
A BILL FOR AN ACT

RELATING TO URBAN DEVELOPMENT.

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

1 PART I

2 SECTION 1. The legislature finds that Hawaii has the
3 highest housing costs in the nation. Adjusted for inflation,
4 the price of existing homes in Hawaii has increased by one
5 hundred fifty-five per cent since 1984. Meanwhile, the median
6 household income in Hawaii, adjusted for inflation, has only
7 gone up by twenty-four per cent over the same time period. Less
8 than one-third of households in Hawaii can afford a median-
9 priced single-family home, and less than one-half can afford a
10 median-priced condominium. Due to these factors, Hawaii has the
11 highest percentage of homeowners paying more than thirty per
12 cent of their income on their mortgage, making these households
13 more vulnerable to increased stress, mental health problems, and
14 an increased risk of disease. High housing costs also impact
15 the economy in negative ways as many residents are less likely
16 to spend money on consumer goods and services and invest in
17 business startups. High housing prices are the primary



1 contributor to high rates of homelessness nationwide, and, as
2 would be expected given the dire housing market, Hawaii's rate
3 of homelessness is more than double the national average.

4 The legislature further finds that Hawaii needs to build
5 fifty thousand new homes between 2020 and 2025 to meet the
6 demand for housing. However, over the last five years, Hawaii
7 has only added twenty-seven thousand homes to the housing stock,
8 a little more than one-half of the housing necessary to support
9 the State's population. The legislature notes that Hawaii has
10 the most regulated housing market in the country. Various
11 studies have concluded that housing regulations slow the rate of
12 construction and lead to higher prices.

13 The legislature additionally finds that, in 1961, Act 187,
14 Session Laws of Hawaii 1961 (Act 187), was enacted as Hawaii's
15 land use law, with the intent to preserve, protect, and
16 encourage the development of lands in the State for uses to
17 which they are best suited for the public welfare. This law is
18 unique in the United States in that both the State and the
19 counties regulate land use. In furtherance of Act 187, the
20 State enacted the Hawaii State Planning Act, codified as chapter
21 226, Hawaii Revised Statutes, which states that urban growth



1 should be encouraged primarily in existing urban areas where
2 adequate public facilities are already available or can be
3 provided with reasonable public expenditures and away from areas
4 where other important benefits are present, such as protection
5 of important agricultural land or preservation of lifestyles.

6 The legislature also finds that the dual principles of
7 making urbanization efficient and preserving agricultural and
8 conservation land are being undermined by overly stringent
9 development restrictions within the state urban land use
10 district. The legislature believes that chapter 46, Hawaii
11 Revised Statutes, must be amended to achieve the goals of the
12 Hawaii land use law and Hawaii state plan by encouraging the
13 development of "missing middle housing", or housing that can fit
14 between single-family detached homes and mid- to-high
15 apartments, such as additional dwelling units, in the state
16 urban land use district, which will reduce the cost of housing,
17 urban sprawl, infrastructure costs, traffic congestion, and
18 carbon emissions.

19 Accordingly, the purpose of this Act is to:



- 1 (1) Prohibit county zoning ordinances from not allowing
- 2 two or more additional dwelling units per residential
- 3 lot within a state urban land use district;
- 4 (2) Prohibit private covenants for residential lots with a
- 5 state urban land use district from including certain
- 6 limitations or restrictions on residential units;
- 7 (3) Require the director of the county agency responsible
- 8 for land use to review and act on any application for
- 9 subdivision, consolidation, or resubdivision of
- 10 parcels with a minimum lot size of two thousand square
- 11 feet in the state urban land use district; and
- 12 (4) Amend the calculation of impact fees for certain
- 13 developments.

PART II

15 SECTION 2. Chapter 46, Hawaii Revised Statutes, is amended
16 by adding a new section to part I to be appropriately designated
17 and to read as follows:

18 "§46- Additional dwelling units in urban districts.

19 (a) Notwithstanding any law, ordinance, or building code or
20 standard to the contrary, a residential lot within an urban



1 district established by chapter 205 shall allow additional
2 dwelling units.

