



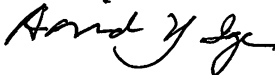
EXECUTIVE CHAMBERS  
HONOLULU

DAVID Y. IGE  
GOVERNOR

October 27, 2021

**MEMORANDUM**

TO: State Agencies

FROM: David Y. Ige, Governor 

SUBJECT: Hawai'i Administrative Rules (HAR) §13-275 and §13-284

The Office of the Governor is working with the Department of Land and Natural Resources, State Historic Preservation Division (SHPD) to update the Hawai'i Administrative Rules (HAR §13-275 and §13-284), which govern the historic preservation compliance review process for projects with the potential to affect historic properties.

As part of this effort to improve the State historic preservation review process, the Governor's Office and the SHPD has compiled information intended to help agencies, consultants and private citizens better understand what projects and activities are subject to SHPD historic preservation compliance review and which are not. This memo also provides guidance on what is an appropriate and complete submittal to the SHPD and outlines the responsibilities of the agency, consultant or third-party reviewer submitting materials to the SHPD for review.

Please find attached:

- 1) SHPD Mandatory and Unnecessary Submittal List (PDF)
- 2) SHPD Submittal Checklist (PDF)
- 3) SHPD Reviews and Hawai'i Cultural Resource Information System (HICRIS) Submittals in Five Steps (PowerPoint presentation PDF)

# **SHPD Mandatory and Unnecessary Submittal List**

for Hawai'i Revised Statutes  
Chapter §6E Historic Preservation Review

*Note: The SHPD compliance review process is complex. Projects can trigger reviews for one or more of the following categories: architecture, archaeology, history, and culture. The following list does not cover every scenario. For property types not listed in this document, please consult the [SHPD website](#) or call SHPD staff at (808) 692-8015.*

## **Mandatory Submittal List – ARCHITECTURE:**

- Building and structures of any type that are located within a historic district, such as Chinatown Historic District, Merchant Street Commercial District, the Capitol District.
- Building and structures of any type that have been nominated for, or are listed in, the Hawai'i Register of Historic Places or the National Register of Historic Places. The historic registers are updated quarterly and can be found [online](#).
- Buildings and structures that are more than 50 years that are not single-family detached dwellings or townhomes, see [statute](#); If your project involves ground disturbance, see archaeology.
- Interior repairs, improvements, or modifications (e.g., painting, fixture replacements) to buildings or structures that are eligible for or listed on the Hawai'i Register of Historic Places or the National Register of Historic Places that is inconsistent with the Secretary of Interior Standards of Historic Preservation.
- Exterior repairs, improvements, or modifications (e.g., roof work, installation of solar panels to buildings or structures that are eligible for or listed on the Hawai'i Register of Historic Places or the National Register of Historic Places that is inconsistent with the Secretary of Interior Standards of Historic Preservation.

## **Unnecessary Submittal List – ARCHITECTURE:**

- Buildings or structures of any type, regardless of age, that are exempted by [statute](#).
- Single-family detached dwellings or townhomes that are under 50 years old, unless listed on the Hawai'i or National Register of Historic Places. The historic registers are updated quarterly and can be found [online](#); If your project involves ground disturbance, see archaeology.

## **Mandatory Submittal List – ARCHAEOLOGY:**

- Any project on undeveloped land.
- Any project involving ground disturbing work that requires a grubbing or grading permit.
- Any project involving installation of utilities and infrastructure not covered by a Memorandum of Understanding (MOU) or other agency agreement.
- Any project involving ground disturbing work in shoreline areas near or where there are beach sands or jaucus sands or within or near sand dune areas.

- Any project involving ground disturbing work in areas where there are known burials identified via previous projects or oral testimony.
- Any project involving property where a previously identified burial or a reinterment area is present.
- Any project involving ground disturbing work near karstic areas (e.g., ‘Ewa, Mo‘iliili, Lahaina)
- Any project involving ground disturbing work adjacent to streams.
- Any project map that shows cultural sites (e.g., fishponds, heiau, lo‘i) or burials on or near a project area.
- Any project involving ground disturbing work on or near lands that contain lava tubes or caves.
- Any project involving ground disturbing work within a historic district. If unsure, check SHPD or [Hawai‘i Historic Foundation](#) websites.
- Any project involving ground disturbing work in or near an area with historic properties listed in the Hawai‘i or National Register of Historic Places. If unsure, check SHPD or [Historic Hawai‘i Foundation](#) websites.
- Any project involving ground disturbing work where the agency or project proponent has insufficient information regarding whether historic properties have been identified within the proposed project area.

