

FREQUENTLY ASKED QUESTIONS

Oahu Important Agricultural Lands Mapping Project
September 2018

1. What does “Important Agricultural Lands” (IAL) mean?

Section 205-42, Hawaii Revised Statutes (HRS), defines IAL as those lands that: “(1) are capable of producing sustained high agricultural yields when treated and managed according to accepted farming methods and technology; (2) contribute to the State's economic base and produce agricultural commodities for export or local consumption; or (3) are needed to promote the expansion of agricultural activities and income for the future, even if currently not in production.”

Section 205-42(b) states:

“The objective for the identification of important agricultural lands is to identify and plan for the maintenance of a strategic agricultural land resource base that can support a diversity of agricultural activities and opportunities that expand agricultural income and job opportunities and increase agricultural self-sufficiency for current and future generations.”

The IAL designation is a supplemental State land use classification administered by the State Land Use Commission (LUC). It is an exclusive sub-set of lands within the State Agricultural Land Use District intended to overlay existing State and county (City and County of Honolulu or City) land use classifications. To promote the active use of agricultural lands, the IAL designation provides access to incentives and benefits to reduce the cost of farming and promote the profitability of farmers on IAL.

2. What is the legal basis for designating IAL?

Article XI, Section 3 of the State Constitution states:

“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. 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.”

3. How are lands designated as IAL?

The LUC is responsible for designating land in Hawaii as IAL. There are three methods for initiating and designating land as IAL: *Landowner Initiated*, *County Initiated* under Sections 205-45 and 205-47, HRS, respectively, and *State Initiated* under Section 205-44.5, HRS.

The *Landowner Initiated* method under Section 205-45, HRS, allows private landowners to submit a request (petition for declaratory order) directly to the LUC

for voluntary IAL designation. With the *Landowner Initiated* method, the landowner chooses which lands he/she wants designated as IAL. Generally, the LUC will review the petition, hold a public hearing, and issue a declaratory order to adopt the IAL designation in whole, in part, or deny the petition. To date, there have been ten *Landowner Initiated* IAL petitions approved by the LUC, designating approximately 133,580 acres of land as IAL on four islands. Of the ten approved petitions, three were on Oahu, resulting in approximately 11,820 acres designated as IAL.

The *County Initiated* method required under Section 205-47, HRS, mandates that all four Hawaii counties identify and map lands within their respective jurisdictions that have potential for designation as IAL. Each county's Planning Department is responsible for carrying out this mandate. For the City and County of Honolulu, the Department of Planning and Permitting (DPP) is responsible for identifying and mapping IAL on Oahu.

Land eligible for consideration via the *County Initiated* method is limited to county-owned and privately owned lands that are in the State Agricultural District and are not designated for urban use by the county on the appropriate Development Plan/Sustainable Communities Plan Land Use Map.

The *State Initiated* method under Section 205-44.5, HRS, is a third method to designate IAL and requires that the State Department of Agriculture (DOA) and the State Department of Land and Natural Resources (DLNR) collaborate and prepare maps identifying State-owned lands for IAL designation. The *State Initiated* method is separate from the two methods above.

4. What are the criteria for IAL?

There are eight criteria listed in Section 205-44, HRS:

- (1) land currently used for agricultural production;
- (2) land with soil qualities and growing conditions that support agricultural production of food, fiber, or fuel- and energy-producing crops;
- (3) land identified under agricultural productivity rating systems, such as the State's Agricultural Lands of Importance to the State of Hawaii (ALISH) system;
- (4) land types associated with traditional native Hawaiian agricultural uses, such as taro cultivation, or unique agricultural crops and uses, such as coffee, vineyards, aquaculture, and energy production;
- (5) land with sufficient quantities of water to support viable agricultural production;
- (6) land whose designation as IAL is consistent with county general, development, and community plans;
- (7) land that contribute to maintaining a critical mass important to agricultural operating productivity; and
- (8) land with or near support infrastructure conducive to agricultural productivity, such as transportation to markets, water, or power.

By law, land does not have to meet all eight criteria to be considered for IAL.

5. How is the City and County of Honolulu identifying and mapping IAL?

In accordance with Section 205-47, HRS, the DPP is taking a phased approach to

identifying and mapping IAL on Oahu. In June 2012, the DPP began Phase I of the *County Initiated* method mentioned above. The objectives of Phase I were to define the eight criteria, identify the data sources to map the criteria, prioritize the criteria, and prepare a Phase I report, including criteria maps and a criteria weighting system. The DPP convened six Technical

Advisory Committee meetings, and a round of three public meetings to inform the public about the process.

The DPP completed Phase I in April 2014 and began Phase II in August 2014. The objectives of Phase II are to recommend which criteria to use, conduct a series of public meetings to present draft IAL maps, notify affected landowners, consider comments on the draft maps, and submit final maps of lands proposed for IAL designation to the City Council. The City Council is tasked to adopt the IAL maps, with or without changes, and forward its recommendation to the LUC for final decision-making.