3 (b) For residential lots within an urban district
4 established by chapter 205, each county:

5 (1) Shall allow for at least two additional dwelling
6 units, which shall be considered accessory to any
7 dwelling unit or residential unit duly permitted by
8 ordinance within a parcel or lot of record;

9 (2) May:

10 (A) Continue to apply any ordinance enacted pursuant
11 to section 46-4 relating to location; height;
12 bulk; number of stories; size of buildings;
13 building setback lines; future street lines;
14 percentage of a lot that may be occupied; open
15 spaces; areas in which particular uses may be
16 subjected to special restrictions; and building,
17 electrical, mechanical, and housing code
18 regulations that promote and protect the public
19 health, safety, and welfare;

20 (B) Restrict short-term rentals, as defined by each
21 county, including by imposition of mandatory



- 1 owner-occupancy requirements for short-term
- 2 rentals;
- 3 (C) Reject a permit application for development on
- 4 the residential lot if the county determines
- 5 there is insufficient infrastructure for the
- 6 development;
- 7 (D) Adopt by ordinance or rule additional design
- 8 guidelines specifically for additional dwelling
- 9 units; and
- 10 (E) By ordinance or rule, consider permits granted
- 11 under other ordinances for additional dwelling
- 12 units or residential units toward meeting the
- 13 requirements of subsection (b) (1); and
- 14 (3) Shall not adopt:
- 15 (A) Additional dwelling unit owner-occupancy
- 16 requirements;
- 17 (B) Prohibitions on long-term rentals, as defined by
- 18 each county; or
- 19 (C) Setback and design requirements more restrictive
- 20 than the principal unit. For purposes of this
- 21 subparagraph, "principal unit" means the single-



1 family housing unit, duplex, triplex, townhouse,
2 or other housing unit located on the same lot as
3 an accessory or additional dwelling unit.

4 (c) This section shall not apply to:

5 (1) County powers within special management areas
6 delineated pursuant to chapter 205A; and

7 (2) Any area within an urban district that a county deems
8 to be at high risk of a natural hazard such as
9 flooding, lava, or fire, as determined by the most
10 current data and maps issued by a federal or state
11 department or agency.

12 (d) For purposes of this section, "dwelling unit" has the
13 same meaning as in section 521-8."

14 SECTION 3. Chapter 205, Hawaii Revised Statutes, is
15 amended by adding a new section to part I to be appropriately
16 designated and to read as follows:

17 "§205- Private covenants; residential lot; urban
18 district. No private covenant for a residential lot within an
19 urban district adopted after the effective date of Act ,
20 Session Laws of Hawaii 2024, shall:



- 1 (1) Limit the number of residential units on that lot
- 2 below the amount allowed pursuant to section 46- ;
- 3 or
- 4 (2) Restrict the long-term rental of residential units on
- 5 that lot."

PART III

7 SECTION 4. Section 46-4, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "**§46-4 County zoning.** (a) This section and any
10 ordinance, rule, or regulation adopted in accordance with this
11 section shall apply to lands not contained within the forest
12 reserve boundaries as established on January 31, 1957, or as
13 subsequently amended.

14 Zoning in all counties shall be accomplished within the
15 framework of a long-range, comprehensive general plan prepared
16 or being prepared to guide the overall future development of the
17 county. Zoning shall be one of the tools available to the
18 county to put the general plan into effect in an orderly manner.
19 Zoning in the counties of Hawaii, Maui, and Kauai means the
20 establishment of districts of such number, shape, and area, and
21 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;



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

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

20 Any civil fine or penalty provided by ordinance under this
21 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~~] in this section shall be
9 liberally construed in favor of the county exercising them, and
10 in [~~such~~] a manner [~~as to promote~~] that promotes the orderly
11 development of each county or city and county in accordance with
12 a long-range, comprehensive general plan to ensure the greatest
13 benefit for the State as a whole. This section shall not be
14 construed to limit or repeal any powers of any county to achieve
15 these ends through zoning and building regulations, except
16 insofar as forest and water reserve zones are concerned and as
17 provided in subsections (c) [~~and~~], (d) [~~-~~], (g), and section
18 46- .

