
A BILL FOR AN ACT

RELATING TO TRANSIT-ORIENTED DEVELOPMENT.

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

1 SECTION 1. The legislature finds that communities in the
2 State that are not densely developed, including the community
3 comprising the Koolaupoko district on the windward side of Oahu,
4 have historically been active in land use decisions that affect
5 those communities, and those communities continue to be
6 concerned about the potential for overdevelopment.

7 The legislature recognizes that transit-oriented
8 development is not restricted to areas surrounding rail transit
9 stations, but can potentially occur around any public transit
10 stop, including bus stops. The 2017 draft Oahu general plan
11 revision appears to advocate transit-oriented development for
12 all communities island-wide as shown by its use of statements
13 that do not solely reference rail transit, such as "facilitate
14 transit-oriented development in transit areas" and "promote
15 higher-density mixed-use development, including transit-oriented
16 development convenient to public transit." Given that there are
17 bus stops all over Oahu, the potential for transit-oriented



1 development to serve as a Trojan horse for rapid and dense
2 development is clear and raises a red flag.

3 Accordingly, the purpose of this Act is to limit the
4 establishment of transit-oriented development zones to
5 appropriate areas that include rail transit stations.

6 SECTION 2. Section 46-4, Hawaii Revised Statutes, is
7 amended by amending subsection (a) to read as follows:

8 "(a) This section and any ordinance, rule, or regulation
9 adopted in accordance with this section shall apply to lands not
10 contained within the forest reserve boundaries as established on
11 January 31, 1957, or as subsequently amended.

12 Zoning in all counties shall be accomplished within the
13 framework of a long-range, comprehensive general plan prepared
14 or being prepared to guide the overall future development of the
15 county. Zoning shall be one of the tools available to the
16 county to put the general plan into effect in an orderly manner.
17 Zoning in the counties of Hawaii, Maui, and Kauai means the
18 establishment of districts of such number, shape, and area, and
19 the adoption of regulations for each district to carry out the
20 purposes of this section. In establishing or regulating the
21 districts, full consideration shall be given to all available



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1 data as to soil classification and physical use capabilities of
2 the land to allow and encourage the most beneficial use of the
3 land consonant with good zoning practices. The zoning power
4 granted herein shall be exercised by ordinance which may relate
5 to:

- 6 (1) The areas within which agriculture, forestry,
7 industry, trade, and business may be conducted;
- 8 (2) The areas in which residential uses may be regulated
9 or prohibited;
- 10 (3) The areas bordering natural watercourses, channels,
11 and streams, in which trades or industries, filling or
12 dumping, erection of structures, and the location of
13 buildings may be prohibited or restricted;
- 14 (4) The areas in which particular uses may be subjected to
15 special restrictions;
- 16 (5) The location of buildings and structures designed for
17 specific uses and designation of uses for which
18 buildings and structures may not be used or altered;
- 19 (6) The location, height, bulk, number of stories, and
20 size of buildings and other structures;
- 21 (7) The location of roads, schools, and recreation areas;



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- 1 (8) Building setback lines and future street lines;
- 2 (9) The density and distribution of population;
- 3 (10) The percentage of a lot that may be occupied, size of
- 4 yards, courts, and other open spaces;
- 5 (11) Minimum and maximum lot sizes; and
- 6 (12) Other regulations the boards or city council find
- 7 necessary and proper to permit and encourage the
- 8 orderly development of land resources within their
- 9 jurisdictions[-]i

10 provided that no county with a population greater than five
11 hundred thousand shall establish a transit-oriented development
12 zone unless the zone extends no more than one mile from a rail
13 transit station that is included in a completed environmental
14 impact statement pertaining to a rail transit project for which
15 construction has commenced.

16 The council of any county shall prescribe rules,
17 regulations, and administrative procedures and provide personnel
18 it finds necessary to enforce this section and any ordinance
19 enacted in accordance with this section. The ordinances may be
20 enforced by appropriate fines and penalties, civil or criminal,



1 or by court order at the suit of the county or the owner or
2 owners of real estate directly affected by the ordinances.

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

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

12 The powers granted herein shall be liberally construed in
13 favor of the county exercising them, and in such a manner as to
14 promote the orderly development of each county or city and
15 county in accordance with a long-range, comprehensive general
16 plan to ensure the greatest benefit for the State as a whole.
17 This section shall not be construed to limit or repeal any
18 powers of any county to achieve these ends through zoning and
19 building regulations, except insofar as forest and water reserve
20 zones are concerned and as provided in subsections (c) and (d).



