

**SPECIAL MANAGEMENT AREA USE PERMIT APPLICATION**

**COUNTY OF HAWAII  
PLANNING DEPARTMENT**

(Type or legibly print the requested information)

APPLICANT: \_\_\_\_\_

APPLICANT'S SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

LIST APPLICANT'S INTEREST IF NOT OWNER: \_\_\_\_\_

LIST PRINCIPAL(S) INCLUDING NAMES OF MAIN OFFICERS: \_\_\_\_\_

PHONE: (Bus.) \_\_\_\_\_ (Res.) \_\_\_\_\_ (Fax) \_\_\_\_\_

LANDOWNER(S): \_\_\_\_\_

LANDOWNER SIGNATURE(S): \_\_\_\_\_ DATE: \_\_\_\_\_

(May be by letter)

LANDOWNER(S) ADDRESS: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

REQUEST: \_\_\_\_\_

\_\_\_\_\_

TAX MAP KEY: \_\_\_\_\_ ZONING: \_\_\_\_\_

SIZE OF PROPERTY OR AFFECTED AREA(S): \_\_\_\_\_

AGENT: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

TELEPHONE: (Bus.) \_\_\_\_\_ (Res.) \_\_\_\_\_ (Fax) \_\_\_\_\_

Please indicate to whom original correspondence and copies should be sent.

ORIGINAL: \_\_\_\_\_ COPIES: \_\_\_\_\_

**THIS SPECIAL MANAGEMENT AREA USE PERMIT APPLICATION SHALL BE ACCOMPANIED BY THE FOLLOWING:**

1. A filing fee of two hundred fifty dollars (\$250) with check shall be made payable to the County Director of Finance.
2. The Original (signed) and twenty (20) copies of the completed application.
3. The Original and twenty (20) copies of the following background information on the subject request:
  - A. An EIS, if required, under Chapter 343, HRS, or when required by the Director may be submitted in lieu of this section.
  - B. Detailed written description of the proposed project and a statement of objectives and reasons for the request.
  - C. Description of the subject property in sufficient detail to precisely locate the property. Describe existing uses, structures and topography.
  - D. A statement of the valuation of the proposed use, activity or operation.
  - E. State/County Plans affecting the subject request: General Plan designation and Community Development Plans.
  - F. A written statement discussing the proposed development in relationship to the objectives and policies as provided by Chapter 205A, HRS, and the Special Management Area guidelines as contained herein.
  - G. Surrounding zoning and land uses.
  - H. Flood Insurance Rate Map (FIRM) designation (contact Department of Public Works - Engineering Division).
  - I. Archaeological Resources (one of the following):
    1. An archaeological inventory report containing significance assessments, effect determinations, and proposed mitigation commitments. The report should be completed pursuant to State Department of Land and Natural Resources Historic Preservation Division (DLNR-SHPD) rules.
    2. A "no effect" letter from the State DLNR Historic Preservation Division.
    3. A copy of a letter written by the applicant to the State DLNR Historic Preservation Division requesting a "no effect" letter, including supporting documentation, to which SHPD has not responded after 30 days (SHPD's time limit under their rules).
  - J. Floral and Faunal Resources.
  - K. Valued Cultural Resources: Identify any traditional and customary native Hawaiian rights that are exercised in the area; the extent in which the proposed development will affect these rights; and feasible action to be taken to protect native Hawaiian rights if they exist.
  - L. Public Access: Existing public access to and along the shoreline or to mountain

areas and knowledge of whether public access is being used.

- M. Description of access(es) to the area (e.g. width, type of surface and condition of roadway). If a private roadway, submit evidence of access rights.
  - N. Traffic impacts - assessment of existing traffic conditions, anticipated increase in traffic and traffic impacts from proposed use (a formal study may be requested by Department of Public Works or Department of Transportation during the review process).
  - O. Availability of Utilities: Water, telephone, electricity, sewage disposal.
  - P. In the case of an applicant whose proposed development has been assessed, any information as to the areas of critical concern delineated by the director.
4. An Original and twenty (20) copies of the anticipated impacts of the proposed development on the Special Management Area, including but not limited to the following:
- A. Description of environmental setting;
  - B. The relationship of the proposed action to land use plans, policies, and control of the affected area;
  - C. The probable impact of the proposed actions on the environment;
  - D. Any probably adverse environmental effect which cannot be avoided;
  - E. Alternatives to the proposed action;
  - F. Mitigating measures proposed to minimize impact; and
  - G. Any irreversible and irretrievable commitment of resources.
5. The Original and twenty (20) copies of a preliminary site plan drawn to scale showing property lines and measurements; all existing and proposed structures with elevations, uses and improvements; proposed subdivision and reference points such as roadways, shoreline, etc.
6. One copy of a full-size (2' x 3') scale-drawn plot plan of Item 5 for presentation purposes.
7. A shoreline survey when the parcel abuts the shoreline, except as may be waived by the Director when the proposed development is clearly and unmistakably located on a shoreline parcel at a considerable distance from the shoreline.
8. In the case where a multi-unit residential structure, containing more than ten units is proposed, the Director may require the applicant to develop a scale model or three-dimensional rendering of the proposed development and related improvements.
9. A list of names, addresses and tax map keys of all owners and lessees of record of surrounding properties who are required to receive notice. See attached instructions for notification procedures.
10. Any other plans or additional information relevant to this application may be requested by the Planning Director to facilitate processing of this request.

