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# 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. Chapter 46, Hawaii Revised Statutes, is amended  
3 by adding a new section to part I to be appropriately designated  
4 and to read as follows:

5 **"§46- Accessory dwelling units on residentially zoned**  
6 **lots.** (a) Each county shall adopt or amend accessory dwelling  
7 unit ordinances pursuant to this section to help address  
8 deficits in their housing inventory based on Hawaii housing  
9 planning studies published by the Hawaii housing finance and  
10 development corporation.

11 (b) Except as provided in subsections (c) and (d), each  
12 county shall adopt or amend ordinances defining reasonable  
13 standards that allow for the construction of at least two  
14 accessory dwelling units, or the reasonable equivalent, for  
15 residential use on all residentially zoned lots.

16 (c) A county that does not adopt or amend an ordinance  
17 pursuant to subsection (b) shall adopt or amend ordinances



1 pursuant to this subsection and subsection (d), if applicable,  
2 defining:

3 (1) Districts that authorize at least two accessory  
4 dwelling units, or the reasonable equivalent, for  
5 residential use per each permitted existing single-  
6 family dwelling on a residentially zoned lot; provided  
7 that these districts shall be:

8 (A) Consistent with the county's comprehensive  
9 general plan;

10 (B) Reasonably distributed throughout the county's  
11 various regional planning areas; and

12 (C) Estimated to add development potential equivalent  
13 to half of the county's projected five-year  
14 demand of needed housing units for ownership or  
15 rental as stated in the 2019 Hawaii housing  
16 planning study; and

17 (2) Districts that authorize at least two accessory  
18 dwelling units or the reasonable equivalent for  
19 residential use per each permitted existing single-  
20 family dwelling on a residentially zoned lot within a  
21 reasonable walking distance to and from:



1           (A) Stations of a locally preferred alternative for a  
2           mass transit project; and

3           (B) Urban principal arterials as classified by the  
4           Federal Highway Administration for purposes of  
5           federal-aid highways projects and situated within  
6           a primary urban area, urban core, or county  
7           equivalent identified by a county comprehensive  
8           general plan.

9           (d) In addition to the requirements under subsection (c),  
10          a county with a population of five hundred thousand or more  
11          shall adopt or amend an ordinance defining reasonable standards  
12          to add development potential in existing apartment districts or  
13          apartment mixed-use districts equivalent to the county's  
14          projected five-year demand of needed housing units for ownership  
15          or rental in the 2019 Hawaii housing planning study.

16          (e) Accessory dwelling units developed pursuant to this  
17          section shall be subject to all development standards adopted by  
18          the respective county, including but not limited to those  
19          adopted pursuant to this chapter.

20          (f) Nothing in this section shall preclude a county from  
21          denying applications for permits if there is insufficient



1 utility infrastructure to service the additional demand caused  
2 by the development of accessory dwelling units pursuant to this  
3 section.

4 (g) If a county does not adopt or amend zoning ordinances  
5 pursuant to this section by December 31, 2026, the county shall  
6 not deny any permit application on the basis of exceeding the  
7 maximum number of housing units allowed if any owner, or their  
8 designated representative, of a single-family dwelling in a  
9 residentially zoned lot applies for construction of up to two  
10 accessory dwelling units, or the reasonable equivalent, until  
11 the county adopts or amends an ordinance pursuant to this  
12 section; provided that a county may deny a permit application on  
13 the basis of infrastructure, design, or development standards.

14 (h) No county shall adopt prohibitions on using any  
15 dwelling unit on a residentially zoned lot as separately leased  
16 long-term rentals, as defined by each county.

17 (i) This section shall not apply to:

18 (1) Any area outside of the urban district established by  
19 chapter 205;

20 (2) County powers within special management areas  
21 delineated pursuant to chapter 205A; and



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

6       (j) Neither this section, any permit issued in accordance  
7       with this section, or structures developed pursuant to this  
8       section shall create any vested rights for any applicant, permit  
9       holder, or land owner. This section shall not preempt a  
10      county's ability to accept, review, approve, and deny permit  
11      applications.

