating agency, shall establish by rule or regulation, the time within which the hearing and action on petition for special permit shall occur. The county planning commission shall notify the land use commission and such persons and agencies that may have an interest in the subject matter of the time and place of the hearing.

(c) The county planning commission may, under such protective restrictions as may be deemed necessary, permit the desired use, but 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. A decision in favor of the applicant shall require a majority vote of the total membership of the county planning commission.

(d) Special permits for land the area of which is greater than fifteen acres or for lands designated as important agricultural lands shall be subject to approval by the land use commission. The land use commission may impose additional restrictions as may be necessary or appropriate in granting the approval, including the adherence to representations made by the applicant.

(e) A copy of the decision, together with the complete record of the proceeding before the county planning commission on all special permit requests involving a land area greater than fifteen acres or for lands designated as important agricultural lands, shall be transmitted to the land use commission within sixty days after the decision is rendered.

Within forty-five days after receipt of the complete record from the county planning commission, the land use commission shall act to approve, approve with modification, or deny the petition. A denial either

by the county planning commission or by the land use commission, or a modification by the land use commission, as the case may be, of the desired use shall be appealable to the circuit court of the circuit in which the land is situated and shall be made pursuant to the Hawaii rules of civil procedure.

(f) Land uses substantially involving or supporting educational ecotourism, related to the preservation of native Hawaiian endangered, threatened, proposed, and candidate species, that are allowed in an approved habitat conservation plan under section 195D-21 or safe harbor agreement under section 195D-22, which are not identified as permissible uses within the agricultural district under sections 205-2 and 205-4.5, may be permitted in the agricultural district by special permit under this section, on lands with soils classified by the land study bureau's detailed land classification as overall (master) productivity rating class C, D, E, or U.

**History:** L 1963, c 205, pt of §2; Supp, §98H-6; HRS §205-6; am L 1970, c 136, §1; am L 1976, c 4, §2; am L 1978, c 166, §1; am L 1979, c 221, §1; gen ch 1985; am L 1998, c 237, §6; am L 2005, c 183, §5

## HAWAII ADMINISTRATIVE RULES

### SUBCHAPTER 12 SPECIAL PERMITS

§ 15-15-95 Petition before county planning commission. (a) Any person who desires to use land within an agricultural or rural district for other than a permissible agricultural or rural use may petition the county planning commission within which the land is located for a special permit to use the land in the manner desired. Special permits for areas greater than fifteen acres require approval of both the county planning commission and the commission. Special permits approved by the county planning commission and which require commission approval must be forwarded to the commission within sixty days following the county planning commission's decision. The decision, together with the complete record, including maps, charts, and other exhibits as evidence, of the proceeding before the county planning commission must be transmitted to the commission. Unless otherwise required by the commission, the planning commission shall file with the commission an original and fifteen copies of the complete record.

(b) Certain "**unusual and reasonable**" uses within agricultural and rural districts other than those for which the district is classified may be permitted. **The following guidelines are established in determining an "unusual and reasonable use":**

- (1) The use shall not be contrary to the objectives sought to be accomplished by chapters 205 and 205A, HRS, and the rules of the commission;
- (2) The desired use would not adversely affect surrounding property;
- (3) The use would not unreasonably burden public agencies to provide roads and streets, sewers, water drainage and school improvements, and police and fire protection;
- (4) Unusual conditions, trends, and needs have arisen since the district boundaries and rules were established; and
- (5) The land upon which the proposed use is sought is unsuited for the uses permitted within the district.

(c) Petitions for issuance of a special permit shall specify the use desired and state concisely the nature of the petitioner's interest in the subject matter and the reasons for seeking the special permit, and shall include any facts, views, arguments, maps, plans, and relevant data.

(d) The petitioner shall comply with all of the rules of practice and procedure of the county planning commission in which the subject property is located.

(e) The county planning commission may impose such protective conditions as it deems necessary in the issuance of a special use permit. The county planning commission shall establish, among other conditions, a reasonable time limit suited to establishing the particular use, and if appropriate, a time limit for the duration of the particular use, which shall be a condition of the special permit. If the permitted use is not substantially established to the satisfaction of the county planning commission within the specified time, it may revoke the permit. The county planning commission, with the concurrence of the commission, may extend the time limit if it deems that circumstances warrant the granting of the extension. [Eff 10/27/86; am and comp 8/16/97; comp May 08 2000] (Auth: HRS §§205-1, 205-7) (Imp: HRS §205-6)

### **Case Law**

1. Perry v. Planning Commission, 62 Haw. 666, 619 P.2d 95 (1980)
2. Neighborhood Board No. 24 (Waianae Coast) v. State Land Use Commission, 64 Haw. 265, 639 P.2d 1097 (1982)
3. Maha'ulepu v. land Use Commission, 71 Haw. 332, 790 P.2d 906 (1990)
4. Save Sunset Beach Coalition v. City of Honolulu, 102 Hawai'i 465, 78 P.3d 1 (2003)
5. T-Mobile USA, Inc. v. County of Hawaii Planning Commission, 106 Hawai'i 343, 104 P.3d 930 (2005)