CHAPTER 201H-38 “EXPEDITED REVIEW”

**HHFDC**
- Developer contacts HHFDC with project proposal
- Developer holds community meeting(s)
- Developer conducts environmental assessment: is EA/EIS required?
- Developer prepares an EA/EIS and submits through HHFDC to Office of Environmental Quality Control for approval or rejection

**County**
- County General/Development/Community Plan Amendment process (if necessary)
- County Rezoning Process (if necessary)
- Subdivision Review and Approval (if necessary)
- County councils have 45 days to review a Chapter 201H project

**Land Use Commission**
- Sixty days prior to the filing of a petition with the LUC for a boundary amendment/reclassification, the petitioner must file a “notice of intent to file” with the LUC, newspapers, Office of Planning, county planning department, persons with property interests, and persons designated by the chief clerk of the county
- LUC may conduct preapplication meeting with petitioner to facilitate a more orderly hearing process
- Petitioner files petition for a district boundary amendment to reclassify lands (if necessary) for a 201H project on the date specified on the “notice of intent to file”
- Was petition filed on time?
- Petition deemed defective and date of filing shall be when defect is cured
- Defect cured and petition proceeds for review
- LUC decision on project
  - Was petition filed in conformance with LUC procedures including an approved EIS or negative declaration, proposed decision & order, affidavit that petitioner has met with the community, & certification from HHFDC that the project is a 201H?
  - Yes
    - Petition deemed defective and date of filing shall be when defect is cured
    - LUC decision on project
      - Approval with modification
      - Disapproval
        - Mandatory imposition of conditions set forth in HAR 15-15-90(e) apply to the project
  - No
    - LUC decision on project
      - Approval with modification
      - Disapproval
        - Mandatory imposition of conditions set forth in HAR 15-15-90(e) apply to the project

- OEQC approves EIS?
  - Yes
    - STOP Project cannot use 201H-38
  - No
    - HHFDC Board defers pending more information
      - Project cannot use 201H-38

- HHFDC Board approves; project sent to county councils & LUC for review
- HHFDC Board rejects

**HHFDC Board decision on project**
- HHFDC may concurrently petition the State LUC for a district boundary amendment if necessary

**Developer contacts HHFDC with project proposal**
- Developer prepares and submits formal 201H application to HHFDC
- Development staff works with developer, project planning consultant, state and county agencies; reviews application and submits project to the HHFDC Board of Directors with recommendation for action

**STOP**
- Project cannot use 201H-38
Applicant must submit: contact information, proof of business status including articles of incorporation, partnership copies, joint venture agreements, or proprietorship copies; a resume of housing development experience; communications contact person; evidence of legal authority to incur obligations and sign and deliver documents necessary to finance, develop, and construct housing projects; a certificate of good standing from DCCA; tax clearance from DoTAX; evidence of capability to develop, own, manage, and provide services in connection with housing; evidence of applicant’s credit worthiness including: three years’ fiscal year end financial statements and tax returns, three years’ fiscal year end financial statements or tax returns of any businesses the applicant is affiliated with, interim balance sheets and income statements of the borrowing entity if fiscal data is more than nine months old, tax returns if the borrower or guarantor is an individual, documents to support corporate actions, and other documents determined by the Corporation; proof of applicant’s ties to the community and support from local community groups, descriptions of all housing projects owned or operated by the applicant, description of any financial default, modification of terms of financing, or legal action taken or pending against the applicant or its principals, description of past or current business experiences other than housing that demonstrate applicant’s management capabilities, evidence of the ability to secure financing and the ability to complete the housing project, statement of any involvement with HHFDC or HPHA and any assistance previously received, a project proposal, and any other information requested by the HHFDC.

