

A Bill for an Act to Amend Section 46-6, Hawaii Revised Statutes, Relating to Parks and Playgrounds for Subdivisions.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 46-6, Hawaii Revised Statutes, is hereby amended to read as follows:

“Sec. 46-6 Parks and playgrounds for subdivisions. (a) Except as hereinafter provided, each county shall adopt ordinances to require a subdivider, as a condition to approval of a subdivision to provide land in perpetuity or to dedicate land for park and playground purposes, for the use of purchasers or occupants of lots or units in subdivisions. The ordinances may prescribe the instances when land shall be provided in perpetuity or dedicated, the area, location, grade, and other state of the sites so required to be provided or dedicated. In addition thereto, such ordinances may prescribe penalties or other remedies for violation of such ordinances.

(b) In lieu of providing land in perpetuity or dedicating land, the ordinances may permit a subdivider pursuant to terms and conditions set forth therein to:

- (1) Pay to the county a sum of money deemed adequate by the county to purchase the park land he would otherwise have had to provide or dedicate; or
- (2) Combine the payment of money with land to be provided or dedicated, the value of such combination to be as deemed adequate by the county to purchase the total amount of land he would otherwise have had to provide or dedicate.

The method of determining such full or partial payment shall be prescribed by the ordinances. The ordinances shall also provide that such money shall be used for the purpose of providing parks and playgrounds for the use of purchasers or occupants of lots or units in the subdivision. Each county may establish by ordinance a time limit within which it must spend the park dedication fees it has collected.

(c) Pursuant to terms, conditions, and limitations specified by the ordinances, a subdivider shall receive credit:

- (1) For privately-owned and maintained parks and playgrounds;
- (2) For lands dedicated or provided for park and playground purposes prior to the effective date of the ordinances.

(d) Upon the provision of land in perpetuity or the dedication of land by the subdivider as may be required under this section, the county concerned shall thereafter assume the cost of improvements and their maintenance, and the subdivider shall accordingly be relieved from such costs.

(e) The ordinances adopted pursuant to this section may provide, where special circumstances, conditions, and needs within the respective counties so warrant, for such exemptions and exclusions as the councils of the respective counties may deem necessary or appropriate and may also prescribe the extent to and the circumstances under which the requirements therein shall or shall not be applicable to subdivisions.

(f) For purposes of this section certain terms used herein shall be defined as follows:

- (1) "Approval" means the final approval granted to a proposed subdivision where the actual division of land into smaller parcels is sought, provided that where construction of a building or buildings is proposed without further subdividing an existing parcel of land, the term "approval" shall refer to the issuance of the building permit.
- (2) "Dwelling unit" means a room or rooms connected together, constituting an independent housekeeping unit for a family and containing a single kitchen.
- (3) "Lodging unit" means a room or rooms connected together, constituting an independent housekeeping unit for a family which does not contain any kitchen.
- (4) "Parks and playgrounds" mean areas used for active or passive recreational pursuits.
- (5) "Subdivider" means any person who divides land as specified under the definition of subdivision or who constructs a building or group of buildings containing or divided into three or more dwelling units or lodging units.
- (6) "Subdivision" means the division of improved or unimproved land into two or more lots, parcels, sites, or other divisions of land and for the purpose, whether immediate or future, of sale, lease, rental, transfer of title to, or interest in, any or all such lots, parcels, sites, or division of land. The term includes resubdivision, and when appropriate to the context, shall relate to the land subdivided. The term also includes a building or group of buildings, other than a hotel, containing or divided into three or more dwelling units or lodging units.
- (7) "Privately owned parks and playgrounds" mean parks or playgrounds and their facilities which are not provided in perpetuity or dedicated but which are owned and maintained by or on behalf of the ultimate users of the subdivision pursuant to recorded restrictive covenants. Where the privately owned park is a part of the lot or lots on which a building or group of buildings containing or divided into three or more dwelling units or lodging units is constructed, it shall not be required that the private park or playground meet county subdivision standards nor shall the area of the private park or playground be deducted from the area of the lot or lots for purposes of zoning or building requirements."

SECTION 2. Statutory material to be repealed is bracketed. New material is

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underscored.*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 8, 1979.)

*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.