
A BILL FOR AN ACT

RELATING TO PLANNING.

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 depends heavily on the import of fuel,
3 food, and supplies to sustain its economy and communities. In
4 2005, the legislature enacted Act 8, Special Session Laws of
5 Hawaii 2005, to establish the Hawaii 2050 sustainability task
6 force. The task force was established to review the Hawaii
7 state plan and other fundamental components of community
8 planning; develop a Hawaii 2050 sustainability plan to address
9 the real, serious, and immediate problems the State faces today;
10 and recommend various solutions to preserve and maintain a
11 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 to become more sustainable
18 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 the interior cool;

16 (B) Walls of the homes are insulated and constructed
17 to withstand 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 interior of the
6 home cool, and vents are installed to allow
7 natural 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) A metering program is being implemented that
13 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 conserve and save money;

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;
- 20 and
- 21 (4) Comprehensive wastewater treatment program:



- 1 (A) The wastewater treatment system is designed to R1
2 control zone standards; and
- 3 (B) The R1 water is being used for landscaping and
4 vehicle washing.

5 The Simpson Wisser community at Fort Shafter on Oahu has
6 been selected by the United States Green Building Council to
7 participate in the leadership in energy and environmental design
8 neighborhood development pilot program. This pilot program will
9 incorporate the principles of smart growth, new urbanism, and
10 green building and is expected to break ground in the spring of
11 2008. These remarkable sustainability initiatives emphasize
12 that developing a sustainable community is beyond the conceptual
13 stage and is now a reality.

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

18 SECTION 2. The Hawaii Revised Statutes is amended by
19 adding a new chapter to be appropriately designated and to read
20 as follows:

21



1 "CHAPTER

2 SUSTAINABLE COMMUNITIES

3 § -1 Sustainable communities; established; objectives.

4 (a) To maintain and preserve a healthy quality of life and
5 environment for Hawaii's future generations, the State, in a
6 combined effort with all state departments and agencies, shall
7 assist in the development and maintenance of sustainable
8 communities that will:

9 (1) Generate their own energy onsite by using alternative
10 energy sources to fulfill a large percentage of their
11 energy requirements and become less reliant on
12 imported fossil fuels;

13 (2) Implement extensive recycling programs for their solid
14 waste management and avoid adding more waste to
15 landfills that increase pollution and other harmful
16 effects to the environment;

17 (3) Implement an extensive wastewater recycling and
18 treatment management system that will enable the
19 communities to conserve water and protect waters in
20 and around the State;



- 1 (4) Implement an extensive water conservation management
2 system that will enable the communities to conserve
3 water and protect waters in and around the State;
- 4 (5) Protect and preserve open space;
- 5 (6) Promote and encourage visitation to nearby cultural or
6 historic sites, public beaches, shores, trails, and
7 other outdoor recreational areas by not restricting
8 public access to these areas;
- 9 (7) Provide affordable housing units for residents to
10 enable them to stay in Hawaii and provide shelter for
11 their families; and
- 12 (8) Educate and promote awareness that sustainability is
13 not only a concept but also a lifestyle that can be
14 achieved and implemented in the daily lives of Hawaii
15 residents.
- 16 (b) Any developer of a residential community with a
17 development plan for fifty or more residential units for which
18 general planning, development, and construction is commenced
19 after December 31, 2011, shall have the option of developing the
20 residential community in a manner that fulfills the criteria
21 prescribed under this chapter. If a developer elects to be
22 subject to this chapter, the developer, upon approval, shall be



1 allowed to engage in an expedited permit process under
2 section -4.

3 **§ -2 Applicability.** (a) This chapter shall only apply
4 to a residential community with a development plan for fifty or
5 more residential units for which general planning, development,
6 and construction is commenced after December 31, 2011, and for
7 which the project developer has elected to be subject to this
8 chapter and has notified the energy resources coordinator, in
9 accordance with section -3, to engage in the expedited permit
10 process provided under this chapter.

11 (b) This chapter shall apply to all state departments and
12 agencies with the authority to grant any permit necessary to
13 assist in the development and maintenance of a sustainable
14 community pursuant to:

15 (1) An executed written development agreement between the
16 energy resources coordinator, on behalf of the ad hoc
17 development advisory committee under section -3 and
18 the developer; and

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

21 **§ -3 Energy resources coordinator; ad hoc development**
22 **advisory committee convenor.** (a) Prior to a developer's



1 engaging in the expedited permit process under this chapter, the
2 energy resources coordinator, established under section 196-3,
3 shall convene an ad hoc development advisory committee only when
4 a developer of the residential community plan has submitted
5 written notice to the energy resources coordinator that
6 includes:

7 (1) A detailed draft project development plan that
8 proposes to develop fifty or more residential units
9 within the proposed community of which general
10 planning, development, and construction will commence
11 after December 31, 2011; and

12 (2) A statement of the developer's intention and
13 willingness to comply with the sustainability
14 requirements of this chapter.

