
A BILL FOR AN ACT

RELATING TO SUSTAINABILITY.

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

1 SECTION 1. The legislature finds that Hawaii is a unique
2 and beautiful State that is largely dependent on the importation
3 of fuel, food, and supplies to sustain its economy and
4 communities. In 2005, the legislature enacted Act 8, Special
5 Session Laws of Hawaii 2005, to establish the Hawaii 2050
6 sustainability task force. The task force was established to
7 review the Hawaii state plan and other fundamental components of
8 community planning, and to develop a Hawaii 2050 sustainability
9 plan to address the real, serious, and immediate problems the
10 State faces today and recommend various solutions to preserve
11 and maintain a healthy future for the State.

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



1 the 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 The purpose of this Act is to establish a process by which
6 developers of residential communities may elect to develop
7 sustainable communities in the State and to provide incentives
8 for doing so.

9 SECTION 2. The Hawaii Revised Statutes is amended by
10 adding a new chapter to title 13 to be appropriately designated
11 and to read as follows:

12 "CHAPTER

13 SUSTAINABLE COMMUNITIES

14 § -1 Sustainable communities; established; objectives.

15 (a) To maintain and preserve a healthy quality of life and
16 environment for Hawaii's future generations, the State, in a
17 combined effort with all state departments and agencies, shall
18 assist in the development and maintenance of sustainable
19 communities that will:

20 (1) Generate their own energy onsite by utilizing
21 alternative energy sources to fulfill a large



- 1 percentage of their energy requirements, and become
2 less reliant on imported fossil fuels;
- 3 (2) Implement extensive recycling programs for their solid
4 waste management and avoid adding more waste to
5 landfills, that can result in further pollution and
6 other harmful effects to the environment;
- 7 (3) Implement an extensive wastewater recycling and
8 treatment management system that will enable the
9 communities to conserve water and protect waters in
10 and around the State;
- 11 (4) Implement an extensive water conservation management
12 system that will enable the communities to conserve
13 water and protect waters in and around the State;
- 14 (5) Protect and preserve open space;
- 15 (6) Promote and encourage visitation to any nearby
16 cultural or historic sites, public beaches, shores,
17 trails, and other outdoor recreational areas by not
18 restricting public access to these areas;
- 19 (7) Provide affordable housing units for residents to
20 enable them to stay in this State and provide shelter
21 for their families; and



1 (8) Educate and promote awareness that sustainability is
2 more than a concept, but a lifestyle that can be
3 achieved and implemented in the daily lives of state
4 residents.

5 (b) Any developer of a residential community with a
6 development plan for fifty or more residential units for which
7 general planning, development, and construction has commenced
8 after December 31, 2009, shall have the option of developing the
9 residential community in a manner that fulfills the criteria
10 prescribed under this chapter. If a developer elects to be
11 subject to this chapter, the developer shall be able, upon
12 approval, to engage in an expedited permit process under section
13 -3.

14 § -2 **Applicability.** This chapter shall only apply to
15 any residential community with a development plan for fifty or
16 more residential units for which general planning, development,
17 and construction has commenced after December 31, 2009, and for
18 which the project developer has elected to be subject to this
19 chapter and has notified the energy resources coordinator, in
20 accordance with section -3, to engage in the expedited permit
21 process provided under this chapter.



1 § -3 **Expedited permit process; notice and agreement.** To
2 engage in the expedited permit process under this chapter for
3 the development of a residential sustainable community for fifty
4 of more residential units, a developer shall provide written
5 notice that includes detailed project development plans to the
6 energy resources coordinator under section 196-3, who is the
7 director of business, economic development, and tourism. The
8 notification shall also include, in writing, a sustainability
9 agreement executed between the energy resources coordinator and
10 developer and shall include a statement of the developer's
11 willingness to comply with the sustainability requirements of
12 this chapter. The energy resources coordinator shall notify any
13 applicable state departments and agencies to allow the project
14 developer to participate in the expedited permit process upon
15 any executed written development agreement that contains the
16 sustainability agreement between the energy resources
17 coordinator, on behalf of an ad hoc development advisory
18 committee under section -11, and the developer.

19 § -4 **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 this State for which general planning, development, and
4 construction has commenced after December 31, 2009, to generate
5 at least fifty per cent of all of its energy requirements for
6 the entire community under development, including but not
7 limited to residential homes and areas and services provided for
8 and used by the entire community under development.

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

15 (c) The energy resources coordinator shall cooperate and
16 coordinate with any state department or agency to expedite the
17 application process for any permits relating to generating
18 energy, and allow the state department or agency three hundred
19 sixty days to review and decide on the permit application. If
20 the three hundred sixty-day time period has expired on a state
21 permit application and no decision has been rendered, the permit
22 shall be deemed approved.



