
A BILL FOR AN ACT

RELATING TO SMART GROWTH.

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

PART I

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

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



1 (9) Strengthening and directing development toward

2 existing communities; and

3 (10) Taking advantage of compact building design.

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

11 The purpose of this part is to promote smart growth and
12 sustainability by requiring the office of planning to develop
13 and promote the use of smart growth principles in new and
14 existing communities.

15 SECTION 2. Chapter 225M, Hawaii Revised Statutes, is
16 amended by adding a new section to be appropriately designated
17 and to read as follows:

18 "§225M- Smart growth coordination. (a) The office of
19 planning shall coordinate efforts to incorporate the principles
20 of smart growth in new and existing communities in the State,
21 including:



- 1 (1) Gathering and disseminating information to the public,
2 including the counties, nonprofit organizations, and
3 developers, on how to develop projects that are
4 consistent with the principles of smart growth;
- 5 (2) Providing a single point of access for individuals or
6 organizations that need assistance or guidance in
7 navigating the processes and regulations of the state
8 agencies on projects that are consistent with the
9 principles of smart growth; and
- 10 (3) Coordinating the efforts of the governor and executive
11 branch to provide input to the legislature on
12 legislation that concerns smart growth and
13 neighborhood conservation.
- 14 (b) The principles of smart growth are:
- 15 (1) Creating a range of housing opportunities and choices;
16 (2) Creating walkable neighborhoods;
17 (3) Encouraging community and stakeholder collaboration;
18 (4) Fostering distinctive, attractive communities with a
19 strong sense of place;
- 20 (5) Making development decisions predictable, fair, and
21 cost effective;
- 22 (6) Mixing land uses;



- 1 (7) Preserving open space, farmland, natural beauty, and
- 2 critical environmental areas;
- 3 (8) Providing a variety of transportation choices;
- 4 (9) Strengthening and directing development toward
- 5 existing communities; and
- 6 (10) Taking advantage of compact building design.
- 7 (c) The office of planning shall submit annual reports to
- 8 the legislature no later than twenty days prior to the convening
- 9 of each regular session on the activities of the office and the
- 10 implementation of smart growth projects in the preceding
- 11 calendar year."

12 SECTION 3 Section 225M-1, Hawaii Revised Statutes, is

13 amended to read as follows:

14 **"§225M-1 Purpose.** The purpose of this chapter is to

15 establish an office of planning to assist the governor and the

16 director of business, economic development, and tourism in

17 maintaining an overall framework to guide the development of the

18 State through a continuous process of comprehensive, long-range,

19 and strategic planning to meet the physical, economic, and

20 social needs of Hawaii's people, and provide for the wise use of

21 Hawaii's resources in a coordinated, efficient, and economical

22 manner, including the conservation of those natural,



1 environmental, recreational, scenic, historic, and other limited
2 and irreplaceable resources [~~which~~] that are required for future
3 generations.

4 The establishment of an office of planning in the
5 department of business, economic development, and tourism, for
6 administrative purposes, is intended to:

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

17 SECTION 4. Section 225M-2, Hawaii Revised Statutes, is
18 amended by amending subsection (b) to read as follows:

19 "(b) The office of planning shall gather, analyze, and
20 provide information to the governor to assist in the overall
21 analysis and formulation of state policies and strategies to
22 provide central direction and cohesion in the allocation of



1 resources and effectuation of state activities and programs and
2 effectively address current or emerging issues and
3 opportunities. More specifically, the office shall engage in
4 the following activities:

5 (1) State comprehensive planning and program coordination.
6 Formulating and articulating comprehensive statewide
7 goals, objectives, policies, and priorities, and
8 coordinating their implementation through the
9 statewide planning system established in part II of
10 chapter 226;

11 (2) Strategic planning. Identifying and analyzing
12 significant issues, problems, and opportunities
13 confronting the State, and formulating strategies and
14 alternative courses of action in response to
15 identified problems and opportunities by:

16 (A) Providing in-depth policy research, analysis, and
17 recommendations on existing or potential areas of
18 critical state concern;

19 (B) Examining and evaluating the effectiveness of
20 state programs in implementing state policies and
21 priorities;