Unnecessary Submittal List – ARCHAEOLOGY:

- Projects in geographic areas where SHPD has notified the county in writing that project ground disturbing activities do not require review. Consult with the permitting agency.

# **SHPD Submittal Checklist for the Hawai‘i Revised Statutes**

## **Chapter §6E Historic Preservation Review**

*Are you ready to submit to SHPD’s online intake portal, [Hawaii Cultural Resource Information System \(HICRIS\)](#)? The following checklist will help ensure you have the necessary documents to complete your submittal. Failure to provide the following components will result in delays to the historic preservation review process.*

The “Project Submittals” portion of an agency’s complete submission to the SHPD includes:

### Part 1

- Agency Cover Letter
  - a. This is the agency’s letter to the SHPD initiating Hawai‘i Revised Statutes (HRS) 6E Historic Preservation Review and Requesting a Determination Letter pursuant to Hawai‘i Administrative Rules (HAR) § 13-275-3 or HAR §13-284-3.
- Agency Delegation Letter
  - a. This is necessary only when an agency delegates its submittal responsibilities to a consultant.

### Part 2

- List of all project Tax Map Keys (TMKs) in the following format:  
TMK: (X) X-X-XXX:XXX.
  - a. If the project is seaward, indicate TMK: (x) x-x-xxx seaward.
  - b. If the project is in a roadway, follow same format and indicate name of road, street, highway, etc. – TMK: (x) x-x-xxx Kamehameha Hwy Rights-of-Way.
- Identify land ownership by TMK

### Part 3

- Identify all appropriate HRS and other applicable laws listed below.
  - HRS 6E-7 Government-owned historic property
  - HRS 6E-8 State or County government projects
  - HRS 6E-42 Private projects that may affect historic property
  - HRS 6E-10 Privately owned historic property
  
  - HRS Ch. 343 – Environmental Assessments or Environmental Impact Statements
    - i. If your project is subject to HRS Ch. 343, indicate this in the Agency Cover Letter and provide a URL**
  
  - National Historic Preservation Act (“NHPA”) Section 106 (if project involves use of federal lands, funds, approval, or permit)
    - i. If your project is subject to NHPA Section 106, indicate the agency and why it is subject to NHPA Section 106 (e.g., receiving funding or grant support from a Federal Agency)**

### Part 4

- Identify all agencies that must approve the project and/or issue a permit
  - Include a point of contact for each agency in the contact section. Include the contact’s full name, title, telephone number, email address, and mailing address.
  
  - If any of the agencies have already issued an approval, permit, or exemption, **this must be included in the agency’s submittal.**

### Part 5

- Include an HRS 6E Submittal Form, found [online](#).

### Part 6

- List all known state and county permits and approvals required.
- Include construction permits.
- Include construction permit sets.

### Part 7

- Include photographs of the site.
- Supplemental or Supporting Documents
  - If SHPD previously reviewed this project, or a component of the project, please include the SHPD Log Number(s) or HICRIS Project Number(s) and copies of SHPD letter(s), when available.

### Part 8

- \$25 fee for Determination Letter
  - Submit payment with the completed submittal – **submittal will not be reviewed until the appropriate fees are paid via SHPD HICRIS.**
- Survey review fees
  - a. Submit all applicable payments at the time of submittal – **submittal will not be reviewed until all fees are paid.**
  - b. HICRIS allows electronic payment during your initial submittal only. Contact SHPD regarding paying review fees incurred after the initial submittal (e.g., SHPD has requested an archaeological or architectural report or plan be submitted such as an archaeological monitoring plan, an architectural reconnaissance survey report, HABS report, and so forth).

### HRS 6E Submittal Filing Fees

All submittals must have the appropriate filing fee in accordance with HAR §13-275-4 or HAR §13-284-4. An up-to-date list of fees can be found [here](#).