19 Neither this section nor any ordinance enacted pursuant to
20 this section shall prohibit the continued lawful use of any
21 building or premises for any trade, industrial, residential,



1 agricultural, or other purpose for which the building or
 2 premises is used at the time this section or the ordinance takes
 3 effect; provided that a zoning ordinance may provide for
 4 elimination of nonconforming uses as the uses are discontinued,
 5 or for the amortization or phasing out of nonconforming uses or
 6 signs over a reasonable period of time in commercial,
 7 industrial, resort, and apartment zoned areas only. In no event
 8 shall [~~such~~] the amortization or phasing out of nonconforming
 9 uses apply to any existing building or premises used for
 10 residential (single-family or duplex) or agricultural uses.
 11 Nothing in this section shall affect or impair the powers and
 12 duties of the director of transportation as set forth in chapter
 13 262.

14 (b) Any final order of a zoning agency established under
 15 this section may be appealed to the circuit court of the circuit
 16 in which the land in question is found. The appeal shall be in
 17 accordance with the Hawaii rules of civil procedure.

18 (c) [~~Each~~] Except as provided in section 46- , each
 19 county may adopt reasonable standards to allow the construction
 20 of two single-family dwelling units on any lot where a
 21 residential dwelling unit is permitted.



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

12 (e) Neither this section nor any other law, county
13 ordinance, or rule shall prohibit the use of land for employee
14 housing and community buildings in plantation community
15 subdivisions as defined in section 205-4.5(a)(12); in addition,
16 no zoning ordinance shall provide for the elimination,
17 amortization, or phasing out of plantation community
18 subdivisions as a nonconforming use.

19 (f) Neither this section nor any other law, county
20 ordinance, or rule shall prohibit the use of land for medical
21 cannabis production centers or medical cannabis dispensaries



1 established and licensed pursuant to chapter 329D; provided that
2 the land is otherwise zoned for agriculture, manufacturing, or
3 retail purposes.

4 (g) Notwithstanding any other law, county ordinance, or
5 rule, any application for subdivision, consolidation, or
6 resubdivision of parcels within the state urban land use
7 district as designated pursuant to section 205-2 shall be
8 reviewed and acted upon by the director of the county agency
9 responsible for land use; provided that:

10 (1) All resulting parcels are residentially zoned and at
11 least two thousand square feet in area, except that a
12 county may by ordinance or rule allow residentially
13 zoned parcels smaller than two thousand square feet;

14 (2) The parcel being subdivided is not located on a site
15 that is:

16 (A) Designated as important agricultural land
17 pursuant to part III of chapter 205;

18 (B) On wetlands, as defined in the United States Fish
19 and Wildlife Service Manual, Part 660 FW2;

20 (C) Within a floodplain as determined by maps adopted
21 by the Federal Emergency Management Agency;



- 1 (D) A habitat for protected or endangered species;
- 2 (E) Within a designated historic district:
- 3 (i) Listed on the Hawaii register of historic
- 4 places or national register of historic
- 5 places;
- 6 (ii) Individually listed as a historic property
- 7 on the Hawaii register of historic places or
- 8 national register of historic places; or
- 9 (iii) During the period after a nomination for
- 10 listing on the Hawaii register of historic
- 11 places or national register of historic
- 12 places is submitted to the department of
- 13 land and natural resource's state historic
- 14 preservation division and before the Hawaii
- 15 historic places review board has rendered a
- 16 decision;
- 17 (F) Within lava zone one or lava zone two, as
- 18 designated by the United States Geological
- 19 Survey;
- 20 (G) Within the special management area, as defined in
- 21 section 205A-22; or



1 (H) Subject to any land condition or features that
2 render the site unsuitable or hazardous to the
3 health, safety, and welfare of future residents
4 or the surrounding community;