- 1 (C) Monitoring through surveys, environmental
- 2 scanning, and other techniques--current social,
- 3 economic, and physical conditions and trends; and
- 4 (D) Developing, in collaboration with affected public
- 5 or private agencies and organizations,
- 6 implementation plans and schedules and, where
- 7 appropriate, assisting in the mobilization of
- 8 resources to meet identified needs;
- 9 (3) Planning coordination and cooperation. Facilitating
- 10 coordinated and cooperative planning and policy
- 11 development and implementation activities among state
- 12 agencies and between the state, county, and federal
- 13 governments, by:
- 14 (A) Reviewing, assessing, and coordinating, as
- 15 necessary, major plans, programs, projects, and
- 16 regulatory activities existing or proposed by
- 17 state and county agencies;
- 18 (B) Formulating mechanisms to simplify, streamline,
- 19 or coordinate interagency development and
- 20 regulatory processes; and



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



1 coordinating, collecting, integrating, and
2 disseminating geospatial data sets that are used
3 to support a variety of state agency applications
4 and other spatial data analyses to enhance
5 decision making. The office shall promote and
6 encourage free and open data sharing among and
7 between all government agencies. To ensure the
8 maintenance of a comprehensive, accurate, up-to-
9 date geospatial data resource that can be drawn
10 upon for decision making related to essential
11 public policy issues such as land use planning,
12 resource management, homeland security, and the
13 overall health, safety, and well-being of
14 Hawaii's citizens, and to avoid redundant data
15 development efforts, state agencies shall provide
16 to the shared system either their respective
17 geospatial databases or, at a minimum, especially
18 in cases of secure or confidential data sets that
19 cannot be shared or must be restricted, metadata
20 describing existing geospatial data. In cases
21 where agencies provide restricted data, the



1 office of planning shall ensure the security of
2 that data; and
3 (C) Maintaining a centralized depository of state and
4 national planning references;
5 (5) Land use planning. Developing and presenting the
6 position of the State in all boundary change petitions
7 and proceedings before the land use commission,
8 assisting state agencies in the development and
9 submittal of petitions for land use district boundary
10 amendments, and conducting periodic reviews of the
11 classification and districting of all lands in the
12 State, as specified in chapter 205;
13 (6) Coastal and ocean policy management. Carrying out the
14 lead agency responsibilities for the Hawaii coastal
15 zone management program, as specified in chapter 205A.
16 Also, developing and maintaining an ocean and coastal
17 resources information, planning, and management system
18 further developing and coordinating implementation of
19 the ocean resources management plan, and formulating
20 ocean policies with respect to the exclusive economic
21 zone, coral reefs, and national marine sanctuaries;



1 (7) Regional planning and studies. Conducting plans and
2 studies to determine:

3 (A) The capability of various regions within the
4 State to support projected increases in both
5 resident populations and visitors;

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

10 (C) The maximum annual visitor carrying capacity for
11 the State by region, county, and island; and

12 (D) The appropriate guidance and management of
13 selected regions and areas of statewide critical
14 concern.

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

18 (8) Smart growth. Developing, planning, and coordinating
19 the implementation of smart growth principles,
20 including infill development; and

21 [+8+] (9) Regional, national, and international planning.

22 Participating in and ensuring that state plans,



1 policies, and objectives are consistent, to the extent
2 practicable, with regional, national, and
3 international planning efforts."

4 **PART II**

5 SECTION 5. The legislature finds that Hawaii is a unique
6 and beautiful State that is largely dependent on the importation
7 of fuel, food, and supplies to sustain its economy and
8 communities. In 2005, the legislature enacted Act 8, Special
9 Session Laws of Hawaii 2005, to establish the Hawaii 2050
10 sustainability task force. The task force was established to
11 review the Hawaii state plan and other fundamental components of
12 community planning; to develop a Hawaii 2050 sustainability plan
13 to address the real, serious, and immediate problems the State
14 faces today; and recommend various solutions to preserve and
15 maintain a healthy future for the State.

16 Since then, the interest in the concept of sustainability
17 has grown through the efforts of the task force, state and
18 county departments and agencies, local businesses and community
19 groups, and community engagement programs and projects. Private
20 industries and developers have introduced technology and
21 concepts that can assist communities to become more sustainable
22 and independent with minimal detrimental effects to the



1 environment and the economy. Sustainability has transformed
2 from the conceptual stage to an actual lifestyle that can be
3 achieved, but only through a comprehensive joint effort with the
4 government and the community.