12      (k) For purposes of this section, "residentially zoned  
13      lot" means a zoning lot in a county zoning district that is  
14      principally reserved for single-family and two-family detached  
15       dwellings. "Residentially zoned lot" does not include a lot in  
16      a county zoning district that is intended for rural, low density  
17      residential development, and open space preservation."

18           SECTION 2. Chapter 205, Hawaii Revised Statutes, is  
19      amended by adding a new section to part I to be appropriately  
20      designated and to read as follows:





1           **"§46-4 County zoning.** (a) This section and any  
2 ordinance, rule, or regulation adopted in accordance with this  
3 section shall apply to lands not contained within the forest  
4 reserve boundaries as established on January 31, 1957, or as  
5 subsequently amended.

6           Zoning in all counties shall be accomplished within the  
7 framework of a long-range, comprehensive general plan prepared  
8 or being prepared to guide the overall future development of the  
9 county. Zoning shall be one of the tools available to the  
10 county to put the general plan into effect in an orderly manner.  
11 Zoning in the counties of Hawaii, Maui, and Kauai means the  
12 establishment of districts of such number, shape, and area, and  
13 the adoption of regulations for each district to carry out the  
14 purposes of this section. In establishing or regulating the  
15 districts, full consideration shall be given to all available  
16 data as to soil classification and physical use capabilities of  
17 the land to allow and encourage the most beneficial use of the  
18 land consonant with good zoning practices. The zoning power  
19 granted [~~herein~~] in this section shall be exercised by  
20 ordinance, which may relate to:



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





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

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

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

17 Nothing in this section shall invalidate any zoning  
18 ordinance or regulation adopted by any county or other agency of  
19 government pursuant to the statutes in effect [~~prior to~~] before  
20 July 1, 1957.



1           The powers granted [~~herein~~] in this section shall be  
2   liberally construed in favor of the county exercising them, and  
3   in [~~such~~] a manner [~~as to promote~~] that promotes the orderly  
4   development of each county or city and county in accordance with  
5   a long-range, comprehensive general plan to ensure the greatest  
6   benefit for the State as a whole. This section shall not be  
7   construed to limit or repeal any powers of any county to achieve  
8   these ends through zoning and building regulations, except  
9   insofar as forest and water reserve zones are concerned and as  
10  provided in subsections (c) [~~and~~], (d) [-], (g), and section  
11 46- .

12           Neither this section nor any ordinance enacted pursuant to  
13 this section shall prohibit the continued lawful use of any  
14 building or premises for any trade, industrial, residential,  
15 agricultural, or other purpose for which the building or  
16 premises is used at the time this section or the ordinance takes  
17 effect; provided that a zoning ordinance may provide for  
18 elimination of nonconforming uses as the uses are discontinued,  
19 or for the amortization or phasing out of nonconforming uses or  
20 signs over a reasonable period of time in commercial,  
21 industrial, resort, and apartment zoned areas only. In no event



1 shall [~~such~~] the amortization or phasing out of nonconforming  
2 uses apply to any existing building or premises used for  
3 residential (single-family or duplex) or agricultural uses.  
4 Nothing in this section shall affect or impair the powers and  
5 duties of the director of transportation as set forth in  
6 chapter 262.

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

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

15 (d) Neither this section nor any other law, county  
16 ordinance, or rule shall prohibit group living in facilities  
17 with eight or fewer residents for purposes or functions that are  
18 licensed, certified, registered, or monitored by the State;  
19 provided that a resident manager or a resident supervisor and  
20 the resident manager's or resident supervisor's family shall not  
21 be included in this resident count. These group living



1 facilities shall meet all applicable county requirements not  
2 inconsistent with the intent of this subsection, including but  
3 not limited to building height, setback, maximum lot coverage,  
4 parking, and floor area requirements.

