
A BILL FOR AN ACT

RELATING TO SMART GROWTH.

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

1 SECTION 1. The legislature finds that given Hawaii's
2 limited natural resources, the implementation of smart growth
3 principles, including the preservation of open space, is crucial
4 to the sustainability of the islands. There are ten principles
5 of smart growth:

- 6 (1) Creating a range of housing opportunities and choices;
7 (2) Creating walkable neighborhoods;
8 (3) Encouraging community and stakeholder collaboration;
9 (4) Fostering distinctive, attractive communities with a
10 strong sense of place;
11 (5) Making development decisions predictable, fair, and
12 cost effective;
13 (6) Mixing land uses;
14 (7) Preserving open space, farmland, natural beauty, and
15 critical environmental areas;
16 (8) Providing a variety of transportation choices;
17 (9) Strengthening and directing development toward
18 existing communities; and



1 (10) Taking advantage of compact building design.
2 Smart growth principles are successful when government
3 makes systemic changes that are consistent with community
4 planning and development, as well as land preservation. Several
5 other states have implemented successful programs. Maryland has
6 implemented a series of legislation promoting smart growth and
7 Florida has implemented a greenways and trails program to
8 provide recreational opportunities.

9 The purpose of this Act is to promote smart growth and
10 sustainability by requiring:

- 11 (1) The department of land and natural resources to
12 establish a system of greenways and trails; and
13 (2) The office of planning to:
14 (A) Develop and promote the use of smart growth
15 principles in new and existing communities; and
16 (B) Coordinate smart growth planning with the
17 department of land and natural resources with
18 respect to the statewide greenways and trails
19 system program.

20 SECTION 2. Chapter 198D, Hawaii Revised Statutes, is
21 amended by adding a new part to read as follows:

22



1 **"PART II. STATEWIDE GREENWAYS AND TRAILS SYSTEM**

2 **§198D-A Definitions.** For the purpose of this part:

3 "Greenway" means a linear open space established along
4 either a natural corridor, such as a riverfront, stream valley,
5 or ridgeline, or a canal, scenic road, or other route; any
6 natural or landscaped course for pedestrian or bicycle passage;
7 an open space connector linking parks, nature reserves, cultural
8 features, or historic sites with each other and populated areas;
9 or a local strip or linear park designated as a parkway or
10 greenbelt.

11 "Trails" means linear corridors and any adjacent support
12 parcels on land or water providing public access for recreation
13 or authorized alternative modes of transportation.

14 **§198D-B Establishment.** (a) The department shall develop
15 a statewide greenways and trails system that shall consist of
16 individual greenways and trails and networks of greenways and
17 trails. Mapping or other forms of identification of lands and
18 waterways suitable for inclusion in the system of greenways and
19 trails, mapping of ecological characteristics for any purpose,
20 or development of information for planning purposes shall not
21 constitute designation. No lands or waterways may be designated



1 as part of the statewide greenways and trails system without the
2 specific written consent of the landowner.

3 (b) Planning materials, maps, data, and other information
4 developed or used in the program shall not be construed as
5 designation of lands as part of the statewide greenways and
6 trails system. Identification of lands in such information
7 shall not:

- 8 (1) Require or empower any state or county agency to
9 impose additional or more restrictive environmental,
10 land use, or zoning laws, ordinances, or rules;
- 11 (2) Be construed to adopt, enforce, or amend any
12 environmental law, ordinance, or rule; comprehensive
13 plan goals, policies, or objectives; or zoning or land
14 use ordinance or law;
- 15 (3) Be used as the basis for permit denial, imposition of
16 any permit condition, or application of any law,
17 ordinance, or rule by any subdivision of state or
18 county government; or
- 19 (4) Be construed by any governmental agency to reduce or
20 restrict the rights of owners and lands identified.

21 **§198D-C Coordination.** The department shall coordinate
22 with state or county agencies that may be affected by the



1 designation of lands in the statewide greenways and trails
2 system. The department shall also coordinate with the office of
3 planning for purposes of smart growth planning.

4 **§198D-D Rules.** The department may adopt rules pursuant to
5 chapter 91 necessary to implement the statewide greenways and
6 trails system."