1 (d) The energy resources coordinator shall adopt rules in
2 accordance with chapter 91 to carry out the purposes of this
3 chapter.

4 § -5 **State department and agency cooperation and**
5 **compliance; required.** Each state department and agency shall
6 cooperate and comply with any request made pursuant to this
7 chapter from the energy resources coordinator. The department
8 or agency shall prioritize the energy resources coordinator's
9 request and expedite the processing thereof.

10 § -6 **Community solid waste management requirements.** (a)
11 Notwithstanding any provision under chapter 342G to the
12 contrary, the director of health shall advise and coordinate
13 with other state departments and agencies and a developer who
14 has agreed to be subject to this chapter to develop a plan on a
15 case-by-case basis that will enable a residential community in
16 this State for which general planning, development, and
17 construction has commenced after December 31, 2009, to implement
18 a comprehensive recycling program. The purpose of the plan
19 shall be to enable the community to divert at least seventy-five
20 per cent of its solid waste from the landfills.

21 (b) The solid waste management plan shall include
22 provisions for recycling, bioconversion, and composting,



1 including recycling provisions for building or structure
2 demolition. The plan shall also provide safety measures for the
3 proper disposal and treatment of hazardous waste or materials
4 with hazardous components under chapter 342J. The director of
5 health shall explore all types of recycling programs and
6 determine which programs are the most feasible for the community
7 under development to implement and fulfill its solid waste
8 management requirements under this section.

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

18 (d) The director of health shall adopt rules in accordance
19 with chapter 91 to carry out the purposes of this chapter.

20 **§ -7 Community wastewater treatment and recycling.** (a)

21 Notwithstanding any provision under chapter 342D to the
22 contrary, the director of health shall advise and coordinate



1 with other state departments and agencies and a developer who
2 has agreed to be subject to this chapter to develop a plan on a
3 case-by-case basis that will enable a residential community in
4 this State for which general planning, development, and
5 construction has commenced after December 31, 2009, to implement
6 a wastewater treatment and recycling plan.

7 (b) The purpose of the plan is to enable the community
8 under development to treat and recycle all of its wastewater for
9 landscaping water requirements onsite of the community and any
10 agricultural water irrigation requirements offsite of the
11 community. The plan shall also provide safety measures for the
12 proper treatment and disposal of wastewater that may contain
13 hazardous materials under chapter 342J. The director of health
14 shall explore all types of wastewater treatment and recycling
15 programs, and determine which programs are the most feasible for
16 the community under development to fulfill its wastewater
17 treatment and recycling requirements under this section.

18 (c) Notwithstanding any provision relating to permits
19 under chapter 342D or any other applicable section to the
20 contrary, the department of health shall expedite the
21 application process for any permit application from a developer
22 of a residential community who has agreed to be subject to this



1 chapter and have three hundred sixty days to review and decide
2 on the permit application. If the three hundred sixty-day time
3 period has expired on a permit application and no decision has
4 been rendered, the permit shall be deemed approved.

5 (d) The director of health shall adopt rules in accordance
6 with chapter 91 to carry out the purposes of this chapter.

7 § -8 **Water conservation management.** (a)

8 Notwithstanding any provision under chapter 174C to the
9 contrary, the chairperson of the board of land and natural
10 resources shall advise and coordinate with other state
11 departments and agencies and a developer who has agreed to be
12 subject to this chapter to develop a plan on a case-by-case
13 basis that will enable a residential community in this State for
14 which general planning, development, and construction has
15 commenced after December 31, 2009, to implement a water
16 conservation management plan.

17 (b) The purpose of the plan is to enable the community
18 under development to conserve water by using various methods,
19 including but not limited to rain water harvesting to use for
20 landscaping, non-potable uses, low flow toilets, and showers.
21 The chairperson of the board of land and natural resources shall
22 explore all types of water conservation programs, and determine



1 which programs are the most feasible for the community under
2 development to fulfill its water conservation requirements under
3 this section.

4 (c) Notwithstanding any provision relating to permits
5 under chapter 174C or any other applicable section to the
6 contrary, the commission on water resource management shall
7 expedite the application process for any permit application from
8 a developer of a residential community who has agreed to be
9 subject to this chapter and have three hundred sixty days to
10 review and decide on the permit application. If the three
11 hundred sixty-day time period has expired on a permit
12 application and no decision has been rendered, the permit shall
13 be deemed approved.

14 (d) The chairperson of the board of land and natural
15 resources shall adopt rules in accordance with chapter 91 to
16 carry out the purposes of this chapter.