5 A prime example of this sustainable lifestyle is the
6 soldier and family housing developments at Schofield Barracks on
7 Oahu where Army Hawaii Family Housing and its managing partner
8 Actus Lend Lease of Hawaii have merged the concept of
9 sustainability with community development. The residential
10 developments that are currently being constructed incorporate
11 the following sustainability initiatives:

- 12 (1) Energy efficiency:
 - 13 (A) Windows of the homes are dual glazed with low
 - 14 e-tinting to reflect heat away from the home to
 - 15 keep it cool inside;
 - 16 (B) Walls of the homes are insulated and constructed
 - 17 to sustain hurricane force winds;
 - 18 (C) Appliances are energy efficient (ENERGY STAR
 - 19 refrigerators and dishwashers) and installed in
 - 20 all homes;



- 1 (D) Compact fluorescent lighting fixtures and bulbs
- 2 are installed to save the amount of electricity
- 3 used;
- 4 (E) Roofs have radiant barriers to reflect heat back
- 5 and are insulated to keep the inside of the home
- 6 cool, and vents are installed to allow natural
- 7 airflow throughout the homes;
- 8 (F) Photovoltaic panels on garage roofs and solar
- 9 water heating devices are installed to
- 10 collectively generate thirty per cent of the
- 11 electricity needs for the entire project; and
- 12 (G) An army metering program is being implemented
- 13 that meters the electricity and water use on all
- 14 military buildings and homes, where practicable,
- 15 and charges military housing residents for
- 16 electricity and water to encourage residents to
- 17 track their electricity and water usage and to
- 18 save money and conserve;
- 19 (2) Comprehensive recycling program:
- 20 (A) Crushed building slabs, asphalt, curbs, and
- 21 sidewalks from demolition are used for structural
- 22 fill under new buildings and streets. Ninety-



- 1 seven per cent of the materials from the
2 demolition of the previous residential homes at
3 Schofield Barracks have been recycled;
- 4 (B) Reclaimed rebar, metal fencing, and miscellaneous
5 metals from demolition are bundled and sent to
6 local metal recyclers;
- 7 (C) Trees that are not reserved are ground for wood
8 chips and sent to composting sites;
- 9 (D) Rain gutters and downspouts divert water away
10 from homes and are used for landscaping needs;
- 11 (E) Used appliances from previous residential homes
12 are donated to local charities; and
- 13 (F) A weekly curbside recycling program for paper,
14 metal, and glass is being implemented;
- 15 (3) Water conservation:
- 16 (A) A water irrigation policy is in force;
- 17 (B) Leak detection and repair projects on water mains
18 are being implemented; and
- 19 (C) An aquifer management plan is in force; and
- 20 (4) Comprehensive wastewater treatment program:
- 21 (A) The wastewater treatment system is designed to R1
22 control zone standards; and



1 (B) The R1 water is being used for landscaping and
2 vehicle washing.

3 The Simpson Wisser Community at Fort Shafter on Oahu has
4 been selected by the United States Green Building Council to
5 participate in the Leadership in Energy and Environmental Design
6 Neighborhood Development Pilot Program. This pilot program will
7 incorporate the principles of smart growth, new urbanism, and
8 green building and is expected to break ground in the spring of
9 2008. These remarkable sustainability initiatives emphasize
10 that developing a sustainable community is beyond the conceptual
11 stage and is now a reality.

12 The purpose of this part is to establish a process by which
13 developers of residential communities may elect to develop
14 sustainable communities in the State and to provide incentives
15 for developers to do so.