## **HAWAII REVISED STATUTES**

### **§205A-2 Coastal zone management program; objectives and policies.**

(a) The objectives and policies in this section shall apply to all parts of this chapter.

(b) Objectives.

- (1) Recreational resources;
  - (A) Provide coastal recreational opportunities accessible to the public.
- (2) Historic resources;
  - (A) Protect, preserve, and, where desirable, restore those natural and manmade historic and prehistoric resources in the coastal zone management area that are significant in Hawaiian and American history and culture.
- (3) Scenic and open space resources;
  - (A) Protect, preserve, and, where desirable, restore or improve the quality of coastal scenic and open space resources.
- (4) Coastal ecosystems;
  - (A) Protect valuable coastal ecosystems, including reefs, from disruption and minimize adverse impacts on all coastal ecosystems.
- (5) Economic uses;
  - (A) Provide public or private facilities and improvements important to the State's economy in suitable locations.
- (6) Coastal hazards;
  - (A) Reduce hazard to life and property from tsunamis, storm waves, stream flooding, erosion, subsidence, and pollution.
- (7) Managing development;
  - (A) Improve the development review process, communication, and public participation in the management of coastal resources and hazards.
- (8) Public participation;
  - (A) Stimulate public awareness, education, and participation in coastal management.
- (9) Beach protection;
  - (A) Protect beaches for public use and recreation.
- (10) Marine resources;
  - (A) Promote the protection, use, and development of marine and coastal resources to assure their sustainability.

(c) Policies.

- (1) Recreational resources;
  - (A) Improve coordination and funding of coastal recreational planning and management; and
  - (B) Provide adequate, accessible, and diverse recreational opportunities in the coastal zone management area by:
    - (i) Protecting coastal resources uniquely suited for recreational activities that cannot be provided in other areas;
    - (ii) Requiring replacement of coastal resources having significant recreational value including, but not limited to, surfing sites, fishponds, and sand beaches, when such resources will be unavoidably damaged by development; or requiring reasonable monetary compensation to the State for recreation when replacement is not feasible or desirable;
    - (iii) Providing and managing adequate public access, consistent with conservation of natural resources, to and along shorelines with recreational value;
    - (iv) Providing an adequate supply of shoreline parks and other recreational

- facilities suitable for public recreation;
  - (v) Ensuring public recreational uses of county, state, and federally owned or controlled shoreline lands and waters having recreational value consistent with public safety standards and conservation of natural resources;
  - (vi) Adopting water quality standards and regulating point and nonpoint sources of pollution to protect, and where feasible, restore the recreational value of coastal waters;
  - (vii) Developing new shoreline recreational opportunities, where appropriate, such as artificial lagoons, artificial beaches, and artificial reefs for surfing and fishing; and
  - (viii) Encouraging reasonable dedication of shoreline areas with recreational value for public use as part of discretionary approvals or permits by the land use commission, board of land and natural resources, and county authorities; and crediting such dedication against the requirements of section 46-6.
- (2) Historic resources;
- (A) Identify and analyze significant archaeological resources;
  - (B) Maximize information retention through preservation of remains and artifacts or salvage operations; and
  - (C) Support state goals for protection, restoration, interpretation, and display of historic resources.
- (3) Scenic and open space resources;
- (A) Identify valued scenic resources in the coastal zone management area;
  - (B) Ensure that new developments are compatible with their visual environment by designing and locating such developments to minimize the alteration of natural landforms and existing public views to and along the shoreline;
  - (C) Preserve, maintain, and, where desirable, improve and restore shoreline open space and scenic resources; and
  - (D) Encourage those developments that are not coastal dependent to locate in inland areas.
- (4) Coastal ecosystems;
- (A) Exercise an overall conservation ethic, and practice stewardship in the protection, use, and development of marine and coastal resources;
  - (B) Improve the technical basis for natural resource management;
  - (C) Preserve valuable coastal ecosystems, including reefs, of significant biological or economic importance;
  - (D) Minimize disruption or degradation of coastal water ecosystems by effective regulation of stream diversions, channelization, and similar land and water uses, recognizing competing water needs; and
  - (E) Promote water quantity and quality planning and management practices that reflect the tolerance of fresh water and marine ecosystems and maintain and enhance water quality through the development and implementation of point and nonpoint source water pollution control measures.
- (5) Economic uses;
- (A) Concentrate coastal dependent development in appropriate areas;
  - (B) Ensure that coastal dependent development such as harbors and ports, and coastal related development such as visitor industry facilities and energy generating facilities, are located, designed, and constructed to minimize adverse social, visual, and environmental impacts in the coastal zone management area; and
  - (C) Direct the location and expansion of coastal dependent developments to areas

