
A BILL FOR AN ACT

RELATING TO LAND USE.

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

1 SECTION 1. The legislature finds that Hawaii is a unique
2 and beautiful State that is largely dependent on the importation
3 of fuel, food, and supplies to sustain its economy and
4 communities. In 2005, the legislature enacted Act 8, Special
5 Session Laws of Hawaii 2005, to establish the Hawaii 2050
6 sustainability task force. The task force was established to
7 review the Hawaii state plan and other fundamental components of
8 community planning, and to develop a Hawaii 2050 sustainability
9 plan to address the real, serious, and immediate problems the
10 State faces today and recommend various solutions to preserve
11 and maintain a healthy future for the State.

12 Since then, the interest in the concept of sustainability
13 has grown through the efforts of the task force, state and
14 county departments and agencies, local businesses and community
15 groups, and community engagement programs and projects. Private
16 industries and developers have introduced technology and
17 concepts that can assist communities into becoming more
18 sustainable and independent with minimal detrimental effects to



1 the environment and the economy. Sustainability has transformed
2 from the conceptual stage to an actual lifestyle that can be
3 achieved, but only through a comprehensive joint effort with the
4 government and the community.

5 The purpose of this Act is to establish a process by which
6 developers of residential communities may elect to develop
7 sustainable communities in the State and to provide incentives
8 for doing so.

9 SECTION 2. The Hawaii Revised Statutes is amended by
10 adding a new chapter to title 13 to be appropriately designated
11 and to read as follows:

12 **"CHAPTER**

13 **SUSTAINABLE COMMUNITIES**

14 **§ -1 Sustainable communities; established; objectives.**

15 (a) To maintain and preserve a healthy quality of life and
16 environment for Hawaii's future generations, the State, in a
17 combined effort with all state departments and agencies, shall
18 assist in the development and maintenance of sustainable
19 communities that will:

20 (1) Generate their own energy onsite by utilizing
21 alternative energy sources to fulfill a large



- 1 percentage of their energy requirements, and become
2 less reliant on imported fossil fuels;
- 3 (2) Implement extensive recycling programs for their solid
4 waste management and avoid adding more waste to
5 landfills, that can result in further pollution and
6 other harmful affects to the environment;
- 7 (3) Implement an extensive wastewater recycling and
8 treatment management system that will enable the
9 communities to conserve water and protect waters in
10 and around the State;
- 11 (4) Protect and preserve open space;
- 12 (5) Promote and encourage visitation to any nearby
13 cultural or historic sites, public beaches, shores,
14 trails, and other outdoor recreational areas by not
15 restricting public access to these areas;
- 16 (6) Provide affordable housing units for residents to
17 enable them to stay in Hawaii and provide shelter for
18 their families; and
- 19 (7) Educate and promote awareness that sustainability is
20 more than a concept, but a lifestyle that can be
21 achieved and implemented in the daily lives of Hawaii
22 residents.



1 (b) Any developer of a residential community with a
2 development plan for fifty or more residential units for which
3 general planning, development, and construction has commenced
4 after December 31, 2007, shall have the option of developing the
5 residential community in a manner that fulfills the criteria
6 prescribed under this chapter. If a developer elects to be
7 subject to this chapter, the developer shall be able, upon
8 approval, to engage in an expedited permit process under section
9 -3.

10 **§ -2 Applicability.** This chapter shall only apply to
11 any residential community with a development plan for fifty or
12 more residential units for which general planning, development,
13 and construction has commenced after December 31, 2007, and for
14 which the project developer has elected to be subject to this
15 chapter and has notified the energy resources coordinator, in
16 accordance with section -3, to engage in the expedited permit
17 process provided under this chapter.

18 **§ -3 Expedited permit process; notice and agreement.** To
19 engage in the expedited permit process under this chapter for
20 the development of a residential sustainable community for fifty
21 of more residential units, a developer shall provide written
22 notice that includes detailed project development plans to the



1 energy resources coordinator. The notification shall also
2 include, in writing, a sustainability agreement executed between
3 the energy resources coordinator and developer and shall include
4 a statement of the developer's intent to comply with the
5 sustainability requirements of this chapter. The energy
6 resources coordinator shall notify any applicable state
7 departments and agencies to allow the project developer to
8 participate in the expedited permit process upon any executed
9 written development agreement that contains the sustainability
10 agreement between the energy resources coordinator, on behalf of
11 an ad hoc development advisory committee under section -10,
12 and the developer.

13 **§ -4 Community energy requirements. (a)**

14 Notwithstanding any provision under chapter 196 to the contrary,
15 the energy resources coordinator shall advise and coordinate
16 with other state departments and agencies and a developer who
17 has agreed to be subject to this chapter to develop a plan on a
18 case-by-case basis that will enable a residential community in
19 Hawaii for which general planning, development, and construction
20 has commenced after December 31, 2007, to generate at least
21 fifty per cent of all of its energy requirements for the entire
22 community under development, including but not limited to



1 residential homes and areas and services provided for and used
2 by the entire community under development.