Developers submit to the HHFDC a project proposal that contains, at a minimum:
Contact information, evidence that the developer is an “eligible developer,” a master plan of the proposed project which shows: evidence of site control, contact information for all holders of interest in the land and descriptions of each holder’s interest, descriptions of the land and surrounding areas as well as improvements on the land, number of proposed dwelling units within the project and total area of the project, comprehensive site plan showing general development of the site including buildings, parking, service areas, and proposed and existing streets and drainage facilities, methods of waste disposal, water sources, and utilities, description of land contours, identification and description of historical or significant landmarks or natural features within and adjacent to the proposed project, description of existing improvements within and adjacent to proposed project as well as off-site and on-site infrastructure and improvements requirements, proposed and existing uses of each phase of the proposed project, and existing uses of lots adjacent to the proposed project for parks and public places etc., and shoreline setbacks; preliminary plans and specifications for housing units and other improvements in the project, number of proposed housing units, number of stories, number of units by size, special features, natural conservation devices, energy efficient designs utilized, description of indigenous plants for landscaping, proposed sales prices and rental rates for the units, proposed financing information including: manner of financing for all phases of the project, sources of repayment of the financing, start up expenses and the sources of funds to meet these expenses, net equity contributed by the developer, and budgets and cashflow requirements, development timetable, market analysis, sales marketing program, other activities to successfully complete the project, description of how the proposed project addresses the housing needs of lower income families, description of the land as to present use, soil classification, agricultural importance, flood, and drainage conditions, an assessment of the effects of the development of the proposed project on the environment, agriculture, recreational, cultural, historic, scenic, flora, and fauna, or other resources of the area, the availability and adequacy of public services and facilities such as schools, sewers, parks, water, sanitation, drainage, roads, police and fire protection and whether the development of the proposed project unreasonably burdens such services, comments from the community and community groups, accommodations for any displaced persons that result from the development, applicable provisions of existing state and county plans, zoning and land use requirements, and differences from the plans, zoning, or land use classification and the reasons for such differences, identify specific exemption requests allowed under Chapter 201H, any other information the Corporation requests to determine project eligibility.
City and County of Honolulu

1. Developer contacts county and holds preliminary meetings with county agencies.
2. Project continues for further review by county agencies (modifications agreed to by developer).
3. City Clerk posts agenda.
4. City and County of Honolulu Council votes.
5. Housing Agency Committee holds a public hearing on the draft resolution for the 201H project application.
6. Resolution is presented to full Council for public hearing.
7. Developer submits request for exemption pursuant to 201H to the County of Hawaii Housing Office; the request must include a list of requested exemptions and preliminary plans for the project.
8. County administration submits the project application to the City Council and the 45 day period begins.
9. The county administration provides notice of the project application to the city clerk via a transmittal receipt.
10. Will Zoning Committee place project application on a hearing agenda? (6 days notice)
11. Housing Office reviews: is application/request for exemptions reasonable and complete?
12. Housing Office drafts a resolution requesting exemptions pursuant to 201H and submits to the Housing Agency Committee.
13. Housing Agency Committee holds a public hearing on the draft resolution for the 201H project application.
14. Housing Agency Committee renders decision.
15. Resolution is presented to full Council for public hearing.
17. County administration submits the project application to the City Council and the 45 day period begins.
18. Project continues for further review by county agencies (modifications agreed to by developer).
19. City Clerk posts agenda.
20. Project application prepared for review by full council; resolution is drafted.
21. Full council public meeting on the proposed 201H application and resolution.
22. Full council vote.
23. Resolution adopted; project proceeds with ministerial permits.
24. 201H exemptions and income criteria requirements for project are determined by county agencies.
25. STOP Project cannot use county 201H process; Go to HHFDC process.
Upon approval of the project EA/EIS by OEQC, the developer submits a formal application for exemptions pursuant to Chapter 201H to the Maui Department of Housing and Human Concerns (DHHS).

DHHS reviews the 201H application and EA/EIS. If DHHS disapproves the application, the project cannot proceed.

If DHHS approves the application, the 201H application is transmitted to Maui County Council for a 45-day review process. The application is referred to the committee for review.

The committee holds a public hearing on the 201H application. The committee votes on the 201H application within 12/45 days. If the committee disapproves the application, it is sent back to DHHS.

If the committee approves the application, the County Council reviews the 201H application, conducts additional research, prepares questions, and determines any modifications they wish to include.

If the Council disapproves the application, the project cannot proceed with the agreed upon modifications and exemptions pursuant to 201H. If the Council approves the application, the modified 201H application is presented at a Council hearing. The Council votes on the modified 201H application within 24/45 days.

If the Council disapproves the modified 201H application, the project cannot proceed with the agreed upon modifications and exemptions pursuant to 201H. If the Council approves the modified application, the project proceeds with the agreed upon modifications and exemptions pursuant to 201H.

Developer may conduct pre-consultation reviews with county agencies and council members to collect comments that will be incorporated into their draft environmental assessment (EA) and final EA/EIS.

Application sent to full Council with committee recommendations (18/45 days).

Council hearing on committee recommendation (24/45 days).

Modified 201H application presented at a Council hearing.

Council votes on modified 201H application (24/45 days).

Project proceeds with agreed upon modifications and exemptions pursuant to 201H.

STOP

Project cannot use 201H.

Developers conduct preliminary meetings with County departments about the proposed project and 201H exemptions they intend to request.