presently designated and used for such developments and permit reasonable long-term growth at such areas, and permit coastal dependent development outside of presently designated areas when:

- (i) Use of presently designated locations is not feasible;
  - (ii) Adverse environmental effects are minimized; and
  - (iii) The development is important to the State's economy.
- (6) Coastal hazards;
    - (A) Develop and communicate adequate information about storm wave, tsunami, flood, erosion, subsidence, and point and nonpoint source pollution hazards;
    - (B) Control development in areas subject to storm wave, tsunami, flood, erosion, hurricane, wind, subsidence, and point and nonpoint source pollution hazards;
    - (C) Ensure that developments comply with requirements of the Federal Flood Insurance Program; and
    - (D) Prevent coastal flooding from inland projects.
  - (7) Managing development;
    - (A) Use, implement, and enforce existing law effectively to the maximum extent possible in managing present and future coastal zone development;
    - (B) Facilitate timely processing of applications for development permits and resolve overlapping or conflicting permit requirements; and
    - (C) Communicate the potential short and long-term impacts of proposed significant coastal developments early in their life cycle and in terms understandable to the public to facilitate public participation in the planning and review process.
  - (8) Public participation;
    - (A) Promote public involvement in coastal zone management processes;
    - (B) Disseminate information on coastal management issues by means of educational materials, published reports, staff contact, and public workshops for persons and organizations concerned with coastal issues, developments, and government activities; and
    - (C) Organize workshops, policy dialogues, and site-specific mediations to respond to coastal issues and conflicts.
  - (9) Beach protection;
    - (A) Locate new structures inland from the shoreline setback to conserve open space, minimize interference with natural shoreline processes, and minimize loss of improvements due to erosion;
    - (B) Prohibit construction of private erosion-protection structures seaward of the shoreline, except when they result in improved aesthetic and engineering solutions to erosion at the sites and do not interfere with existing recreational and waterline activities; and
    - (C) Minimize the construction of public erosion-protection structures seaward of the shoreline.
  - (10) Marine resources;
    - (A) Ensure that the use and development of marine and coastal resources are ecologically and environmentally sound and economically beneficial;
    - (B) Coordinate the management of marine and coastal resources and activities to improve effectiveness and efficiency;
    - (C) Assert and articulate the interests of the State as a partner with federal agencies in the sound management of ocean resources within the United States exclusive economic zone;
    - (D) Promote research, study, and understanding of ocean processes, marine life, and

- other ocean resources in order to acquire and inventory information necessary to understand how ocean development activities relate to and impact upon ocean and coastal resources; and
- (E) Encourage research and development of new, innovative technologies for exploring, using, or protecting marine and coastal resources.

**§205A-26 Special management area guidelines.** In implementing this part, the authority shall adopt the following guidelines for the review of developments proposed in the special management area:

- (1) All development in the special management area shall be subject to reasonable terms and conditions set by the authority in order to ensure:
  - (A) Adequate access, by dedication or other means, to publicly owned or used beaches, recreation areas, and natural reserves is provided to the extent consistent with sound conservation principles;
  - (B) Adequate and properly located public recreation areas and wildlife preserves are reserved;
  - (C) Provisions are made for solid and liquid waste treatment, disposition, and management which will minimize adverse effects upon special management area resources; and
  - (D) Alterations to existing land forms and vegetation, except crops, and construction of structures shall cause minimum adverse effect to water resources and scenic and recreational amenities and minimum danger of floods, wind damage, storm surge, landslides, erosion, siltation, or failure in the event of earthquake.
- (2) No development shall be approved unless the authority has first found:
  - (A) That the development will not have any substantial adverse environmental or ecological effect, except as such adverse effect is minimized to the extent practicable and clearly outweighed by public health, safety, or compelling public interests. Such adverse effects shall include, but not be limited to, the potential cumulative impact of individual developments, each one of which taken in itself might not have a substantial adverse effect, and the elimination of planning options;
  - (B) That the development is consistent with the objectives, policies, and special management area guidelines of this chapter and any guidelines enacted by the legislature; and
  - (C) That the development is consistent with the county general plan and zoning. Such a finding of consistency does not preclude concurrent processing where a general plan or zoning amendment may also be required.
- (3) The authority shall seek to minimize, where reasonable:
  - (A) Dredging, filling or otherwise altering any bay, estuary, salt marsh, river mouth, slough or lagoon;
  - (B) Any development which would reduce the size of any beach or other area usable for public recreation;
  - (C) Any development which would reduce or impose restrictions upon public access to tidal and submerged lands, beaches, portions of rivers and streams within the special management areas and the mean high tide line where there is no beach;
  - (D) Any development which would substantially interfere with or detract from the line of sight toward the sea from the state highway nearest the coast; and
  - (E) Any development which would adversely affect water quality, existing areas of open water free of visible structures, existing and potential fisheries and fishing grounds, wildlife habitats, or potential or existing agricultural uses of land.

**FOR REFERENCE TO THE ABOVE SUBMITTAL REQUIREMENTS PLANNING COMMISSION RULE 9-SPECIAL MANAGEMENT AREA CAN BE OBTAINED FROM THE COUNTY OF HAWAII WEBSITE UNDER PLANNING DEPARTMENT, PLANNING RULES.**

**COUNTY OF HAWAII  
PLANNING DEPARTMENT**

**Requirement to Inform Surrounding Property Owners and Lessees  
of Contested Case Procedure**

These requirements are prepared in accordance with the Planning Commission's Rules of Practice and Procedure, Rule 4. Contested Case Procedure, effective February 17, 1997. Rule 4. Contested Case Procedure affects "all cases where the action of the Commission is the final action of a County official or agency, prior to the opportunity for appeal to Circuit Court, whenever it is required. It shall therefore be followed in all cases where statutes provide for direct appeal from the Commission to Circuit Court." Applications affected by Rule 4 include Special Permits, Shoreline Setback Variances and Special Management Area (SMA) Use Permits.

***First Notice***

Within (10) days after filing an application with the Planning Department or Planning Commission, you are required to serve notice of your application on surrounding property owners and lessees of record, in accordance with the Hawaii County Zoning Code, Section 25-2-4.

***Second Notice***

*Special Permit Applications:* You are required to serve a second notice to surrounding owners and lessees of record within ten (10) days after receiving notice from the director of the date of the scheduled hearing but not less than ten (10) days prior to the date of the scheduled hearing.

*Shoreline Setback Variance Applications:* You are required to serve a second notice within ten (10) days after receiving notice from the director of the date of the scheduled hearing but not less than fourteen (14) days prior to the date of the scheduled hearing.

*SMA Use Permit Applications:* You are required to serve a second notice within ten (10) days after receiving notice from the director of the date of the scheduled hearing but not less than twenty (20) days prior to the date of the scheduled hearing.

*Use Permit Applications:* You are required to serve a second notice within ten (10) days after receiving notice from the director of the date of the scheduled hearing but not less than ten (10) days prior to the date of the scheduled hearing.

Both notices shall include the following information:

1. Name of the applicant;
2. Precise location of the property involved, including tax map key identification, location map and site plan;
3. Nature of the application and the proposed use of the property;

4. Date on which the application was filed with the director or the commission;
5. Inform the landowner and lessee that they have a right to submit a written request for a contested case procedure. Should they seek to intervene as a party, they shall file a written request on the attached form, "Petition for Standing in Contested Case Hearing." You should include this form in both notices to the landowners and lessees. The request shall be filed with the Planning Commission at Aupuni Center, 101 Pauahi Street, Suite 3, Hilo, Hawaii 96720; and accompanied by a filing fee of \$100 payable to the Director of Finance. The required information shall be submitted no later than seven (7) calendar days, prior to the Commission's first scheduled public hearing to consider the application;
6. Inform the landowner and lessee that should they choose not to submit a written request for a contested case procedure, they may express their support/opposition in writing or by oral testimony at the Planning Commission public hearing to be scheduled; and
7. Contact name and phone number should there be any questions.