7 SECTION 3. Chapter 225M, Hawaii Revised Statutes, is
8 amended by adding a new section to be appropriately designated
9 and to read as follows:

10 "§225M- Smart growth coordination. (a) The office of
11 planning shall coordinate efforts to incorporate the principles
12 of smart growth in new and existing communities in the state,
13 including:

14 (1) Gathering and disseminating information to the public,
15 including the counties, nonprofit organizations, and
16 developers, on how to develop projects that are
17 consistent with the principles of smart growth;

18 (2) Providing a single point of access for individuals or
19 organizations that need assistance or guidance in
20 navigating the processes and regulations of the state
21 agencies on projects that are consistent with the
22 principles of smart growth; and



1 (3) Coordinating the efforts of the governor and executive
2 branch to provide input to the legislature on
3 legislation that concerns smart growth and
4 neighborhood conservation.

5 (b) The principles of smart growth are:

6 (1) Creating a range of housing opportunities and choices;

7 (2) Creating walkable neighborhoods;

8 (3) Encouraging community and stakeholder collaboration;

9 (4) Fostering distinctive, attractive communities with a
10 strong sense of place;

11 (5) Making development decisions predictable, fair, and
12 cost effective;

13 (6) Mixing land uses;

14 (7) Preserving open space, farmland, natural beauty, and
15 critical environmental areas;

16 (8) Providing a variety of transportation choices;

17 (9) Strengthening and directing development toward
18 existing communities; and

19 (10) Taking advantage of compact building design.

20 (c) The office of planning shall submit annual reports to
21 the legislature no later than twenty days prior to the convening
22 of each regular session on the activities of the office and the



1 implementation of smart growth projects in the preceding
2 calendar year."

3 SECTION 4. Chapter 198D, Hawaii Revised Statutes, is
4 amended as follows:

5 1. By amending its title to read:

6 "CHAPTER 198D
7 HAWAII STATEWIDE TRAIL [~~AND~~], ACCESS, AND GREENWAYS [~~SYSTEM~~]
8 SYSTEMS"

9 2. By designating sections 198D-1 to 198D-13 as part I and
10 adding a title before section 198D-1 to read:

11 "PART I. HAWAII STATEWIDE TRAIL AND ACCESS PROGRAM"

12 3. By amending section 198D-1 to read:

13 "[+]§198D-1[+] **Definitions.** For the purpose of this
14 [~~chapter+~~] part:

15 "Access" means an easement or way:

16 (1) Over which the general public has the right to travel;

17 and

18 (2) Which is used by the general public or intended for

19 use by the general public primarily to reach or depart

20 a public beach, shore, park, trail, or other public

21 recreational area.



1 It includes a lateral easement along the shoreline, coastline,
2 or beach.

3 "Department" means the department of land and natural
4 resources.

5 "Trail" means an identifiable linear course used primarily
6 for or used to get a recreational, educational, or inspirational
7 experience. It includes [7] but is not limited to:

- 8 (1) A corridor trail, which is a designated route,
9 segregated from a highway, providing a continuous
10 linkage between or among major urban areas, fragmented
11 accesses, and major trail areas;
- 12 (2) A segment or connector trail, which is a designated
13 route from one locale to another; and
- 14 (3) A special use trail, which is a designated course for
15 a special activity or function."

16 4. By amending subsection (a) of section 198D-7.5 to read:

17 "(a) The department may enter into agreements with owners
18 of public or private land to further the purposes of this
19 [~~chapter.~~] part. Agreements between the State and an owner may
20 provide that the State will defend the owner, its affiliates,
21 and their respective heirs, executors, administrators,
22 representatives, successors, trustees, guardians, assigns,



1 lessees, officers, directors, stockholders, employees, agents,
2 and partners, from claims made by public users of the owner's
3 land."

4 5. By amending section 198D-9 to read:

5 "§198D-9 Other powers and duties of department. The
6 department:

7 (1) May establish signing and design standards for
8 classifications of trails and accesses;

9 (2) Shall establish advisory councils to solicit advice
10 and assistance in the implementation of the trail and
11 access program. The appointment of members to
12 advisory councils shall be made by the department. If
13 advisory councils are established, the members of the
14 advisory councils shall serve part-time and shall not
15 be compensated for official duties performed.