16 SECTION 6. The Hawaii Revised Statutes is amended by
17 adding a new chapter to title 13 to be appropriately designated
18 and to read as follows:

19 **"CHAPTER**

20 **SUSTAINABLE COMMUNITIES**

21 **§ -1 Sustainable communities; established; objectives.**

22 (a) To maintain and preserve a healthy quality of life and



1 environment for Hawaii's future generations, the State, in a
2 combined effort with all state departments and agencies, shall
3 assist in the development and maintenance of sustainable
4 communities that will:

- 5 (1) Generate their own energy onsite by utilizing
6 alternative energy sources to fulfill a large
7 percentage of their energy requirements, and become
8 less reliant on imported fossil fuels;
- 9 (2) Implement extensive recycling programs for their solid
10 waste management and avoid adding more waste to
11 landfills that further pollution and other harmful
12 effects to the environment;
- 13 (3) Implement an extensive wastewater recycling and
14 treatment management system that will enable the
15 communities to conserve water and protect waters in
16 and around the State;
- 17 (4) Implement an extensive water conservation management
18 system that will enable the communities to conserve
19 water and protect waters in and around the State;
- 20 (5) Protect and preserve open space;
- 21 (6) Promote and encourage visitation to nearby cultural or
22 historic sites, public beaches, shores, trails, and



1 other outdoor recreational areas by not restricting
2 public access to these areas;

3 (7) Provide affordable housing units for residents to
4 enable them to stay in Hawaii and provide shelter for
5 their families; and

6 (8) Educate and promote awareness that sustainability is
7 more than a concept, but a lifestyle that can be
8 achieved and implemented in the daily lives of Hawaii
9 residents.

10 (b) Any developer of a residential community with a
11 development plan for fifty or more residential units for which
12 general planning, development, and construction is commenced
13 after December 31, 2008, shall have the option of developing the
14 residential community in a manner that fulfills the criteria
15 prescribed under this chapter. If a developer elects to be
16 subject to this chapter, the developer, upon approval, shall be
17 able to engage in an expedited permit process under
18 section -4.

19 **§ -2 Applicability.** (a) This chapter shall only apply
20 to a residential community with a development plan for fifty or
21 more residential units for which general planning, development,
22 and construction is commenced after December 31, 2008, and for



1 which the project developer has elected to be subject to this
2 chapter and has notified the energy resources coordinator, in
3 accordance with section -3, to engage in the expedited permit
4 process provided under this chapter.

5 (b) This chapter shall apply to all state departments and
6 agencies with the authority to grant any permit necessary to
7 assist in the development and maintenance of a sustainable
8 community pursuant to:

9 (1) An executed written development agreement between the
10 energy resources coordinator, on behalf of the ad hoc
11 development advisory committee under section -3 and
12 the developer; and

13 (2) Notice of the agreement from the energy resources
14 coordinator pursuant to section -4.

15 **§ -3 Energy resources coordinator; ad hoc development**

16 **advisory committee convenor.** (a) Prior to a developer engaging
17 in the expedited permit process under this chapter, the energy
18 resources coordinator shall convene an ad hoc development
19 advisory committee only when a developer of the residential
20 community plan has submitted written notice to the energy
21 resources coordinator that includes:



1 (1) A detailed draft project development plan that
2 proposes to develop fifty or more residential units
3 within the proposed community of which general
4 planning, development, and construction will commence
5 after December 31, 2008; and

6 (2) A statement of the developer's interest and
7 willingness to comply with the sustainability
8 requirements of this chapter.

9 (b) The ad hoc development advisory committee shall
10 convene to:

11 (1) Explore all applicable types of available programs and
12 resources that promote energy and resource
13 conservation and a self sustaining community; and

14 (2) Determine the feasibility of each type of program and
15 resource in developing an integrated plan for a
16 sustainable residential community on any proposed
17 tract of land that fulfills the requirements under
18 this chapter.

19 (c) The members of the advisory committee shall consist
20 of:

21 (1) The residential community developer;

22 (2) The energy resources coordinator;



- 1 (3) The director of planning from the county in which the
- 2 development is planned for or the director's designee;
- 3 (4) The director of the office of planning or the
- 4 director's designee;
- 5 (5) The director of health or the director's designee;
- 6 (6) The deputy for water resource management of the
- 7 department of land and natural resources or the
- 8 deputy's designee; and
- 9 (7) The executive director of the Hawaii housing finance
- 10 and development corporation or the executive
- 11 director's designee.
- 12 (d) The energy resources coordinator shall be the
- 13 chairperson of the advisory committee.
- 14 (e) The agreed upon sustainability plans and programs that
- 15 fulfill the requirements under this chapter shall be
- 16 incorporated in an integrated plan for a sustainable residential
- 17 community on any proposed tract of land and shall be reduced to
- 18 writing in a sustainability agreement, which shall be part of
- 19 the executed development agreement. Any other development
- 20 requirements established and agreed upon between the energy
- 21 resources coordinator, on behalf of an ad hoc development



1 advisory committee, and the developer shall be in writing and
2 shall be included in the executed development agreement.