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

17 SECTION 3. Section 225M-2, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "**§225M-2 Office of planning, establishment;**
20 **responsibilities.** (a) There is established within the
21 department of business, economic development, and tourism an



1 office of planning. The head of the office shall be known as
2 the director of the office of planning, referred to in this
3 chapter as director. The director shall have: training in the
4 field of urban or regional planning, public administration, or
5 other related fields; experience in programs or services related
6 to governmental planning; and experience in a supervisory,
7 consultative, or administrative capacity. The director shall be
8 nominated by the governor and, by and with the advice and
9 consent of the senate, appointed by the governor without regard
10 to chapter 76, and shall be compensated at a salary level set by
11 the governor. The director shall be included in any benefit
12 program generally applicable to the officers and employees of
13 the State. The director shall retain [~~such~~] staff as may be
14 necessary for the purposes of this chapter, in conformity with
15 chapter 76. The director shall report to the director of
16 business, economic development, and tourism and shall not be
17 required to report directly to any other principal executive
18 department.

19 (b) The office of planning shall gather, analyze, and
20 provide information to the governor to assist in the overall
21 analysis and formulation of state policies and strategies to



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1 provide central direction and cohesion in the allocation of
2 resources and effectuation of state activities and programs and
3 effectively address current or emerging issues and
4 opportunities. More specifically, the office shall engage in
5 the following activities:

6 (1) State comprehensive planning and program coordination.
7 Formulating and articulating comprehensive statewide
8 goals, objectives, policies, and priorities, and
9 coordinating their implementation through the
10 statewide planning system established in part II of
11 chapter 226;

12 (2) Strategic planning. Identifying and analyzing
13 significant issues, problems, and opportunities
14 confronting the State, and formulating strategies and
15 alternative courses of action in response to
16 identified problems and opportunities by:

17 (A) Providing in-depth policy research, analysis, and
18 recommendations on existing or potential areas of
19 critical state concern;



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- 1 (B) Examining and evaluating the effectiveness of
- 2 state programs in implementing state policies and
- 3 priorities;
- 4 (C) Monitoring through surveys, environmental
- 5 scanning, and other techniques--current social,
- 6 economic, and physical conditions and trends; and
- 7 (D) Developing, in collaboration with affected public
- 8 or private agencies and organizations,
- 9 implementation plans and schedules and, where
- 10 appropriate, assisting in the mobilization of
- 11 resources to meet identified needs;
- 12 (3) Planning coordination and cooperation. Facilitating
- 13 coordinated and cooperative planning and policy
- 14 development and implementation activities among state
- 15 agencies and between the state, county, and federal
- 16 governments, by:
- 17 (A) Reviewing, assessing, and coordinating, as
- 18 necessary, major plans, programs, projects, and
- 19 regulatory activities existing or proposed by
- 20 state and county agencies;



- 1 (B) Formulating mechanisms to simplify, streamline,
2 or coordinate interagency development and
3 regulatory processes; and
- 4 (C) Recognizing the presence of federal defense and
5 security forces and agencies in the State as
6 important state concerns;
- 7 (4) Statewide planning and geographic information system.
8 Collecting, integrating, analyzing, maintaining, and
9 disseminating various forms of data and information,
10 including geospatial data and information, to further
11 effective state planning, policy analysis and
12 development, and delivery of government services by:
 - 13 (A) Collecting, assembling, organizing, evaluating,
14 and classifying existing geospatial and non-
15 geospatial data and performing necessary basic
16 research, conversions, and integration to provide
17 a common database for governmental planning and
18 geospatial analyses by state agencies;
 - 19 (B) Planning, coordinating, and maintaining a
20 comprehensive, shared statewide planning and
21 geographic information system and associated



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1 geospatial database. The office shall be the
2 lead agency responsible for coordinating the
3 maintenance of the multi-agency, statewide
4 planning and geographic information system and
5 coordinating, collecting, integrating, and
6 disseminating geospatial data sets that are used
7 to support a variety of state agency applications
8 and other spatial data analyses to enhance
9 ~~[decision-making.]~~ decision making. The office
10 shall promote and encourage free and open data
11 sharing among and between all government
12 agencies. To ensure the maintenance of a
13 comprehensive, accurate, up-to-date geospatial
14 data resource that can be drawn upon for
15 ~~[decision-making]~~ decision making related to
16 essential public policy issues such as land use
17 planning, resource management, homeland security,
18 and the overall health, safety, and well-being of
19 Hawaii's citizens, and to avoid redundant data
20 development efforts, state agencies shall provide
21 to the shared system either their respective