16 Advisory councils may be established on regional,
17 islandwide, countywide, or statewide bases. The
18 statewide council shall include representatives of
19 motorized, as well as nonmotorized trail users;

20 (3) Shall serve as the centralized information agency for
21 matters relating to the trail and access program;



- 1 (4) Shall coordinate its activities under this [~~chapter,~~
2 part, including its compilation of the inventories and
3 classifications of trails and accesses, with other
4 public agencies;
- 5 (5) Shall advise and, when able, assist other public
6 agencies in the development, construction, operation,
7 maintenance, and regulation of trails and accesses
8 under the other agencies' jurisdiction;
- 9 (6) Shall advocate before the legislature, governor, and
10 public agencies, for the implementation of the trail
11 and access program; and
- 12 (7) Shall submit an annual report to the governor and
13 legislature on activities engaged in under this
14 chapter; provided that the annual report shall include
15 a comprehensive description of the status of the trail
16 and access program and the financial information
17 specified in section 198D-2(b)."

18 6. By amending section 198D-10 to read:

19 "~~§~~198D-10 ~~§~~ **Limitation on chapter's provisions.** (a)
20 Nothing in this [~~chapter~~] part shall be construed as conferring
21 or imposing upon the department any rights, powers, and duties
22 over:



1 (1) Lands not under its jurisdiction; or

2 (2) The activities of other public agencies; except if
3 provided by other law or agreement.

4 (b) The designation as part of the statewide trail and
5 access system of trails and accesses, the use to which the
6 public has no rights, shall not be construed as establishing
7 public rights to use those trails and accesses."

8 7. By amending section 198D-11 to read:

9 "[+] §198D-11 [+] **Rules.** The department may adopt rules in
10 accordance with chapter 91 for the purposes of this [~~chapter.~~]
11 part."

12 8. By amending section 198D-12 to read:

13 "[+] §198D-12 [+] **General administrative penalties.** (a)
14 Except as otherwise provided by law, the board or its authorized
15 representative by proper delegation may set, charge, and collect
16 administrative fines or bring legal action to recover
17 administrative fees and costs as documented by receipts or
18 affidavit, including attorneys' fees and costs; or bring legal
19 action to recover administrative fines, fees, and costs,
20 including attorneys' fees and costs, or payment for damages or
21 for the cost to correct damages resulting from a violation of



1 this [~~chapter~~] part or any rule adopted pursuant to this
2 [~~chapter.~~] part. The administrative fines shall be as follows:
3 (1) For a first violation, a fine of not more than \$2,500;
4 (2) For a second violation within five years of a previous
5 violation, a fine of not more than \$5,000; and
6 (3) For a third or subsequent violation within five years
7 of the last violation, a fine of not more than
8 \$10,000.

9 (b) Any criminal action against a person for any violation
10 of this [~~chapter~~] part or any rule adopted pursuant to this
11 [~~chapter~~] part shall not be deemed to preclude the State from
12 pursuing civil legal action to recover administrative fines and
13 costs against that person. Any civil legal action against a
14 person to recover administrative fines and costs for any
15 violation of this [~~chapter~~] part or any rule adopted pursuant to
16 this [~~chapter~~] part shall not be deemed to preclude the State
17 from pursuing any criminal action against that person."

18 9. By amending section 198D-13 to read:

19 "[~~+~~]§198D-13[~~+~~] **Criminal penalties.** (a) In addition to
20 any other penalties, any person violating this [~~chapter,~~] part,
21 any rule adopted pursuant to this [~~chapter,~~] part, or the terms
22 and conditions of any permit issued in accordance with this



1 ~~[chapter]~~ part shall be guilty of a petty misdemeanor and shall
2 be fined not less than:

3 (1) \$100 for a first offense;

4 (2) \$200 for a second offense; and

5 (3) \$500 for a third or subsequent offense.