3 (b) The energy resources coordinator shall develop a plan
4 for the developer's implementation that explores all types of
5 energy resources, as defined under section 196-2, and determine
6 which resources are the most feasible for the community under
7 development to use to meet its energy needs and energy
8 generating requirements under this section.

9 (c) The energy resources coordinator shall cooperate and
10 coordinate with any state department or agency to expedite the
11 application process for any permits relating to generating
12 energy, and allow the state department or agency three hundred
13 sixty days to review and decide on the permit application. If
14 the three hundred sixty-day time period has expired on a state
15 permit application and no decision has been rendered, the permit
16 shall be deemed approved.

17 (d) The energy resources coordinator shall adopt rules in
18 accordance with chapter 91 to carry out the purposes of this
19 chapter.

20 **§ -5 State department and agency cooperation and**
21 **compliance; required.** Each state department and agency shall
22 cooperate and comply with any request made pursuant to this



1 chapter from the energy resources coordinator. The department
2 or agency shall prioritize the energy resources coordinator's
3 request and expedite the processing thereof.

4 **§ -6 Community solid waste management requirements. (a)**

5 Notwithstanding any provision under chapter 342G to the
6 contrary, the director of health shall advise and coordinate
7 with other state departments and agencies and a developer who
8 has agreed to be subject to this chapter to develop a plan on a
9 case-by-case basis that will enable a residential community in
10 Hawaii for which general planning, development, and construction
11 has commenced after December 31, 2007, to implement a
12 comprehensive recycling program. The purpose of the plan shall
13 be to enable the community to divert at least seventy-five per
14 cent of its solid waste from the landfills.

15 (b) The solid waste management plan shall include
16 provisions for recycling, bioconversion, and composting,
17 including recycling provisions for building or structure
18 demolition. The plan shall also provide safety measures for the
19 proper disposal and treatment of hazardous waste or materials
20 with hazardous components under chapter 342J. The director of
21 health shall explore all types of recycling programs and
22 determine which programs are the most feasible for the community



1 under development to implement and fulfill its solid waste
2 management requirements under this section.

3 (c) Notwithstanding any provision relating to permits
4 under chapter 342H or any other applicable chapter to the
5 contrary, the department of health shall expedite the
6 application process for any permit application from a developer
7 of a residential community that has agreed to be subject to this
8 chapter and have three hundred sixty days to review and decide
9 on the permit application. If the three hundred sixty-day time
10 period has expired on a permit application and no decision has
11 been rendered, the permit shall be deemed approved.

12 (d) The director of health shall adopt rules in accordance
13 with chapter 91 to carry out the purposes of this chapter.

14 **§ -7 Community wastewater treatment and recycling.** (a)
15 Notwithstanding any provision under chapter 342D to the
16 contrary, the director of health shall advise and coordinate
17 with other state departments and agencies and a developer who
18 has agreed to be subject to this chapter to develop a plan on a
19 case-by-case basis that will enable a residential community in
20 Hawaii for which general planning, development, and construction
21 has commenced after December 31, 2007, to implement a wastewater
22 treatment and recycling plan.



1 (b) The purpose of the plan is to enable the community
2 under development to treat and recycle all of its wastewater for
3 landscaping water requirements onsite of the community and any
4 agricultural water irrigation requirements offsite of the
5 community. The plan shall also provide safety measures for the
6 proper treatment and disposal of wastewater, that may contain
7 hazardous materials under chapter 342J. The director of health
8 shall explore all types of wastewater treatment and recycling
9 programs, and determine which programs are the most feasible for
10 the community under development to fulfill its wastewater
11 treatment and recycling requirements under this section.

12 (c) Notwithstanding any provision relating to permits
13 under chapter 342D or any other applicable section to the
14 contrary, the department of health shall expedite the
15 application process for any permit application from a developer
16 of a residential community who has agreed to be subject to this
17 chapter and have three hundred sixty days to review and decide
18 on the permit application. If the three hundred sixty-day time
19 period has expired on a permit application and no decision has
20 been rendered, the permit shall be deemed approved.

21 (d) The director of health shall adopt rules in accordance
22 with chapter 91 to carry out the purposes of this chapter.



1 **§ -8 Community land use and planning.** (a)

2 Notwithstanding any provision under chapter 205 to the contrary,
3 the developer of any residential community in Hawaii for which
4 general planning, development, and construction has commenced
5 after December 31, 2007, and who has agreed to be subject to
6 this chapter shall coordinate with the land use commission and
7 shall cooperate and coordinate with other state departments and
8 agencies to develop a residential community land use plan that
9 is in compliance with this chapter.

10 (b) The development plan for the residential community
11 shall include but not be limited to:

12 (1) A designation of at least fifty per cent of the entire
13 tract of land for the residential community for open
14 space; provided that:

15 (A) Open space shall not include areas designated for
16 golf courses; and

17 (B) Open space shall include the shoreline, if the
18 planned community abuts and includes shoreline
19 space.