In addition, the second notice shall include the date, time and place that the scheduled public hearing will be held to consider the application.

### ***Who Should Be Notified?***

When the building site is located within the State Land Use Urban or Rural District, notice shall be served to owners and lessees of record within three hundred feet (300') of the perimeter boundary of the building site.

When the building site is located within the State Land Use Agricultural District, notice shall be served to owners and lessees of record within five hundred feet (500') of the perimeter boundary of the building site. Except that if the surrounding properties are located within either the State Land Use Urban or Rural District, notice shall be served to owners and lessees of record within three hundred feet (300') of the perimeter boundary of the building site.

Data available from the real property tax office shall be utilized in determining the names and addresses of the affected owners and lessees of record. The applicant shall also provide notice to such other owners and lessees of record when the applicant has actual knowledge of such names or as informed by the Planning Director or Planning Commission.

Proof of service for the first notice on owners and lessees of record may be submitted concurrently with or shortly after filing the subject application. Proof of service for the second notice shall be submitted to the Planning Commission prior to the date of public hearing. Proof may consist of certified mail receipts, affidavits, declarations or the like. The list of names, addresses and tax map keys of those individuals notified shall also be submitted.

Should you have any questions, please contact the Planning Department at 961-8288.

Attachment - Appendix A

**PETITION FOR STANDING IN A CONTESTED CASE HEARING**

(Page 1 of 2)

**NAME:** \_\_\_\_\_

**ADDRESS:** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**PHONE NO.:** \_\_\_\_\_

**APPLICANT/**

**DOCKET NO.:** \_\_\_\_\_

A. Is your interest in this matter clearly distinguishable from that of the general public?

Yes \_\_\_\_\_ No \_\_\_\_\_

If the answer is "yes", please explain:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If the answer is "no", please explain how the proposed action will nevertheless cause you actual or threatened injury:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

B. Are you a government agency whose jurisdiction includes the land involved in the subject request?

Yes \_\_\_\_\_ No \_\_\_\_\_

If the answer is "yes", please explain the nature of the agency's jurisdiction:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

C. Do you lawfully reside on or have some property interest in the land involved in the subject request?

Yes \_\_\_\_\_ No \_\_\_\_\_

If the answer is "yes", please explain:

\_\_\_\_\_  
\_\_\_\_\_

PETITION FOR STANDING IN A CONTESTED CASE HEARING

(Page 2 of 2)

D. Are you a person or persons descended from native Hawaiians who inhabited the Hawaiian Islands prior to 1778, who practiced those rights which were customarily and traditionally exercised for subsistence, cultural, or religious purposes?

Yes \_\_\_\_\_ No \_\_\_\_\_

If the answer is "yes", please submit any genealogical evidence and historical evidence showing the exercise of those rights to support your statement:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
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\_\_\_\_\_  
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\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Petitioner's Signature

STATE OF HAWAII        )  
                                  ) SS.  
COUNTY OF HAWAII    )

**On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_, before me personally appeared \_\_\_\_\_, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.**

\_\_\_\_\_  
Notary Public, State of Hawaii

My commission expires: \_\_\_\_\_

## **POSTING OF SIGNS FOR PUBLIC NOTIFICATION**

In accordance with Chapter 25 (Zoning Code), Article 2, Division 1, Section 25-2-12, Hawaii County Code 1983 (2005 Edition) and/or Planning Commission Rules of Practice and Procedure, within ten (10) days of being notified of the acceptance of an application, the applicant shall post a sign on the subject property notifying the public of the following:

1. The nature of the application;
2. The proposed use of the property;
3. The size of the property;
4. The tax map key(s) of the property;
5. That the public may contact the Planning Department for additional information; and
6. The address and telephone number of the Planning Department.

The sign shall be not less than nine square feet and not more than twelve square feet in area, with letters not less than one inch high. No pictures, drawings, or promotional materials shall be permitted on the sign.

The sign shall be posted at or near the property boundary adjacent to a public road bordering the property and shall be readable from said public road. If more than one public road borders the property, the applicant shall post the sign to be visible from the more heavily traveled public road.

The sign shall, in all other respects, be in compliance with Chapter 3 (Signs), Hawaii County Code 1983 (2005 edition).

The applicant shall file an affidavit with the Planning Department not more than five (5) days after posting the sign stating that a sign has been posted, and that the applicant will not remove the sign until the application has been granted, denied, or withdrawn. A photograph of the sign in place shall accompany the affidavit.

The sign shall remain posted until the application has been granted, denied, or withdrawn. The applicant shall remove the sign promptly after such action.