201H application is transmitted from DHHS to Maui County Council for a 45-day council review process.

Application referred to committee (6/45 days).

Committee holds public hearing on 201H application (12/45 days).

Committee vote (12/45 days).

STOP

Project cannot use 201H.
Project application prepared for review by full council; resolution is drafted

Full council vote

Approve/Approve with Modifications

Resolution adopted; project proceeds with ministerial permits

Disapprove

201H exemptions and income criteria requirements for project are determined by county agencies

Disagree

Project cannot use county 201H process; Go to HHFDC process

Full Council – project application introduced, voted and public hearing date set (6 days notice)

Project continues for further review by county agencies (modifications agreed to by developer)

County administration submits the project application to the County Council and the 45 day period begins.

County Clerk posts Agenda

Public Hearing. Developer presents 201H project application before the Community Assistance Committee at a public hearing; at the hearing, County agency staff and Community Assistance Committee members ask questions and propose modifications to the project in exchange for the requested exemptions

Community Assistance Committee votes

Disapprove/Approve/Approve with Modifications

Developed contacts county and holds preliminary meetings with county agencies

Developer must submit an environmental assessment *(EA)/Environmental Impact Statement (EIS)

*If the project does not need a Chapter 343 EA, the county still requires the developer to prepare an EA document, without formal procedures, to disclose the impacts of the project to the county.

Kauai County

Full council vote

Approve/Approve with Modifications

STOP
If a 201H project is approved or approved with modification by the LUC on the 46th day, the following mandatory conditions apply to the project:

1. Petitioner must develop the reclassified area in substantial compliance with the representations made to the commission; failure to do so may result in a reversal of the decision or reclassification of the land.
2. Petitioner is required to provide notice to the commission of any intent to sell, lease, assign, pace in trust or otherwise voluntarily alter the ownership interests in the reclassified area prior to development of the area.
3. Petitioner must provide annual reports to the commission updating the status of the project.
4. Petitioner must record with Bureau of Conveyances a statement of the required conditions imposed by the LUC and provide a copy of the recorded statement to the commission.
5. Petitioner must provide affordable housing opportunities for low, low-moderate, and moderate income residents to the satisfaction of the county in which the reclassified land is located.
6. If proposed use of land includes residential, the petitioner shall contribute to the development, funding, and construction of public school facilities as determined by the DOE.
7. Petitioner shall participate in funding and construction of adequate wastewater transmission and disposal facilities, on a fair-share basis as determined by the county and HI-DOH.
8. Petitioner shall prepare a traffic analysis report to identify traffic impacts and mitigation measures; report to be reviewed by HI-DOT and county transportation departments; petitioner may be required to fund or contribute to transportation improvements.
9. Petitioner shall fund and construct on a fair-share basis adequate civil defense measures as determined by State Civil Defense.
10. Petitioner shall have a professional archaeologist conduct an archeological inventory survey with significance evaluations and mitigation commitments acceptable to the State Historic Preservation Division (SHPD).
11. Petitioner shall submit and execute a detailed historic preservation mitigation plan to the SHPD to verify in writing that the plan has been successfully executed.
12. Petitioner shall stop work if significant archaeological sites are found and may resume when mitigative measures have been implemented to the satisfaction of SHPD.
13. Petitioner shall monitor air quality as specified by the HI-DOH.
14. Petitioner shall mitigate noise pollution.
15. If the approved boundary amendment involves conversion of prime agricultural land, the petitioner shall contribute to the protection of an equivalent amount of prime agricultural lands and related infrastructure via long-term agricultural conservation easements or other ag-related assets as determined by and to the satisfaction of the HI-DOA.
16. Petitioner shall notify all prospective buyers of property of the potential odor, noise, and dust pollution if there are agricultural district lands surrounding the reclassified area.
17. Petitioner shall notify all prospective buyers of property of the Hawaii Right to Farm Act limitations on “nuisance” determinations.
18. Petitioner shall fund the design and construction of drainage improvements to the satisfaction of State and county agencies.
19. Petitioner shall address and provide for solid waste management in cooperation with HI-DOH and county agencies in accordance with a schedule/timeframe satisfactory to HI-DOH.
20. To the extent required by the HI-DOH, petitioner shall ensure that nearshore, offshore, and deep ocean waters remain in pristine condition.
21. Petitioner shall participate in the funding and construction of adequate water source, storage, and transmission facilities and improvements to accommodate the proposed uses, as coordinated by State and county agencies.
22. Petitioner shall protect and preserve existing native Hawaiian gathering rights.