6 (b) The fines specified in this section shall not be
7 suspended or waived. Each day of each violation shall
8 constitute a separate offense.

9 (c) Any criminal action against a person for any violation
10 of this ~~[chapter]~~ part or any rule adopted pursuant to this
11 ~~[chapter]~~ part shall not be deemed to preclude the State from
12 pursuing civil legal action to recover administrative fines and
13 costs against that person. Any civil legal action against a
14 person to recover administrative fines and costs for any
15 violation of this ~~[chapter]~~ part or any rule adopted pursuant to
16 this ~~[chapter]~~ part shall not be deemed to preclude the State
17 from pursuing any criminal action against that person."

18 SECTION 5. Section 225M-1, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "§225M-1 Purpose. The purpose of this chapter is to
21 establish an office of planning to assist the governor and the
22 director of business, economic development, and tourism in



1 maintaining an overall framework to guide the development of the
2 State through a continuous process of comprehensive, long-range,
3 and strategic planning to meet the physical, economic, and
4 social needs of Hawaii's people, and provide for the wise use of
5 Hawaii's resources in a coordinated, efficient, and economical
6 manner, including the conservation of those natural,
7 environmental, recreational, scenic, historic, and other limited
8 and irreplaceable resources which are required for future
9 generations.

10 The establishment of an office of planning in the
11 department of business, economic development, and tourism, for
12 administrative purposes, is intended to:

- 13 (1) Fix responsibility and accountability to successfully
14 carry out statewide planning programs, policies, and
15 priorities;
- 16 (2) Improve the efficiency and effectiveness of the
17 operations of the executive branch; ~~and~~
- 18 (3) Ensure comprehensive planning and coordination to
19 enhance the quality of life of the people of
20 Hawaii[-]; and
- 21 (4) Develop and promote the use of smart growth principles
22 in new and existing communities."



1 SECTION 6. Section 225M-2, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) The office of planning shall gather, analyze, and
4 provide information to the governor to assist in the overall
5 analysis and formulation of state policies and strategies to
6 provide central direction and cohesion in the allocation of
7 resources and effectuation of state activities and programs and
8 effectively address current or emerging issues and
9 opportunities. More specifically, the office shall engage in
10 the following activities:

- 11 (1) State comprehensive planning and program coordination.
12 Formulating and articulating comprehensive statewide
13 goals, objectives, policies, and priorities, and
14 coordinating their implementation through the
15 statewide planning system established in part II of
16 chapter 226;
- 17 (2) Strategic planning. Identifying and analyzing
18 significant issues, problems, and opportunities
19 confronting the State, and formulating strategies and
20 alternative courses of action in response to
21 identified problems and opportunities by:



- 1 (A) Providing in-depth policy research, analysis, and
2 recommendations on existing or potential areas of
3 critical state concern;
- 4 (B) Examining and evaluating the effectiveness of
5 state programs in implementing state policies and
6 priorities;
- 7 (C) Monitoring through surveys, environmental
8 scanning, and other techniques--current social,
9 economic, and physical conditions and trends; and
- 10 (D) Developing, in collaboration with affected public
11 or private agencies and organizations,
12 implementation plans and schedules and, where
13 appropriate, assisting in the mobilization of
14 resources to meet identified needs;
- 15 (3) Planning coordination and cooperation. Facilitating
16 coordinated and cooperative planning and policy
17 development and implementation activities among state
18 agencies and between the state, county, and federal
19 governments, by:
- 20 (A) Reviewing, assessing, and coordinating, as
21 necessary, major plans, programs, projects, and



- 1 regulatory activities existing or proposed by
2 state and county agencies;
- 3 (B) Formulating mechanisms to simplify, streamline,
4 or coordinate interagency development and
5 regulatory processes; and
- 6 (C) Recognizing the presence of federal defense and
7 security forces and agencies in the [State] state
8 as important state concerns;
- 9 (4) Statewide planning and geographic information system.
10 Collecting, integrating, analyzing, maintaining, and
11 disseminating various forms of data and information,
12 including geospatial data and information, to further
13 effective state planning, policy analysis and
14 development, and delivery of government services by:
- 15 (A) Collecting, assembling, organizing, evaluating,
16 and classifying existing geospatial and non-
17 geospatial data and performing necessary basic
18 research, conversions, and integration to provide
19 a common database for governmental planning and
20 geospatial analyses by state agencies;
- 21 (B) Planning, coordinating, and maintaining a
22 comprehensive, shared statewide planning and