3 **§ -4 Expedited permit process; notice and agreement.**

4 Upon the convening and approval of the ad hoc development
5 advisory committee and the execution of a written development
6 agreement pursuant to -3, including the sustainability
7 agreement, the energy resources coordinator shall notify any
8 applicable state departments and agencies to allow the project
9 developer of fifty or more residential units within the proposed
10 community of which general planning, development, and
11 construction will commence after December 31, 2008, to
12 participate in the expedited permit process.

13 **§ -5 State department and agency cooperation and**
14 **compliance; required.** Each state department and agency shall
15 cooperate and comply with any request made pursuant to this
16 chapter from the energy resources coordinator. Each department
17 and agency shall prioritize the energy resources coordinator's
18 request and expedite the processing thereof.

19 **§ -6 Community energy requirements. (a)**

20 Notwithstanding any provision under chapter 196 to the contrary,
21 the energy resources coordinator shall advise and coordinate
22 with other state departments and agencies and a developer who



1 has agreed to be subject to this chapter to develop a plan on a
2 case-by-case basis that will enable a residential community in
3 Hawaii to generate at least fifty per cent of all of its energy
4 requirements for the entire community under development,
5 including residential homes, areas, and services provided for
6 and used by the entire community under development.

7 (b) The energy resources coordinator shall develop a plan
8 for the developer's implementation that explores all types of
9 energy resources, as defined under section 196-2, and determine
10 which resources are the most feasible for the community under
11 development to use to meet its energy needs and energy
12 generating requirements under this section.

13 (c) The energy resources coordinator shall cooperate and
14 coordinate with all applicable state departments or agencies to
15 expedite the application process for all permits relating to
16 generating energy and, upon the execution of a written
17 development agreement pursuant to section -3, allow the state
18 department or agency three hundred sixty days to review and
19 decide on the permit application. If the three hundred sixty-
20 day time period has expired on a state permit application and no
21 decision has been rendered, the permit shall be deemed approved.



1 **§ -7 Community solid waste management requirements.** (a)

2 Notwithstanding any provision under chapter 342G to the
3 contrary, the director of health shall advise, cooperate, and
4 coordinate with other applicable state departments and agencies
5 and a developer who has agreed to be subject to this chapter to
6 develop a plan on a case-by-case basis that will enable a
7 residential community in Hawaii to implement a comprehensive
8 recycling program. The goal of the plan shall be to enable the
9 community to divert at least seventy-five per cent of its solid
10 waste from the landfills.

11 (b) The solid waste management plan shall include
12 provisions for recycling, bioconversion, and composting,
13 including recycling provisions for building or structure
14 demolition. The plan shall also provide safety measures for the
15 proper disposal and treatment of hazardous waste or materials
16 with hazardous components under chapter 342J. The director of
17 health shall explore all types of recycling programs and
18 determine which programs are the most feasible for the community
19 under development to implement and fulfill its solid waste
20 management requirements under this section.

21 (c) Notwithstanding any provision relating to permits
22 under chapter 342H or any other applicable chapter to the



1 contrary, the department of health shall expedite the
2 application process for any permit application from a developer
3 of a residential community that has agreed to be subject to this
4 chapter and, upon the execution of a written development
5 agreement pursuant to section -3, shall have three hundred
6 sixty days to review and decide on the permit application. If
7 the three hundred sixty-day time period has expired on a permit
8 application and no decision has been rendered, the permit shall
9 be deemed approved.

10 **§ -8 Community wastewater treatment and recycling.** (a)

11 Notwithstanding any provision under chapter 342D to the
12 contrary, the director of health shall advise and coordinate
13 with other applicable state departments and agencies and a
14 developer who has agreed to be subject to this chapter to
15 develop a plan on a case-by-case basis that will enable a
16 residential community in Hawaii to implement a wastewater
17 treatment and recycling plan.

