
A BILL FOR AN ACT

RELATING TO HOMELESS SHELTERS.

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

1 SECTION 1. Section 46-4, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) This section and any ordinance, rule, or regulation
4 adopted in accordance with this section shall apply to lands not
5 contained within the forest reserve boundaries as established on
6 January 31, 1957, or as subsequently amended~~[-]~~; provided that
7 neither this section nor any ordinance, rule, or regulation
8 adopted in accordance with this section shall apply to a
9 temporary homeless shelter from July 1, 2018, to July 1, 2028.

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



1 purposes of this section. In establishing or regulating the
2 districts, full consideration shall be given to all available
3 data as to soil classification and physical use capabilities of
4 the land to allow and encourage the most beneficial use of the
5 land consonant with good zoning practices. The zoning power
6 granted herein shall be exercised by ordinance which may relate
7 to:

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



(6) The location, height, bulk, number of stories, and size of buildings and other structures;

(7) The location of roads, schools, and recreation areas;

(8) Building setback lines and future street lines;

(9) The density and distribution of population;

(10) The percentage of a lot that may be occupied, size of yards, courts, and other open spaces;

(11) Minimum and maximum lot sizes; and

(12) Other regulations the boards or city council find necessary and proper to permit and encourage the orderly development of land resources within their jurisdictions.

The council of any county shall prescribe rules, regulations, and administrative procedures and provide personnel it finds necessary to enforce this section and any ordinance enacted in accordance with this section. The ordinances may be enforced by appropriate fines and penalties, civil or criminal, or by court order at the suit of the county or the owner or owners of real estate directly affected by the ordinances.

Any civil fine or penalty provided by ordinance under this section may be imposed by the district court, or by the zoning



1 agency after an opportunity for a hearing pursuant to chapter
2 91. The proceeding shall not be a prerequisite for any
3 injunctive relief ordered by the circuit court.

4 Nothing in this section shall invalidate any zoning
5 ordinance or regulation adopted by any county or other agency of
6 government pursuant to the statutes in effect prior to July 1,
7 1957.

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

17 Neither this section nor any ordinance enacted pursuant to
18 this section shall prohibit the continued lawful use of any
19 building or premises for any trade, industrial, residential,
20 agricultural, or other purpose for which the building or
21 premises is used at the time this section or the ordinance takes



1 effect; provided that a zoning ordinance may provide for
2 elimination of nonconforming uses as the uses are discontinued,
3 or for the amortization or phasing out of nonconforming uses or
4 signs over a reasonable period of time in commercial,
5 industrial, resort, and apartment zoned areas only. In no event
6 shall such amortization or phasing out of nonconforming uses
7 apply to any existing building or premises used for residential
8 (single-family or duplex) or agricultural uses. Nothing in this
9 section shall affect or impair the powers and duties of the
10 director of transportation as set forth in chapter 262."

11 SECTION 2. Section 46-15.6, Hawaii Revised Statutes, is
12 amended by adding a new definition to be appropriately inserted
13 and to read as follows:

14 "Temporary homeless shelter" means a structure designed to
15 temporarily house homeless individuals or families for maximum
16 periods of ten years."

17 SECTION 3. Section 107-21, Hawaii Revised Statutes, is
18 amended by adding a new definition to be appropriately inserted
19 and to read as follows:



1 ""Temporary homeless shelter" means a structure designed to
2 temporarily house homeless individuals or families for maximum
3 periods of ten years."

4 SECTION 4. Section 107-25, Hawaii Revised Statutes, is
5 amended to read as follows:

6 **"§107-25 Hawaii state building codes; requirements.** There
7 is established the Hawaii state building codes applicable to all
8 construction in the State of Hawaii[-]; provided that no
9 provision or rule pertaining to health or sanitation shall apply
10 to a temporary homeless shelter from July 1, 2018, to July 1,
11 2028. The Hawaii state building codes shall be based upon:

- 12 (1) The state fire code as adopted by the state fire
13 council;
- 14 (2) The Uniform Plumbing Code, as copyrighted and
15 published by the International Association of Plumbing
16 and Mechanical Officials, including its appendices;
- 17 (3) The International Building Code, the International
18 Residential Code, and the International Energy
19 Conservation Code, as published by the International
20 Code Council;



1 (4) The National Electrical Code, as published by the
2 National Fire Protection Association;

3 (5) Hawaii design standards implementing the criteria
4 pursuant to Act 5, Special Session Laws of Hawaii,
5 2005, as applicable to:

6 (A) Emergency shelters built to comply with hurricane
7 resistant criteria, including enhanced hurricane
8 protection areas capable of withstanding a five
9 hundred-year hurricane event as well as other
10 storms and natural hazards; and

11 (B) Essential government facilities requiring
12 continuity of operations; and

13 (6) Code provisions based on nationally published codes or
14 standards that include but are not limited to
15 residential and hurricane resistant standards related
16 to loss mitigation standards in accordance with
17 section 431P-12, elevator, mechanical, flood and
18 tsunami, existing buildings, and onsite sewage
19 disposal."