5 (3) The proposed subdivision would not require the
6 demolition or alteration of housing that is subject
7 to:

8 (A) A recorded covenant, ordinance, or law that
9 restricts rents to levels affordable to
10 households of moderate-income, low-income, or
11 very-low income; or

12 (B) Any form of rent or price control through an
13 agency's valid exercise of its police power; and

14 (4) The parcel of record was in existence prior to the
15 effective date of Act , Session Laws of Hawaii
16 2024;

17 provided further that the director of the county agency
18 responsible for land use shall adopt rules pursuant to chapter
19 91 to define the development standards and related
20 infrastructure conditions to receive application approval from
21 the respective director, including prohibitions if the parcel is



1 located in the special management area, as defined in section
2 205A-22."

3 PART IV

4 SECTION 5. Section 46-143, Hawaii Revised Statutes, is
5 amended by amending subsection (d) to read as follows:

6 "(d) An impact fee shall be substantially related to the
7 needs arising from the development and shall not exceed a
8 proportionate share of the costs incurred or to be incurred in
9 accommodating the development. The following [~~seven~~] factors
10 shall be considered in determining a proportionate share of
11 public facility capital improvement costs:

12 (1) The level of public facility capital improvements
13 required to appropriately serve a development, based
14 on a needs assessment study that identifies:

- 15 (A) Deficiencies in existing public facilities;
- 16 (B) The means, other than impact fees, by which
17 existing deficiencies will be eliminated within a
18 reasonable period of time; and
- 19 (C) Additional demands anticipated to be placed on
20 specified public facilities by a development;



- 1 (2) The availability of other funding for public facility
2 capital improvements, including but not limited to
3 user charges, taxes, bonds, intergovernmental
4 transfers, and special taxation or assessments;
- 5 (3) The cost of existing public facility capital
6 improvements;
- 7 (4) The methods by which existing public facility capital
8 improvements were financed;
- 9 (5) The extent to which a developer required to pay impact
10 fees has contributed in the previous five years to the
11 cost of existing public facility capital improvements
12 and received no reasonable benefit therefrom, and any
13 credits that may be due to a development because of
14 ~~such~~ the contributions;
- 15 (6) The extent to which a developer required to pay impact
16 fees over the next twenty years may reasonably be
17 anticipated to contribute to the cost of existing
18 public facility capital improvements through user
19 fees, debt service payments, or other payments, and
20 any credits that may accrue to a development because
21 of future payments; ~~and~~



1 (7) The extent to which a developer is required to pay
 2 impact fees as a condition precedent to the
 3 development of non-site related public facility
 4 capital improvements, and any offsets payable to a
 5 developer because of this provision[-]; and

6 (8) The square footage of the development; provided that:

7 (A) In cases where the developer is converting an
 8 existing structure, the square footage of the
 9 existing structure shall be deducted from the
 10 total square footage of the development when
 11 calculating impact fees; and

12 (B) In cases where the public facility impacted is a
 13 water or sewage facility, the appropriate board
 14 of water supply may choose to calculate impact
 15 fees based on the total number of fixtures in the
 16 development, rather than by square footage."

PART V

18 SECTION 6. This Act does not affect rights and duties that
 19 matured, penalties that were incurred, and proceedings that were
 20 begun before its effective date.



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

3 SECTION 8. This Act shall take effect on January 1, 3000.



Report Title:

Counties; Zoning; Urban District; Subdivision; Residential Lots; Additional Dwelling Units; Approval; Impact Fees Assessment; Calculation

Description:

Part II: Prohibits county zoning ordinances from not allowing two or more additional dwelling units per residential lot within an urban district. Prohibits private covenants for residential lots within a state urban land use district from including certain limitations or restrictions on residential units. Part III: Requires the director of the county agency responsible for land use to review and act on any application for subdivision, consolidation, or resubdivision of certain parcels within the state urban land use district. Part IV: Amends the calculation of impact fees for certain developments. Effective 1/1/3000. (HD1)

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