18 (b) The goal of the plan shall be to enable the community
19 under development to treat and recycle all of its wastewater for
20 landscaping water requirements onsite of the community and any
21 agricultural water irrigation requirements offsite of the
22 community. The plan shall provide safety measures for the



1 proper treatment and disposal of wastewater that may contain
2 hazardous materials under chapter 342J. The director of health
3 shall explore all types of wastewater treatment and recycling
4 programs and determine which programs are the most feasible for
5 the community under development to fulfill its wastewater
6 treatment and recycling requirements under this section.

7 (c) Notwithstanding any provision relating to permits
8 under chapter 342D or any other applicable section to the
9 contrary, the department of health shall expedite the
10 application process for any permit application from a developer
11 of a residential community who has agreed to be subject to this
12 chapter and, upon the execution of a written development
13 agreement pursuant to section -3, shall have three hundred
14 sixty days to review and decide on the permit application. If
15 the three hundred sixty-day time period has expired on a permit
16 application and no decision has been rendered, the permit shall
17 be deemed approved.

18 § -9 Water conservation management. (a)
19 Notwithstanding any provision under chapter 174C to the
20 contrary, the deputy for water resource management for the
21 department of land and natural resources shall advise and
22 coordinate with other applicable state departments and agencies



1 and a developer who has agreed to be subject to this chapter to
2 develop a plan on a case-by-case basis that will enable a
3 residential community in Hawaii to implement a water
4 conservation management plan.

5 (b) The purpose of the plan is to enable the community
6 under development to conserve water by using various methods,
7 including rain water harvesting to be used for landscaping, non-
8 potable uses, low flow toilets, and showers. The commission on
9 water resource management for the department of land and natural
10 resources shall explore all types of water conservation programs
11 and determine which programs are the most feasible for the
12 community under development to fulfill its water conservation
13 requirements under this section.

14 (c) Notwithstanding any provision relating to permits
15 under chapter 174C or any other applicable section to the
16 contrary, the commission on water resource management for the
17 department of land and natural resources shall expedite the
18 application process for any permit application from a developer
19 of a residential community who has agreed to be subject to this
20 chapter and, upon the execution of a written development
21 agreement pursuant to section -3, shall have three hundred
22 sixty days to review and decide on the permit application. If



1 the three hundred sixty-day time period has expired on a permit
2 application and no decision has been rendered, the permit shall
3 be deemed approved.

4 **§ -10 Community land use and planning.** (a)

5 Notwithstanding any provision under chapter 205 to the contrary,
6 the developer of any residential community in Hawaii who has
7 agreed to be subject to this chapter shall coordinate with the
8 land use commission and shall cooperate and coordinate with
9 other state departments and agencies to develop a residential
10 community land use plan that is in compliance with this chapter.

11 (b) The development plan for the residential community
12 shall include but not be limited to:

13 (1) Designate at least fifty per cent of the entire tract
14 of land for the residential community for open space;
15 provided that:

16 (A) Open space shall not include areas designated for
17 golf courses; and

18 (B) Open space shall include the shoreline, if the
19 planned community abuts and includes shoreline
20 space;



1 (2) A design plan that allows the community to be
2 accessible by the public and shall not include a gated
3 community; and

4 (3) Allow free and open access to any nearby cultural or
5 historic sites, public beaches, shore, parks, trails,
6 or other public recreational areas.

7 (c) The land use commission may amend any existing urban
8 or rural land use designation of land on which the residential
9 community is planned to be situated upon to provide for the open
10 space requirements under subsection (b) within three hundred
11 sixty-days from the filing of the request to amend the land use
12 designation. If the three hundred sixty-day time period has
13 expired and no decision has been rendered, the amendment to the
14 land use designation shall be deemed approved.

15 **§ -11 Community affordable units.** (a) Notwithstanding
16 any provision under chapter 201H to the contrary, the developer
17 of a residential community in Hawaii who has agreed to be
18 subject to this chapter shall cooperate and coordinate with the
19 Hawaii housing finance and development corporation, as
20 necessary, to develop and implement a residential housing plan
21 that will designate and reserve at least thirty per cent of all



1 of its residential units within the planned community for
2 affordable housing units.