5 (e) Neither this section nor any other law, county  
6 ordinance, or rule shall prohibit the use of land for employee  
7 housing and community buildings in plantation community  
8 subdivisions as defined in section 205-4.5(a)(12); in addition,  
9 no zoning ordinance shall provide for the elimination,  
10 amortization, or phasing out of plantation community  
11 subdivisions as a nonconforming use.

12 (f) Neither this section nor any other law, county  
13 ordinance, or rule shall prohibit the use of land for medical  
14 cannabis production centers or medical cannabis dispensaries  
15 established and licensed pursuant to chapter 329D; provided that  
16 the land is otherwise zoned for agriculture, manufacturing, or  
17 retail purposes.

18 (g) Notwithstanding any other law, county charter, county  
19 ordinance, or rule, any administrative authority to accept,  
20 reject, and approve or deny any application for subdivision,  
21 consolidation, or resubdivision of a parcel of land that has



1 been fully zoned for residential use within the state urban  
2 district designated pursuant to section 205-2 shall be vested  
3 with the director of the county agency responsible for land use  
4 or a single county officer designated by ordinance; provided  
5 that:

6 (1) The parcel of land being subdivided is not located on  
7 a site that is:

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

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

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

14 (D) A habitat for protected or endangered species;

15 (E) Within a state historic district:

16 (i) Listed on the Hawaii register of historic  
17 places or national register of historic  
18 places;

19 (ii) Listed as a historic property on the Hawaii  
20 register of historic places or the national  
21 register of historic places; or





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

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

- 9 (1) The level of public facility capital improvements  
10 required to appropriately serve a development, based  
11 on a needs assessment study that identifies:
- 12 (A) Deficiencies in existing public facilities;
  - 13 (B) The means, other than impact fees, by which  
14 existing deficiencies will be eliminated within a  
15 reasonable period of time; and
  - 16 (C) Additional demands anticipated to be placed on  
17 specified public facilities by a development;
- 18 (2) The availability of other funding for public facility  
19 capital improvements, including but not limited to  
20 user charges, taxes, bonds, intergovernmental  
21 transfers, and special taxation or assessments;



- 1           (3) The cost of existing public facility capital
- 2                   improvements;
- 3           (4) The methods by which existing public facility capital
- 4                   improvements were financed;
- 5           (5) The extent to which a developer required to pay impact
- 6                   fees has contributed in the previous five years to the
- 7                   cost of existing public facility capital improvements
- 8                   and received no reasonable benefit therefrom, and any
- 9                   credits that may be due to a development because of
- 10                  ~~[such]~~ the contributions;
- 11           (6) The extent to which a developer required to pay impact
- 12                   fees over the next twenty years may reasonably be
- 13                   anticipated to contribute to the cost of existing
- 14                   public facility capital improvements through user
- 15                   fees, debt service payments, or other payments, and
- 16                   any credits that may accrue to a development because
- 17                   of future payments; ~~[and]~~
- 18           (7) The extent to which a developer is required to pay
- 19                   impact fees as a condition precedent to the
- 20                   development of non-site related public facility





1 capital improvements, and any offsets payable to a  
2 developer because of this provision[-]; and

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

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

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

14 PART IV

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

17 SECTION 6. This Act shall take effect on upon its  
18 approval.



**Report Title:**

Counties; Zoning; Accessory Dwelling Units; Urban District;  
Subdivision; Consolidation; Resubdivision; Parcels;  
Residentially Zoned Lots; Impact Fees Assessment; Calculation

**Description:**

Part I: Requires the counties, no later than 12/31/2026, to adopt or amend an ordinance to allow at least two accessory dwelling units, subject to certain restrictions, on all residentially zoned lots. Prohibits private covenants for residentially zoned lots within an urban district from limiting the number of accessory dwelling units below the amount allowed pursuant to State law or the long-term rental of residential units. Part II: Requires any administrative authority to act on any application for subdivision, consolidation, or resubdivision for certain parcels to be vested in the director of the county agency responsible for land use or another county officer. Part III: Amends the calculation of impact fees for certain developments. (CD1)

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