17 **§ -9 Community land use and planning.** (a)

18 Notwithstanding any provision under chapter 205 to the contrary,
19 the developer of any residential community in this State for
20 which general planning, development, and construction has
21 commenced after December 31, 2009, and who has agreed to be
22 subject to this chapter shall coordinate with the land use



1 commission and shall cooperate and coordinate with other state
2 departments and agencies to develop a residential community land
3 use plan that is in compliance with this chapter.

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

6 (1) Designate at least fifty per cent of the entire tract
7 of land for the residential community for open space;
8 provided that:

9 (A) Open space shall not include areas designated for
10 golf courses; and

11 (B) Open space shall include the shoreline, if the
12 planned community abuts and includes shoreline
13 space;

14 (2) Be designed with the intent to be accessible by the
15 public and shall not be designed to be a gated
16 community; and

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

20 (c) The land use commission may amend any existing urban
21 or rural land use designation of land on which the residential
22 community is planned to be situated to provide for the open



1 space requirements under subsection (b) within three hundred
2 sixty-days from the filing of the request to amend the land use
3 designation. If the three hundred sixty-day time period has
4 expired and no decision has been rendered, the amendment to the
5 land use designation shall be deemed approved.

6 (d) The land use commission shall adopt rules in
7 accordance with chapter 91 to carry out the purposes of this
8 chapter.

9 § -10 **Community affordable units.** (a) Notwithstanding
10 any provision under chapter 201H to the contrary, the developer
11 of a residential community in this State for which the general
12 planning, development, and construction has commenced after
13 December 31, 2009, and who has agreed to be subject to this
14 chapter shall cooperate and coordinate with the Hawaii housing
15 finance and development corporation, as necessary, to develop
16 and implement a residential housing plan that will designate and
17 reserve at least thirty per cent of all of its residential units
18 within the planned community for affordable housing units.

19 (b) The Hawaii housing finance and development corporation
20 shall coordinate with any state department or agency to expedite
21 the application process for any permit application of a
22 residential community that is subject to this chapter and



1 relating to affordable residential unit development to allow any
 2 department or agency subject to the three hundred sixty-day
 3 permit processing time period imposed under this chapter to
 4 review and decide on a permit application. If the three hundred
 5 sixty-day time period has expired on a permit application and no
 6 decision has been rendered, the permit shall be deemed approved.

7 (c) The Hawaii housing finance and development corporation
 8 shall adopt rules in accordance with chapter 91 to carry out the
 9 purposes of this chapter.

10 § -11 **Energy resources coordinator; ad hoc development**

11 **advisory committee convenor.** (a) The energy resources
 12 coordinator shall convene ad hoc development advisory committees
 13 to determine the feasibility of developing an integrated plan
 14 for a sustainable residential community on any proposed tract of
 15 land that fulfills the requirements under this chapter. The
 16 advisory committees shall convene only when the residential
 17 community plan proposes to develop fifty or more residential
 18 units within the proposed community, and the general planning,
 19 development, and construction has commenced after December 31,
 20 2009.

21 (b) The members of the advisory committee shall consist
 22 of:



- 1 (1) The residential community developer;
- 2 (2) The energy resources coordinator;
- 3 (3) The director of planning from the county in which the
- 4 development is planned for or the director's designee;
- 5 (4) The director of the office of planning or the
- 6 director's designee;
- 7 (5) The director of health or the director's designee; and
- 8 (6) The energy resources coordinator of the Hawaii housing
- 9 finance and development corporation or the energy
- 10 resources coordinator's designee.

11 The energy resources coordinator in paragraph (2) shall be the
 12 chairperson of the advisory committee.

13 (c) Any development requirements established and agreed
 14 upon between the energy resources coordinator, on behalf of an
 15 ad hoc development advisory committee and the developer shall be
 16 reduced in writing and shall be included in any executed
 17 development agreement.

18 § -12 **Community association; established.** Within one
 19 year after the completion of development of a residential
 20 community that is subject to this chapter, the residents of the
 21 residential community shall establish a community association.



1 The community association shall serve in an administrative
2 capacity and adopt rules and bylaws.

3 § -13 **Failure to comply; penalty; enforcement.** (a) The
4 energy resources coordinator shall monitor the compliance of any
5 developer or residential community that is subject to this
6 chapter.

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

15 (c) If noncompliance with this chapter occurs one year
16 after completion of the residential community that is subject to
17 this chapter, or at any time subsequent to one year after the
18 development of the community is completed, the energy resources
19 coordinator may enforce the requirements of this chapter against
20 the residential community's community 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 SECTION 3. This Act shall take effect on July 1, 2009, and
5 shall be repealed on June 30, 2014.

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INTRODUCED BY: *Chris K. Orr*

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JAN 22 2009



Report Title:

Sustainable Communities

Description:

Establishes sustainable communities in Hawaii with the combined effort of state departments and agencies.