3 (b) The Hawaii housing finance and development corporation
4 shall coordinate with any state department or agency to expedite
5 the application process for any permit application of a
6 residential community that is subject to this chapter and
7 relating to affordable residential unit development to assist
8 the department or agency subject in, upon the execution of a
9 written development agreement pursuant to section -3, meeting
10 the three hundred sixty-day permit processing time period
11 requirement to review and decide on a permit application. If
12 the three hundred sixty-day time period has expired on a permit
13 application and no decision has been rendered, the permit shall
14 be deemed approved.

15 § -12 **Occupancy; requirement.** Upon completion of the
16 development, occupancy of the completed residential community
17 shall not occur until the energy resources coordinator has
18 approved the completed project and determined that the project
19 is in compliance with the sustainability agreement included in
20 the written development agreement pursuant to section -3.

21 § -13 **Community association; established.** Within one
22 year after occupancy of a residential community that is subject



1 to this chapter, the residents of the residential community
2 shall establish a community association. The community
3 association shall serve in an administrative capacity and adopt
4 rules and bylaws, and shall consist of homeowners and renters of
5 the residential community.

6 § -14 Failure to comply; penalty; enforcement. (a) The
7 energy resources coordinator shall monitor the developer or
8 residential community that is subject to this chapter to ensure
9 that compliance to the written development agreement and the
10 sustainability agreement of the residential community are met.

11 (b) If, up until one year after occupancy of a residential
12 community that is subject to this chapter, or at any point prior
13 to occupancy, the energy resources coordinator determines that a
14 developer is not in compliance with this chapter, the energy
15 resources coordinator may fine the developer for noncompliance
16 and may require the developer to suspend development until the
17 noncompliance is remedied.

18 (c) If noncompliance with this chapter subsequently occurs
19 one year after occupancy of the residential community that is
20 subject to this chapter, the energy resources coordinator may
21 enforce the requirements of this chapter against the community's
22 association.



1 (d) The energy resources coordinator shall establish fines
2 and penalties for noncompliance with this chapter under rules
3 adopted pursuant to chapter 91.

4 § -15 **Energy resources coordinator.** For purposes of
5 this chapter, the energy resources coordinator shall be the
6 director of business, economic development, and tourism, as
7 provided under section 196-3.

8 § -16 **Rules.** The department of business, economic
9 development, and tourism, the department of health, the
10 commission on water resource management, the Hawaii housing
11 finance and development corporation, and the land use commission
12 shall adopt rules, as necessary, in accordance with chapter 91
13 to carry out the purposes of this chapter."

14 **PART III**

15 SECTION 7. (a) The office of planning shall develop a
16 plan to establish a statewide system for greenways and trails
17 that shall consist of individual greenways and trails, and
18 networks of greenways and trails.

19 (b) The office of planning shall:

20 (1) Coordinate with the department of transportation and
21 the department of land and natural resources in its



1 efforts to develop a plan for a greenways and trails
2 statewide system;

3 (2) Seek input from the counties regarding:

4 (A) The establishment of a greenways and trails
5 system for each county;

6 (B) The areas in each county that may be appropriate
7 to designate as a greenway or trail; and

8 (C) The various impediments to establishing a
9 greenways or trails system in each county;

10 (3) Investigate and explore other jurisdictions that have
11 established and implemented a greenways and trails
12 system;

13 (4) Investigate and consider, in consultation with the
14 department of transportation, the use of
15 transportation enhancement funds to establish and
16 implement a greenways and trails statewide system; and

17 (5) Establish a timeline in implementing a statewide
18 greenways and trails system.

19 (c) The office of planning shall submit a written report
20 to the legislature of its findings and recommendations,
21 including any proposed legislation, no later than twenty days
22 prior to the 2009 regular session.



1 **PART IV**

2 SECTION 8. Statutory material to be repealed is bracketed
3 and stricken. New statutory material is underscored.

4 SECTION 9. This Act shall take effect on July 1, 2050.



Report Title:
Smart Growth; Greenways and Trails; Sustainable Communities

Description:

Requires the Office of Planning to develop a plan to establish a statewide system of greenways and trails. Requires the Office of Planning to coordinate smart growth planning. Establishes sustainable communities in Hawaii with the combined effort of state departments and agencies. (SD1)