1 geospatial databases or, at a minimum, especially
2 in cases of secure or confidential data sets that
3 cannot be shared or must be restricted, metadata
4 describing existing geospatial data. In cases
5 where agencies provide restricted data, the
6 office of planning shall ensure the security of
7 that data; and

8 (C) Maintaining a centralized depository of state and
9 national planning references;

10 (5) Land use planning. Developing and presenting the
11 position of the State in all boundary change petitions
12 and proceedings before the land use commission,
13 assisting state agencies in the development and
14 submittal of petitions for land use district boundary
15 amendments, and conducting periodic reviews of the
16 classification and districting of all lands in the
17 State, as specified in chapter 205;

18 (6) Coastal and ocean policy management. Carrying out the
19 lead agency responsibilities for the Hawaii coastal
20 zone management program, as specified in chapter 205A.
21 Also, developing and maintaining an ocean and coastal



1 resources information, planning, and management system
2 further developing and coordinating implementation of
3 the ocean resources management plan, and formulating
4 ocean policies with respect to the exclusive economic
5 zone, coral reefs, and national marine sanctuaries;

6 (7) Regional planning and studies. Conducting plans and
7 studies to determine:

8 (A) The capability of various regions within the
9 State to support projected increases in both
10 resident populations and visitors;

11 (B) The potential physical, social, economic, and
12 environmental impact on these regions resulting
13 from increases in both resident populations and
14 visitors;

15 (C) The maximum annual visitor carrying capacity for
16 the State by region, county, and island; and

17 (D) The appropriate guidance and management of
18 selected regions and areas of statewide critical
19 concern.



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1 The studies in subparagraphs (A) to (C) shall be
2 conducted at appropriate intervals, but not less than
3 once every five years;

4 (8) Regional, national, and international planning.
5 Participating in and ensuring that state plans,
6 policies, and objectives are consistent, to the extent
7 practicable, with regional, national, and
8 international planning efforts;

9 (9) Climate adaptation planning. Conducting plans and
10 studies and preparing reports as follows:

11 (A) Develop, monitor, and evaluate strategic climate
12 adaptation plans and actionable policy
13 recommendations for the State and counties
14 addressing expected statewide climate change
15 impacts identified under Act 286, Session Laws of
16 Hawaii 2012, through the year 2050;

17 (B) Provide planning and policy guidance and
18 assistance to state and county agencies regarding
19 climate change; and

20 (C) Publish its findings, recommendations, and
21 progress reports on actions taken no later than



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1 December 31, 2017, and its annual report to the
2 governor and the legislature thereafter; and

3 (10) Smart growth and transit-oriented development. Acting
4 as the lead agency to coordinate and advance smart
5 growth and transit-oriented development planning
6 within the State as follows:

7 (A) Identify transit-oriented development
8 opportunities shared between state and county
9 agencies, including relevant initiatives such as
10 the department of health's healthy Hawaii
11 initiative and the Hawaii clean energy
12 initiative;

13 (B) Refine the definition of "transit-oriented
14 development" in the context of Hawaii, while
15 recognizing the potential for smart growth
16 development patterns in all locations;

17 (C) Clarify state goals for transit-oriented
18 development and smart growth that support the
19 principles of the Hawaii State Planning Act by
20 preserving non-urbanized land, improving worker
21 access to jobs, and reducing fuel consumption;



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- 1 (D) Target transit-oriented development areas for
2 significant increase in affordable housing and
3 rental units;
- 4 (E) Conduct outreach to state agencies to help
5 educate state employees about the ways they can
6 support and benefit from transit-oriented
7 development and the State's smart growth goals;
- 8 (F) Publicize coordinated state efforts that support
9 smart growth, walkable neighborhoods, and
10 transit-oriented development;
- 11 (G) Review state land use decision-making processes
12 to identify ways to make transit-oriented
13 development a higher priority and facilitate
14 better and more proactive leadership in creating
15 walkable communities and employment districts,
16 even if transit will only be provided at a later
17 date; and
- 18 (H) Approve all state agencies' development plans for
19 parcels along the rail transit corridor. For the
20 purposes of this subparagraph, "development
21 plans" means conceptual land use plans that



1 identify the location and planned uses within a
2 defined area.