Based on this work, the DPP is recommending that land meeting at least one of the three criteria below be eligible for IAL:

- Land currently used for agricultural production (Criterion 1, Chapter 205-44(c)(1), HRS);
- Land with soil qualities and growing conditions that support agricultural production of food, fiber, or fuel- and energy-producing crops (Criterion 2, Chapter 205-44(c)(2), HRS); or
- Land with sufficient quantities of water to support viable agricultural production (Criterion 5, Chapter 205-44(c)(5), HRS).

Available Geographic Information System mapping from various City, State, and Federal government agencies were used to map the physical conditions of the criteria. Examples of data collected and the accompanying reference/source for each of the criteria above are given, but are not limited to:

Criterion 1:

- 2011 Aerial Imagery, State Office of Planning and the U. S. Geological Survey;
- Koolaupoko Watershed Management Plan (2012) prepared for the Honolulu Board of Water Supply by Townscape, Inc., and
- 2011 Real Property Taxation Database, City and County of Honolulu Department of Budget and Fiscal Services (BFS), Real Property Assessment Division.

Criterion 2:

- Soil Survey Geographic Database, U. S. Department of Agriculture, Natural Resource Conservation Service.

Criterion 5:

- Water Use Permit Records, DLNR, Commission on Water Resource Management;
- Irrigation System Data, State DOA; and
- Water Rate Inventory, Honolulu Board of Water Supply.

A more detailed description of the methodology used to develop the criteria is provided in the Phase I Study at: <https://bit.ly/1CLncTm>.

Many properties are being included in the list of IAL that may only include a portion of the total land area. So, it is important to view the IAL maps on the City's webpage to determine what specific lands are being included at: <https://bit.ly/2N4TjgD>.

6. How will an IAL designation benefit landowners?

Landowners are eligible for eleven State incentives that include grant assistance, tax incentives to offset operational costs, financing, access to cost-effective sources of water, agricultural education, and training for new farmers, and other measures consistent with Section 205-46, HRS.

The City continues to research possible City incentives to benefit IAL landowners in accordance with Section 205-46(a), (b) and (d), HRS.

7. What are the consequences if my land is not ultimately designated as IAL by the LUC?

The land will not be eligible for incentives that require an IAL designation. However, the land may still be used for all permitted activity under current State and City rules and regulations.

8. Are any lands excluded from County Initiated IAL designation process?

Yes, certain categories of land are not eligible for IAL consideration under the *County Initiated* method, including:

- Lands outside the City's jurisdictional responsibilities, such as lands that are Federally-owned or State-owned or are located in the State Conservation District;
- Lands within the State Urban District or designated for urban use by the City's land use plans; and
- All land owned by a landowner if more than 50 percent of that landowner's property was voluntarily designated IAL, in accordance with Section 205-47(d), HRS.

9. Will all landowners affected by the DPP's IAL project be notified?

Yes. In accordance with Section 205-47(d), HRS, the DPP is required to "take reasonable action to notify each owner of those lands by mail or posted notice on the affected lands to inform them of the potential designation of their lands." The DPP has mailed notices to approximately 2,000 landowners it was able to identify using information on file with the City's BFS, Real Property Division. The DPP also issued a press release, sent a notice to all Oahu Neighborhood Boards, and placed a legal notice and informational notice in the Honolulu Star-Advertiser and MidWeek.

10. How am I affected if the City is recommending all of my land for IAL?

The City has completed its recommendations for lands proposed for IAL designation. No decisions on IAL are made until action is taken by the State LUC. Until action is taken, there is no effect on ownership and development rights. Land that is ultimately designated as IAL by the LUC does not preclude the landowner from using his or her land for purposes allowed or permitted under current LUC rules and regulations and the City's zoning requirements.

11. How am I affected if the DPP is recommending only a portion of my land as IAL?

If a portion of a property is ultimately designated as IAL by the LUC, the DPP believes it will still be eligible for IAL incentives. Moreover, partial designation does not preclude the use of all land as provided under current State LUC rules and regulations and City zoning.

12. What if my neighbor's land was not recommended for IAL, can he/she still have some or all of their land designated as IAL as part of the *County Initiated* method?

Yes, it is possible. They should contact the Honolulu City Council so that they can review their property for possible IAL inclusion in its recommendations to the LUC.

13. What if I don't want my land recommended for IAL by the *County Initiated* method?

The City's identifying and mapping of IAL on Oahu has been completed and sent to the Honolulu City Council. The City expects the City Council to hold public meetings on the City's IAL map recommendations. Please write to your City Councilmember whose contact information can be found at: <https://bit.ly/2xRlNum>.

14. Is the IAL process Eminent Domain or a legal taking?

No. The IAL process will not condemn or "take" anyone's land away.

15. If all or a portion of my land is designated as IAL by the LUC, will my property tax rate change?

At this time, neither the DPP nor the City's Budget and Fiscal Services, Real Property Division is proposing any tax rate changes based on IAL designation.

16. Once lands are designated IAL by the LUC, can additional lands be added to the City's IAL inventory?

Yes, Section 205-52, HRS, requires that counties review their IAL inventory at least every ten years, but no more than once every five years. Also, a landowner may

voluntarily initiate a petition to the LUC to designate all or a portion of their land as IAL in accordance with Section 205-45, HRS.