- If the Report/Plan is a re-submittal (no fee)
- Field Inspection Report requested by SHPD (no fee)
- If Final Report or Plan (no fee)
- Archaeological Monitoring Report, no resources reported
- Archaeological Monitoring Plan
- Burial Disinterment Report
- Request from Agency for Determination Letter per HAR §13-275 or HAR §13-284
- Archaeological Assessment Report (AIS with negative findings)
- Osteological Analysis Report
- Archaeological Monitoring Report, resources reported
- Archaeological Inventory Survey Plan, Archaeological Data Recovery Plan, or Preservation Plan
- Burial Treatment Plan (BTP)
- Archaeological, Architectural, or Ethnographic Survey Report. This includes an AIS, RLS, HABS, HAER, HALS
- Archaeological Data Recovery Report

All project-related documents must be uploaded to the HICRIS Project folder, including revised reports/plans, mitigation commitment documents (e.g., historic context study, preservation plan), and copies or summaries of consulting party and public comments, project related emails, and all final SHPD-accepted documents.



# SHPD REVIEWS AND HICRIS SUBMITTALS IN FIVE STEPS

HOW TO COMPLETE YOUR HRS 6E AND/OR SECTION 106 SUBMITTAL AND REVIEW (10/27/21)





# QUESTION 1: WHAT TYPE OF PROJECT DO YOU HAVE?

ARCHITECTURE

ARCHAEOLOGY

HISTORY &  
CULTURE

MORE THAN ONE

I DON'T KNOW

## ARCHAEOLOGY

Is the project on undeveloped land?  
Is the project on or near lands that contain lava tubes, blisters or caves?  
Is the project on or near sand dunes, beach or jaucas sands?  
Are there known cultural sites (i.e. fishponds, heiau, loi) or burials on or near the project area?  
Does your project include ground disturbing activities?  
Will there be ground disturbing work within a historic district or involving a property listed on the Hawaii or National Register of Historic Places?

## ARCHITECTURE

Is the site or building over 50 years old and not a single family residence or townhouse? Will it attain the age of 50 years within the planning horizon?  
Does it have “integrity and significance,” as defined in HRS 6E?  
Is the site or building listed on the Hawaii State or National Register of Historic Places?  
Is the site or building listed on the Hawaii State or local government inventory of historic sites? Is it in a special review district?  
Has the site or building been declared or is potentially eligible for listing on the historic register?

## HISTORY & CULTURE

Does the project contain a reinterment area of previously identified burial?  
Will there be any ground disturbing work adjacent to streams, in shoreline areas near or where there are known burials identified via previous projects or oral testimony?  
Does the project contain any sites of religious or cultural significance?

## MORE THAN ONE

Your project is subject to review by the State Historic Preservation Division, per HRS 6E and/or Section 106. Proceed to Question 2.

## I DON'T KNOW

Consult with the SHPD and/or other historic preservation professional

If you answered Yes to ANY of the Above Questions, proceed to question 2.

## QUESTION 2: IS YOUR PROJECT SUBJECT TO SHPD REVIEW?

YES

NO

I DON'T KNOW

YES  
(see next slide for  
additional details and  
examples)

HRS 6E-8: Before any agency or officer of the State or its political subdivisions commences any project which may affect historic property, aviation artifact, or a burial site, the agency or officer shall advise the department and allow the department an opportunity for review of the effect of the proposed project on historic properties, aviation artifacts, or burial sites, consistent with section 6E-43, especially those listed on the Hawaii register of historic places. The proposed project shall not be commenced, or if it has already begun, continued, until the department has given its written concurrence.

HRS 6E-42: Except as provided in section 6E-42.2, before any agency or officer of the State or its political subdivisions approves any project involving a permit, license, certificate, land use change, subdivision, or other entitlement for use, which may affect historic property, aviation artifacts, or a burial site, the agency or office shall advise the department and prior to any approval allow the department an opportunity for review and comment on the effect of the proposed project on historic properties, aviation artifacts, or burial sites, consistent with section 6E-43, including those listed in the Hawaii register of historic places.

NO

**Excluded activities for privately-owned single-family detached dwelling units and townhouses.** This does not include apartment buildings or condo high-rises. (a) An application for a proposed project on an existing privately-owned single-family detached dwelling unit or townhouse shall be subject to the requirements of section 6E-42 only if the single-family detached dwelling unit or townhouse is over 50 years old and:

- (1) Is listed on the Hawaii or national register of historic places, or both;
- (2) Is nominated for inclusion on the Hawaii or national register of historic places, or both; or
- (3) Is located in a historic district.