3 (c) The office of planning shall not advocate for, nor
4 facilitate the establishment of, a transit-oriented development
5 zone in a county with a population greater than five hundred
6 thousand unless the zone extends no more than one mile from a
7 rail transit station that is included in a completed
8 environmental impact statement pertaining to a rail transit
9 project for which construction has commenced."

10 SECTION 4. Section 226-63, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "[+]§226-63[+] Hawaii interagency council for transit-
13 oriented development. (a) There is established the Hawaii
14 interagency council for transit-oriented development, which
15 shall be an advisory body exempt from section 26-34, to
16 coordinate and facilitate state agency transit-oriented
17 development planning, and facilitate consultation and
18 collaboration between the State and the counties on transit-
19 oriented development initiatives. The Hawaii interagency
20 council for transit-oriented development shall be established



1 within the department of business, economic development, and
2 tourism for administrative purposes.

3 (b) The Hawaii interagency council for transit-oriented
4 development shall:

5 (1) Serve as the State's transit-oriented development
6 planning and policy development entity with
7 representation from state and county government and
8 the community;

9 (2) Formulate and advise the governor on the
10 implementation of a strategic plan to address transit-
11 oriented development projects, including mixed use and
12 affordable and rental housing projects, on state lands
13 in each county;

14 (3) Facilitate the acquisition of funding and resources
15 for state and county transit-oriented development
16 programs, including affordable and rental housing
17 projects, on state lands;

18 (4) Monitor the preparation and conduct of plans and
19 studies to facilitate implementation of state transit-
20 oriented development plans prepared pursuant to this
21 section, including but not limited to the preparation



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- 1 of site or master plans and implementation plans and
2 studies;
- 3 (5) Review all capital improvement project requests to the
4 legislature for transit-oriented development projects,
5 including mixed use and affordable and rental housing
6 projects, on state lands within county-designated
7 transit-oriented development zones or within a one-
8 half-mile radius of public transit stations, if a
9 county has not designated transit-oriented development
10 zones;
- 11 (6) Recommend policy, regulatory, and statutory changes,
12 and identify resource strategies for the successful
13 execution of the strategic plan;
- 14 (7) Assemble accurate fiscal and demographic information
15 to support policy development and track outcomes;
- 16 (8) Consider collaborative transit-oriented development
17 initiatives of other states that have demonstrated
18 positive outcomes; and
- 19 (9) Report annually to the governor, the legislature, and
20 the mayor of each county on the progress of its
21 activities, including formulation and progress on the



1 strategic plan no later than twenty days prior to the
2 convening of each regular session.

3 (c) The strategic plan developed by the Hawaii interagency
4 council for transit-oriented development shall:

5 (1) Coordinate with the counties on transit-oriented
6 development;

7 (2) For each county, compile an inventory of state,
8 county, and private sector transit-oriented
9 development projects lacking infrastructure,
10 identifying the type of infrastructure each project
11 lacks, and the approximate time frame when additional
12 capacity is needed;

13 (3) Prioritize the development of transit-oriented
14 development projects, including mixed use and
15 affordable and rental housing projects, on state
16 lands;

17 (4) Identify financing and prioritize state financing for
18 the public infrastructure, facility, and service
19 investments required to support transit-oriented
20 development, mixed use, and affordable and rental
21 housing project plans; and



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1 (5) Encourage and promote partnerships between public and
2 private entities to identify, renovate, and secure
3 affordable housing options on state lands within
4 county-designated transit-oriented development areas
5 or within a one-half-mile radius of public transit
6 stations, if a county has not designated transit-
7 oriented development zones.

8 (d) The Hawaii interagency council for transit-oriented
9 development shall not advocate for, nor facilitate the
10 establishment of, a transit-oriented development zone in a
11 county with a population greater than five hundred thousand
12 unless the zone extends no more than one mile from a rail
13 transit station that is included in a completed environmental
14 impact statement pertaining to a rail transit project for which
15 construction has commenced."

16 SECTION 5. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.



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1 SECTION 6. This Act shall take effect upon its approval.

2

INTRODUCED BY:

Guthrie Thelen

JAN 12 2018



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Report Title:

Transit-Oriented Development; Counties; Zoning; Prohibitions

Description:

Prohibits a county with a population greater than 500,000 from establishing a transit-oriented development zone that extends more than 1 mile from a rail transit station included in a completed environmental impact statement. Prohibits the Office of Planning and the Hawaii Interagency Council for Transit-Oriented Development from advocating for, or facilitating the establishment of, a transit-oriented development zone that does not meet those criteria.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

