

JAN 17 2024

A BILL FOR AN ACT

RELATING TO HOUSING DEVELOPMENT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 226, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§226- High density development. (a) No development or
5 redevelopment plan for any state property located within one-
6 half mile of any station along an elevated mass transit system
7 shall:

8 (1) Limit the height of any building;

9 (2) Limit the floor area ratio;

10 (3) Restrict against retail tenants at ground level;

11 (4) Require setbacks;

12 (5) Require a specific number of parking spots;

13 (6) Limit housing density to less than two hundred and

14 fifty units per acre; or

15 (7) Include inclusionary zoning requirements for housing

16 that is available for sale to Hawaii residents who:

17 (A) Are owner-occupants of the housing; and



1 (B) Own no other real property.

2 (b) If a landowner who owns land adjacent to a station
3 along an elevated mass transit system submits a proposal to
4 build a walkway directly into the adjacent station, the
5 authority for the elevated mass transit system shall accept the
6 landowner's proposal.

7 (c) An infrastructure improvement district may be created
8 within one-half mile of any station along an elevated mass
9 transit system. A developer of infrastructure within the
10 infrastructure improvement district may recover the cost of the
11 infrastructure by selling capacity to other private entities."

12 SECTION 2. Section 46-4, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§46-4 County zoning.** (a) This section and any
15 ordinance, rule, or regulation adopted in accordance with this
16 section shall apply to lands not contained within the forest
17 reserve boundaries as established on January 31, 1957, or as
18 subsequently amended.

19 Zoning in all counties shall be accomplished within the
20 framework of a long-range, comprehensive general plan prepared
21 or being prepared to guide the overall future development of the



1 county. Zoning shall be one of the tools available to the
2 county to put the general plan into effect in an orderly manner.
3 Zoning in the counties of Hawaii, Maui, and Kauai means the
4 establishment of districts of such number, shape, and area, and
5 the adoption of regulations for each district to carry out the
6 purposes of this section. In establishing or regulating the
7 districts, full consideration shall be given to all available
8 data as to soil classification and physical use capabilities of
9 the land to allow and encourage the most beneficial use of the
10 land consonant with good zoning practices. The zoning power
11 granted herein shall be exercised by ordinance, which may relate
12 to:

- 13 (1) The areas within which agriculture, forestry,
14 industry, trade, and business may be conducted;
- 15 (2) The areas in which residential uses may be regulated
16 or prohibited;
- 17 (3) The areas bordering natural watercourses, channels,
18 and streams, in which trades or industries, filling or
19 dumping, erection of structures, and the location of
20 buildings may be prohibited or restricted;



- 1 (4) The areas in which particular uses may be subjected to
- 2 special restrictions;
- 3 (5) The location of buildings and structures designed for
- 4 specific uses and designation of uses for which
- 5 buildings and structures may not be used or altered;
- 6 (6) The location, height, bulk, number of stories, and
- 7 size of buildings and other structures;
- 8 (7) The location of roads, schools, and recreation areas;
- 9 (8) Building setback lines and future street lines;
- 10 (9) The density and distribution of population;
- 11 (10) The percentage of a lot that may be occupied, size of
- 12 yards, courts, and other open spaces;
- 13 (11) Minimum and maximum lot sizes; and
- 14 (12) Other regulations the boards or [~~city~~] council of any
- 15 county find necessary and proper to permit and
- 16 encourage the orderly development of land resources
- 17 within their jurisdictions.

18 The council of any county shall prescribe rules,
19 regulations, and administrative procedures and provide personnel
20 it finds necessary to enforce this section and any ordinance
21 enacted in accordance with this section. The ordinances may be



1 enforced by appropriate fines and penalties, civil or criminal,
2 or by court order at the suit of the county or the owner or
3 owners of real estate directly affected by the ordinances.

4 Any civil fine or penalty provided by ordinance under this
5 section may be imposed by the district court, or by the zoning
6 agency after an opportunity for a hearing pursuant to chapter
7 91. The proceeding shall not be a prerequisite for any
8 injunctive relief ordered by the circuit court.

