

Special (Use) Permit
County of Kauai, Planning Department (PD)
State of Hawaii, Land Use Commission

Purpose: This permit allows for certain “unusual and reasonable” uses that are not permitted uses within the State Agricultural or Rural Land Use Districts, provided certain criteria are met as identified in Hawaii Administrative Rules (HAR) Chapter 15-15-95.

Approval Authority: Hawaii Revised Statutes (HRS) 205; HAR Chapter 15-15-95; and County of Kauai Planning Commission Rules and Regulations Chapter 13.

Potential Approval Prerequisites: If the proposed project triggers HRS Chapter 343, the Environmental Impact Statements, submit a completed Environmental Assessment (EA), Environmental Impact Statement (EIS), or a letter of exemption from HRS Chapter 343 from the proper authority. The PD recommends conducting a pre-application consultation.

Fees: Application Fee is required – Review permit link below.

For Permit Application, Guidelines and Fees:

<http://www.kauai.gov/Government/Departments/PlanningDepartment/ZoningandLandUsePermits/ResourceDocuments/tabid/627/Default.aspx>, see Special Permit and General Submittal Requirements documents

Contact Information: Kauai PD (808) 241-4050

Checklist / Process	Chronology
1. Complete and submit a Special (Use) Permit application to PD including all content requirements as listed in the application. If an EA or EIS is required, the completed EA or EIS must be submitted as part of the application.	Generally, 3 to 6 months including completing technical studies and project plans Generally, 1 to 2 years
2. PD reviews the application for completeness.	
3. Planning Commission schedules a public hearing and notifies applicant.	Within 60 days from Step 2
4. PD publishes a notice of public hearing in the newspaper.	At least 20 days from the public hearing date
5. Notify surrounding owners and lessees within 300 feet of the project property boundaries of the public hearing.	At least 20 days from the public hearing date
6. Submit the certified registered mailing receipts and an affidavit of mailing to the PD.	At least 7 days from the public hearing date
7. Planning Commission holds a public hearing.	
8. If the project involves 15 acres or less of land, the Planning Commission shall approve, approve with conditions, or deny the Special Permit. If the project involves more than 15 acres of land, the Planning Commission recommends to the State Land Use Commission (LUC) approval or denial of the Special Permit.	Within 60 days of Step 7

9. PD transmits the Planning Commission's recommendations to LUC for projects involving more than 15 acres.	Within 60 days from Step 8
10. LUC conducts meeting(s) to approve, approve with conditions, or deny the application. If significant new issues arise, LUC can send back the application to the Planning Commission.	Within 45 days after Step 9
Estimated Time from Submittal of Application	7 months

Other Application Considerations:

1. Solar facilities located within the State Agricultural District on soils classified as productivity rating class B or C that occupy more than 10% of the parcel or 20 acres, whichever is less, will need a SUP. Such facilities must also meet the criteria set forth in Act 55 (Session Laws of Hawaii, 2014), pertaining to making the project site available for compatible agricultural uses at discounted rates, project decommissioning, and site restoration. The reviewing agencies will likely press applicants to provide evidence of ability to meet the Act 55 criteria (e.g., a letter of intent or lease for on-site agricultural activities), and may request similar conditions be attached to issuance of an SUP for solar projects on B and C lands.
2. Solar facilities are not permitted within the State Agricultural District on soils classified as productivity rating class A, unless the project meets the specific criteria under Act 55.
3. A Class I Zoning Permit for solar facilities is required along with a Special (Use) Permit, if allowed as a special use on soils classified as productivity rating class A and B.