

JAN 18 2023

A BILL FOR AN ACT

RELATING TO SPECIAL MANAGEMENT AREAS.

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

1 SECTION 1. The legislature finds that targeted amendments
2 to the definition of "development" as it relates to special
3 management areas will promote, not undercut, the environmental
4 controls and quality that special management area regulations
5 are intended to protect. Currently, the broad definition of
6 "development" can result in a special management area use permit
7 review being required for improvements, facilities, and
8 incidental structures that may not warrant such intense scrutiny
9 nor the economic burdens of the rising costs of labor, building
10 materials, and delays that go along with it.

11 The legislature further finds that exclusions from the
12 special management area definition of "development" are
13 desirable for the following activities:

14 (1) Installation, maintenance, repair, and replacement of
15 public pedestrian and bicycle facilities to reduce
16 reliance on vehicles;



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- 1 (2) Trash removal, invasive vegetation removal or control,
2 and fencing for invasive species control or
3 preservation of native habitats to improve the quality
4 of the environment;
- 5 (3) Installation, maintenance, repair, and replacement of
6 lighting, fixtures, and equipment to comply with
7 standards at existing public facilities, including
8 health and safety standards, to protect native seabird
9 populations and reduce light pollution; and
- 10 (4) Installation, maintenance, repair, and replacement of
11 security measures for existing public facilities.

12 The purpose of this Act is to expand exclusions to the
13 definition of "development" in chapter 205A, Hawaii Revised
14 Statutes, to reduce the need for special management area permits
15 for certain activities.

16 SECTION 2. Section 205A-22, Hawaii Revised Statutes, is
17 amended by amending the definition of "development" to read as
18 follows:

19 "Development" [~~means~~]:



1 (1) Means any of the uses, activities, or operations on
2 land or in or under water within a special management
3 area that are included below:

4 [~~1~~] (A) Placement or erection of any solid material or
5 any gaseous, liquid, solid, or thermal waste;

6 [~~2~~] (B) Grading, removing, dredging, mining, or
7 extraction of any materials;

8 [~~3~~] (C) Change in the density or intensity of use of
9 land, including but not limited to the division
10 or subdivision of land;

11 [~~4~~] (D) Change in the intensity of use of water, ecology
12 related thereto, or of access thereto; and

13 [~~5~~] (E) Construction, reconstruction, or alteration of
14 the size of any structure.

15 [~~Development does~~] (2) Does not include the following:

16 [~~1~~] (A) Construction or reconstruction of a single-
17 family residence that is less than seven
18 thousand five hundred square feet of floor
19 area~~];~~ is not situated on a shoreline parcel
20 or a parcel that is impacted by waves, storm



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- 1 surges, high tide, or shoreline erosion~~[7]~~_i and
2 is not part of a larger development;
- 3 ~~[(2)]~~ (B) Repair or maintenance of roads and highways
4 within existing rights-of-way;
- 5 ~~[(3)]~~ (C) Routine maintenance dredging of existing
6 streams, channels, and drainage ways;
- 7 ~~[(4)]~~ (D) Repair and maintenance of underground utility
8 lines, including but not limited to water,
9 sewer, power, and telephone and minor
10 appurtenant structures such as pad mounted
11 transformers and sewer pump stations;
- 12 ~~[(5)]~~ (E) Zoning variances, except for height, density,
13 parking, and shoreline setback;
- 14 ~~[(6)]~~ (F) Repair, maintenance, or interior alterations to
15 existing structures;
- 16 ~~[(7)]~~ (G) Demolition or removal of structures, except
17 those structures located on any historic site as
18 designated in national or state registers;
- 19 ~~[(8)]~~ (H) Use of any land for the purpose of cultivating,
20 planting, growing, and harvesting plants, crops,
21 trees, and other agricultural, horticultural, or



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- 1 forestry products or animal husbandry, or
- 2 aquaculture or mariculture of plants or animals,
- 3 or other agricultural purposes~~[+]~~, including all
- 4 traditional fishpond and traditional
- 5 agricultural practices;
- 6 ~~[(9)]~~ (I) Transfer of title to land;
- 7 ~~[(10)]~~ (J) Creation or termination of easements, covenants,
- 8 or other rights in structures or land;
- 9 ~~[(11)]~~ (K) Subdivision of land into lots greater than
- 10 twenty acres in size;
- 11 ~~[(12)]~~ (L) Subdivision of a parcel of land into four or
- 12 fewer parcels when no associated construction
- 13 activities are proposed; provided that any land
- 14 that is so subdivided shall not thereafter
- 15 qualify for this exception with respect to any
- 16 subsequent subdivision of any of the resulting
- 17 parcels;
- 18 ~~[(13)]~~ (M) Installation of underground utility lines and
- 19 appurtenant aboveground fixtures less than four
- 20 feet in height along existing corridors;



- 1 (T) Installation, maintenance, repair, and
- 2 replacement of lighting, fixtures, and equipment
- 3 to establish compliance with current standards
- 4 at existing public facilities;
- 5 (U) Installation, maintenance, repair, and
- 6 replacement of security measures, including
- 7 fencing, to existing public facilities; and
- 8 (V) Traditional and customary practices, including
- 9 work conducted by traditional means near, in, or
- 10 related to loko i'a, traditional Hawaiian
- 11 fishponds;

12 provided that whenever the authority finds that any excluded
 13 use, activity, or operation may have a cumulative impact, or a
 14 significant environmental or ecological effect on a special
 15 management area, that use, activity, or operation shall be
 16 defined as "development" for the purpose of this part."

17 SECTION 3. This Act does not affect rights and duties that
 18 matured, penalties that were incurred, and proceedings that were
 19 begun before its effective date.

20 SECTION 4. Statutory material to be repealed is bracketed
 21 and stricken. New statutory material is underscored.



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1 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY: *Francis Brown*



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Report Title:

Special Management Areas; Development; Definition; Exclusions;
Office of Planning and Sustainable Development

Description:

Establishes additional exclusions from the definition of "development" as it applies to special management areas to reduce the need for special management area permits for certain activities.

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