9 Nothing in this section shall invalidate any zoning
10 ordinance or regulation adopted by any county or other agency of
11 government pursuant to the statutes in effect [~~prior to~~] before
12 July 1, 1957.

13 The powers granted herein shall be liberally construed in
14 favor of the county exercising them, and in [~~such~~] a manner [~~as~~
15 ~~to promote~~] that promotes the orderly development of each county
16 or city and county in accordance with a long-range,
17 comprehensive general plan to ensure the greatest benefit for
18 the State as a whole. This section shall not be construed to
19 limit or repeal any powers of any county to achieve these ends
20 through zoning and building regulations, except insofar as



1 forest and water reserve zones are concerned and as provided in
2 subsections (c) and (d).

3 Neither this section nor any ordinance enacted pursuant to
4 this section shall prohibit the continued lawful use of any
5 building or premises for any trade, industrial, residential,
6 agricultural, or other purpose for which the building or
7 premises is used at the time this section or the ordinance takes
8 effect; provided that a zoning ordinance may provide for
9 elimination of nonconforming uses as the uses are discontinued,
10 or for the amortization or phasing out of nonconforming uses or
11 signs over a reasonable period of time in commercial,
12 industrial, resort, and apartment zoned areas only. In no event
13 shall [~~such~~] the amortization or phasing out of nonconforming
14 uses apply to any existing building or premises used for
15 residential (single-family or duplex) or agricultural uses.
16 Nothing in this section shall affect or impair the powers and
17 duties of the director of transportation as set forth in chapter
18 262.

19 (b) Any final order of a zoning agency established under
20 this section may be appealed to the circuit court of the circuit



1 in which the land in question is found. The appeal shall be in
2 accordance with the Hawaii rules of civil procedure.

3 (c) Each county may adopt reasonable standards to allow
4 the construction of two single-family dwelling units on any lot
5 where a residential dwelling unit is permitted.

6 (d) Neither this section nor any other law, county
7 ordinance, or rule shall prohibit group living in facilities
8 with eight or fewer residents for purposes or functions that are
9 licensed, certified, registered, or monitored by the State;
10 provided that a resident manager or a resident supervisor and
11 the resident manager's or resident supervisor's family shall not
12 be included in this resident count. These group living
13 facilities shall meet all applicable county requirements not
14 inconsistent with the intent of this subsection, including but
15 not limited to building height, setback, maximum lot coverage,
16 parking, and floor area requirements.

17 (e) Neither this section nor any other law, county
18 ordinance, or rule shall prohibit the use of land for employee
19 housing and community buildings in plantation community
20 subdivisions as defined in section 205-4.5(a)(12); in addition,
21 no zoning ordinance shall provide for the elimination,



1 amortization, or phasing out of plantation community
2 subdivisions as a nonconforming use.

3 (f) Neither this section nor any other law, county
4 ordinance, or rule shall prohibit the use of land for medical
5 cannabis production centers or medical cannabis dispensaries
6 established and licensed pursuant to chapter 329D; provided that
7 the land is otherwise zoned for agriculture, manufacturing, or
8 retail purposes.

9 (g) Notwithstanding any provision of subsection (a) to the
10 contrary, no county shall adopt ordinances that restrict the
11 level of housing density on state lands that are within
12 0.5 miles of an elevated mass transit station."

13 SECTION 3. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 4. This Act shall take effect upon its approval.

16

INTRODUCED BY:





S.B. NO. 2025

Report Title:

Housing; High-Density Development; State Planning Act; State Land; Counties; Zoning; Elevated Mass Transit System

Description:

Eliminates certain restrictions for developing state-owned real property located within one-half mile radius of any station along the elevated mass transit system. Permits high-density development of state-owned real property located within one-half mile radius of any station along the elevated mass transit system. Prohibits each county from adopting ordinances that restrict housing density on state lands that are within 0.5 miles of an elevated mass transit station.

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