**HEPA / NEPA Documents (Declarations of Exemption, Environmental Assessments, Environmental Impact Statements) –**

**NOTE:** HRS 343 and HRS 6E are separate processes. While you are not required to submit HRS 343 documents for SHPD review, projects subject to HRS 6E are subject to SHPD review. Exemption from HRS 343 DOES NOT give a project exemption from HRS 6E.

I DON'T KNOW

Consult with the SHPD and/or other historic preservation professional

# ALL OF THESE ACTIONS REQUIRE SHPD REVIEW

## BUILDINGS

- Demolition or building permits for non-single family residential and over 50 years old
- Additional considerations that would require SHPD review:
  - Will it attain the age of 50 years old within the planning horizon? If yes, SHPD review required.
- Any project within a historic district or special district

## GROUND DISTURBANCE

- Any ground disturbing activity
  - Demolition involving removal of utilities, footings or foundations
  - Grading permits
  - Grubbing permits
  - Building permits
- Installation of utilities and infrastructure not covered by a Memorandum of Understanding or other agency agreement.

## OTHER

- Is it associated with a property that is listed in the state and national historic register? If yes, SHPD review required.
- Does the property have a State Inventory of Historic Places number? If yes, SHPD review required.
- Is it a property with historic or cultural significance? If yes, SHPD review required.
- Any project within a historic district or specific district? If yes, SHPD review required.
- Does the project require land entitlements or planning actions? If yes, SHPD Review required.

## QUESTION 3: IS IT A NEW PROJECT?

YES

NO

I DON'T KNOW

YES

- Continue to Question 4

NO

- Use Project Supplement option to upload additional submittal materials to the existing HICRIS project no.

I DON'T KNOW

- Consult with the SHPD to verify new/existing project and existing Legacy Log No. (if there is one and/or HICRIS Project No.

## QUESTION 4: IS YOUR SUBMITTAL COMPLETE AND READY?

YES

NO

I DON'T KNOW



YES

- Project is being submitted by **appropriate official or individual**
- Submittal has proper contacts / persons included in HICRIS file
- Submittal has **complete and sufficient information**
  - **Cover letter** and/or agency delegation letter (including **Section 106 documentation** if applicable)
  - Project area identified (**.zip shapefile preferred**)
  - Sufficient project information (including appropriate and complete **6E forms**)
  - Complete permit application
  - Construction / site plan drawings
    - Maps with TMKs
  - Prepared to pay required **fees**

NO

- Agency letter or letter of delegation is not complete
- There is no “project” for SHPD to review or insufficient project information available
- True, exact, and complete copy of any applicable permit application is not available
  - Permits should be first filed with appropriate agency and then a copy of the accepted permit application with the agency assigned permit application number should be included in HICRIS submittal

I DON'T KNOW

- If you are unsure if your submittal is complete, consult with the SHPD **prior** to submittal into HICRIS.

# QUESTION 5: WHAT ARE THE RESPONSIBILITIES OF THE AGENCY?

(CONSULTANTS & THIRD-PARTY REVIEWERS ALSO SUBJECT TO THE FOLLOWING)

## Appropriate Submittals

- To ensure appropriate projects are sent to SHPD for review.
- To ensure a complete project submittal is provided to the SHPD.

## Determination

- The agency is ultimately responsible for making the determination about whether a project will have an impact on significant historic properties and/or burials.
- In cases where agency has engaged a consultant or third-party reviewers, the agency is still responsible for making the project effect determination.

## Quality Reports

- To ensure the quality of reports, plans and other documents completed by consultants as meeting the Hawaii Administrative Rules and/or Secretary of the Interior standards;
- To ensure its consultants comply with the appropriate HARs, provide quality projects for SHPD review and acceptance, that they do not conduct archaeological work without a current permit, conduct work without a required SHPD-approved plan or fail to implement the provisions of a SHPD-approved plan;

## Follow the Law

- Notify SHPD immediately of any non compliance issues;
- To follow up with SHPD regarding SHPD's review including notifying SHPD when review deadlines approach;
- To ensure fees are paid by the applicant.

## Follow-up Documentation

- If a project is determined to have an effect on significant historic properties, that all mitigation commitments are completed and final required documentation is submitted to the SHPD