20 SECTION 5. Section 107-28, Hawaii Revised Statutes, is
21 amended by amending subsection (a) to read as follows:



1 "(a) The governing body of each county shall amend, adopt,
2 and update the Hawaii state building codes as they apply within
3 their respective jurisdiction, in accordance with section 46-
4 1.5(13), without approval of the council. Each county shall
5 amend and adopt the Hawaii state building codes and standards
6 listed in section 107-25, as the referenced Hawaii state
7 building codes and standards for its respective county building
8 code ordinance, no later than two years after the adoption of
9 the Hawaii state building codes[-]; provided that no provision
10 or rule pertaining to health or sanitation shall apply to a
11 temporary homeless shelter from July 1, 2018, to July 1, 2028."

12 SECTION 6. Section 346-374.5, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "~~§~~346-374.5~~§~~ **Emergency shelter; minimum requirements.**

15 (a) This section shall apply to every emergency shelter
16 operated by a provider agency that is under contract with the
17 department to receive homeless shelter stipends for providing
18 shelter and services to homeless families or individuals at the
19 emergency shelter.

20 (b) The department shall require an emergency shelter to
21 comply with the following:



1 (1) The shelter shall have the number of showers and
2 bathrooms that the department deems appropriate and
3 sufficient for the number of homeless families or
4 individuals who use the shelter and the capacity of
5 the shelter. The showers and bathrooms may be part of
6 the shelter building or portable and unattached to the
7 shelter building;

8 (2) The shelter may have partitioned space for each
9 homeless family or individual that provides separation
10 from other homeless families or individuals in the
11 shelter. The minimum area of the partitioned space
12 and height of the partition shall be determined by the
13 department and may differ among emergency shelters,
14 according to the number of homeless families or
15 individuals who use the shelter and the capacity of
16 the shelter. A shelter that provides separate rooms
17 or portable dwelling units for homeless families or
18 individuals, including converted shipping containers
19 or school classrooms, shall be deemed to exceed this
20 minimum requirement; and



1 (3) The shelter shall provide storage for the personal
2 possessions of each homeless family or individual
3 served by the shelter. The storage shall be securable
4 by the homeless family or individual. The type and
5 number of the storage equipment, space, or area shall
6 be determined by the department[-];
7 provided that no provision or rule pertaining to health or
8 sanitation shall apply to a temporary homeless shelter from
9 July 1, 2018, to July 1, 2028, subject to subsection (c).

10 (c) The department may require an emergency shelter to
11 comply with any other requirements that the department deems
12 appropriate or necessary. The requirements established by the
13 department may vary among emergency shelters.

14 (d) A provider agency contracted to operate or manage an
15 emergency shelter not owned by the department shall comply with
16 the minimum requirements of subsection (b). The provider agency
17 shall bear all costs of compliance, unless the department
18 provides or contributes state funding assistance; provided that
19 the state funding assistance shall be:

20 (1) In addition to homeless shelter stipends paid to the
21 provider agency under section 346-374;



(2) Subject to the availability of legislative appropriations; and

(3) Recoverable, in whole or part, by the department if the provider agency does not perform satisfactorily under or for the duration of the term of its contract with the department to operate or manage the shelter.

(e) Any emergency shelter owned by the department shall comply with the minimum requirements under subsection (b), regardless of whether the department contracts with a provider agency to manage or operate the emergency shelter.

(f) As used in this section, "temporary homeless shelter" means a structure designed to temporarily house homeless individuals or families for maximum periods of ten years."

SECTION 7. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 8. This Act shall take effect on July 1, 2018.

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H.B. NO. 2037

Report Title:

Homeless Shelters; Health and Sanitation; Zoning; Exemptions

Description:

Exempts temporary homeless shelters from state and county health and sanitation provisions, and from county zoning provisions, from 7/1/2018, to 7/1/2028.

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