20 (2) A development design that is accessible by the public
21 and shall not be designed to be a gated community; and



1 (3) An accommodation for free and open access to any
2 nearby cultural or historic sites, public beaches,
3 shore, parks, trails, or other public recreational
4 areas.

5 (c) The land use commission may amend any existing urban
6 or rural land use designation of land on which the residential
7 community is planned to be situated on to provide for the open
8 space requirements under subsection (b) within three hundred
9 sixty-days from the filing of the request to amend the land use
10 designation. If the three hundred sixty-day time period has
11 expired and no decision has been rendered, the amendment to the
12 land use designation shall be deemed approved.

13 (d) The land use commission shall adopt rules in
14 accordance with chapter 91 to carry out the purposes of this
15 chapter.

16 **§ -9 Community affordable units.** (a) Notwithstanding
17 any provision under chapter 201H to the contrary, the developer
18 of a residential community in Hawaii for which the general
19 planning, development, and construction has commenced after
20 December 31, 2007, and who has agreed to be subject to this
21 chapter shall cooperate and coordinate with the Hawaii housing
22 finance and development corporation, as necessary, to develop



1 and implement a residential housing plan that will designate and
2 reserve at least forty per cent of all of its residential units
3 within the planned community for affordable housing units.

4 (b) The Hawaii housing finance and development corporation
5 shall coordinate with any state department or agency to expedite
6 the application process for any permit application of a
7 residential community that is subject to this chapter and
8 relating to affordable residential unit development to allow any
9 department or agency subject to the three hundred sixty-day
10 permit processing time period imposed under this chapter to
11 review and decide on a permit application. If the three hundred
12 sixty-day time period has expired on a permit application and no
13 decision has been rendered, the permit shall be deemed approved.

14 (c) The Hawaii housing finance and development corporation
15 shall adopt rules in accordance with chapter 91 to carry out the
16 purposes of this chapter.

17 **§ -10 Energy resources coordinator; ad hoc development**
18 **advisory committee convenor.** (a) The energy resources
19 coordinator shall convene ad hoc development advisory committees
20 to determine the feasibility of developing an integrated plan
21 for a sustainable residential community on any proposed tract of
22 land that fulfills the requirements under this chapter. An



1 advisory committee shall convene only when a residential
2 community plan proposes to develop fifty or more residential
3 units within the proposed community, the general planning,
4 development, and construction has commenced after December 31,
5 2007, and the project developer has complied with section -3.

6 (b) The members of an ad hoc development advisory
7 committee shall consist of:

- 8 (1) The residential community developer;
- 9 (2) The energy resources coordinator;
- 10 (3) The director of planning from the county in which the
11 development is planned for or the director's designee;
- 12 (4) The director of the office of planning or the
13 director's designee;
- 14 (5) The director of health or the director's designee; and
- 15 (6) The executive director of the Hawaii housing finance
16 and development corporation or the executive
17 director's designee.

18 The energy resources coordinator shall be the chairperson of the
19 advisory committee.

20 (c) Any development requirements established and agreed
21 upon between the energy resources coordinator, on behalf of an
22 ad hoc development advisory committee and the developer shall be



1 reduced in writing and shall be included in any executed
2 development agreement.

3 **§ -11 Community association; established.** Within one
4 year after the completion of development of a residential
5 community that is subject to this chapter, the residents of the
6 residential community shall establish a community association.
7 The community association shall serve in an administrative
8 capacity and adopt rules and bylaws.

9 **§ -12 Failure to comply; penalty; enforcement.** (a) The
10 energy resources coordinator shall monitor the compliance of any
11 developer or residential community that is subject to this
12 chapter.

13 (b) If, up until one year after the completion of
14 development of a residential community that is subject to this
15 chapter, or at any point prior to completion, the energy
16 resources coordinator determines that a developer is not in
17 compliance with this chapter, the energy resources coordinator
18 may fine the developer for noncompliance and may require the
19 developer to suspend development until the noncompliance has
20 been remedied.

21 (c) If noncompliance with this chapter occurs one year
22 after completion of the residential community that is subject to



1 this chapter, or at any time subsequent to one year after the
2 development of the community is completed, the energy resources
3 coordinator may enforce the requirements of this chapter against
4 the community's association.

5 (d) The energy resources coordinator shall establish fines
6 and penalties for noncompliance with this chapter under rules
7 adopted pursuant to chapter 91.

8 **§ -13 Energy resources coordinator.** For purposes of
9 this chapter, the energy resources coordinator shall be the
10 director of business, economic development, and tourism, as
11 provided under section 196-3."

12 SECTION 3. This Act shall take effect on July 1, 2050, and
13 shall be repealed on July 1, 2012.



Report Title:

Sustainable Communities

Description:

Establishes sustainable communities in Hawaii with the combined effort of state departments and agencies. (SD1)