1 geographic information system and associated
2 geospatial database. The office shall be the
3 lead agency responsible for coordinating the
4 maintenance of the multi-agency, statewide
5 planning and geographic information system and
6 coordinating, collecting, integrating, and
7 disseminating geospatial data sets that are used
8 to support a variety of state agency applications
9 and other spatial data analyses to enhance
10 decision making. The office shall promote and
11 encourage free and open data sharing among and
12 between all government agencies. To ensure the
13 maintenance of a comprehensive, accurate, up-to-
14 date geospatial data resource that can be drawn
15 upon for decision making related to essential
16 public policy issues such as land use planning,
17 resource management, homeland security, and the
18 overall health, safety, and well-being of
19 Hawaii's citizens, and to avoid redundant data
20 development efforts, state agencies shall provide
21 to the shared system either their respective
22 geospatial databases or, at a minimum, especially



1 in cases of secure or confidential data sets that
2 cannot be shared or must be restricted, metadata
3 describing existing geospatial data. In cases
4 where agencies provide restricted data, the
5 office of planning shall ensure the security of
6 that data; and

7 (C) Maintaining a centralized depository of state and
8 national planning references;

9 (5) Land use planning. Developing and presenting the
10 position of the State in all boundary change petitions
11 and proceedings before the land use commission,
12 assisting state agencies in the development and
13 submittal of petitions for land use district boundary
14 amendments, and conducting periodic reviews of the
15 classification and districting of all lands in the
16 [~~State,~~] state, as specified in chapter 205;

17 (6) Coastal and ocean policy management. Carrying out the
18 lead agency responsibilities for the Hawaii coastal
19 zone management program, as specified in chapter 205A.
20 Also, developing and maintaining an ocean and coastal
21 resources information, planning, and management system
22 further developing and coordinating implementation of



1 the ocean resources management plan, and formulating
2 ocean policies with respect to the exclusive economic
3 zone, coral reefs, and national marine sanctuaries;

4 (7) Regional planning and studies. Conducting plans and
5 studies to determine:

6 (A) The capability of various regions within the
7 [State] state to support projected increases in
8 both resident populations and visitors;

9 (B) The potential physical, social, economic, and
10 environmental impact on these regions resulting
11 from increases in both resident populations and
12 visitors;

13 (C) The maximum annual visitor carrying capacity for
14 the [State] state by region, county, and island;
15 and

16 (D) The appropriate guidance and management of
17 selected regions and areas of statewide critical
18 concern.

19 The studies in subparagraphs (A) to (C) shall be
20 conducted at appropriate intervals, but not less than
21 once every five years; [~~and~~]



- 1 (8) Smart growth. Developing, planning, and coordinating
2 the implementation of smart growth principles,
3 including infill development;
- 4 (9) Statewide greenways and trails system. Coordinating
5 with the department of land and natural resources
6 pursuant to section 198D-C for purposes of smart
7 growth planning as it relates to the statewide
8 greenways and trails system program developed pursuant
9 to section 198D-B; and
- 10 ~~(8)~~ (10) Regional, national, and international planning.
11 Participating in and ensuring that state plans,
12 policies, and objectives are consistent, to the extent
13 practicable, with regional, national, and
14 international planning efforts."

15 SECTION 7. In codifying the new sections added by section
16 2 of this Act, the revisor of statutes shall substitute
17 appropriate section numbers for the letters used in designating
18 the new sections in this Act.

19 SECTION 8. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.

21 SECTION 9. This Act shall take effect on July 1, 2020.



Report Title:
Smart Growth; Land Preservation; Greenways and Trails

Description:

Requires the Department of Land and Natural Resources to establish a system of greenways and trails. Requires the Office of Planning to coordinate smart growth planning. Effective 07/01/2020. (HB2527 HD1)