15 (b) The ad hoc development advisory committee shall
16 convene to:

17 (1) Explore all applicable types of available programs and
18 resources that promote energy and resource
19 conservation and a self-sustaining community; and

20 (2) Determine the feasibility of each type of program and
21 resource in developing an integrated plan for a
22 sustainable residential community on any proposed



1 tract of land that fulfills the requirements under
2 this chapter.

3 (c) The members of the ad hoc development advisory
4 committee shall consist of:

- 5 (1) The developer of the residential community;
- 6 (2) The energy resources coordinator;
- 7 (3) The director of planning of the county for which the
8 development is planned, or the director's designee;
- 9 (4) The director of the office of planning, or the
10 director's designee;
- 11 (5) The director of health, or the director's designee;
- 12 (6) The deputy for water resource management of the
13 department of land and natural resources, or the
14 deputy's designee; and
- 15 (7) The executive director of the Hawaii housing finance
16 and development corporation, or the executive
17 director's designee.

18 (d) The energy resources coordinator shall be the
19 chairperson of the ad hoc development advisory committee.

20 (e) The agreed upon sustainability plans and programs that
21 fulfill the requirements under this chapter shall be
22 incorporated in an integrated plan for a sustainable residential



1 community on any proposed tract of land and shall be reduced to
2 writing in a sustainability agreement, which shall be part of
3 the executed development agreement. Any other development
4 requirements established and agreed upon between the energy
5 resources coordinator, on behalf of the ad hoc development
6 advisory committee, and the developer shall be in writing and
7 shall be included in the executed development agreement.

8 **§ -4 Expedited permit process; notice and agreement.**

9 Upon the convening and approval of the ad hoc development
10 advisory committee and the execution of a written development
11 agreement pursuant to section -3, including the
12 sustainability agreement, the energy resources coordinator shall
13 notify any applicable state departments and agencies to allow
14 the developer of fifty or more residential units within the
15 proposed community for which general planning, development, and
16 construction will commence after December 31, 2011, to
17 participate in the expedited permit process.

18 **§ -5 State department and agency cooperation and**

19 **compliance; required.** Each state department and agency shall
20 cooperate and comply with any request made pursuant to this
21 chapter from the energy resources coordinator. Each department



1 and agency shall prioritize the energy resources coordinator's
2 request and expedite the processing thereof.

3 **§ -6 Community energy requirements.** (a)

4 Notwithstanding any provision under chapter 196 to the contrary,
5 the energy resources coordinator shall advise and coordinate
6 with other state departments and agencies and a developer who
7 has agreed to be subject to this chapter to develop a plan on a
8 case-by-case basis that will enable a residential community in
9 Hawaii to generate at least fifty per cent of all of its energy
10 requirements for the entire community under development,
11 including residential homes, areas, and services provided for
12 and used by the entire community under development.

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

19 (c) The energy resources coordinator shall cooperate and
20 coordinate with all applicable state departments or agencies to
21 expedite the application process for all permits relating to
22 generating energy and, upon the execution of a written



1 development agreement pursuant to section -3, allow the state
2 department or agency three hundred sixty days to review and
3 decide on the permit application. If the three-hundred-sixty-
4 day time period has expired on a state permit application and no
5 decision has been rendered, the permit shall be deemed approved.

6 **§ -7 Community solid waste management requirements.**

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

16 (b) The solid waste management plan shall include
17 provisions for recycling, bioconversion, and composting,
18 including recycling provisions for building or structure
19 demolition. The plan shall also provide safety measures for the
20 proper disposal and treatment of hazardous waste or materials
21 with hazardous components under chapter 342J. The director of
22 health shall explore all types of recycling programs and



1 determine which programs are the most feasible for the community
2 under development to implement and fulfill its solid waste
3 management requirements under this section.

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

14 **§ -8 Community wastewater treatment and recycling.** (a)
15 Notwithstanding any provision under chapter 342D to the
16 contrary, the director of health shall advise and coordinate
17 with other applicable state departments and agencies and a
18 developer who has agreed to be subject to this chapter to
19 develop a plan on a case-by-case basis that will enable a
20 residential community in Hawaii to implement a wastewater
21 treatment and recycling plan.



1 (b) The goal of the plan shall be to enable the community
2 under development to treat and recycle all of its wastewater for
3 landscaping water requirements on-site at the community and any
4 agricultural water irrigation requirements off-site from the
5 community. The plan shall provide safety measures for the
6 proper treatment and disposal of wastewater that may contain
7 hazardous materials under chapter 342J. The director of health
8 shall explore all types of wastewater treatment and recycling
9 programs and determine which programs are the most feasible for
10 the community under development to fulfill its wastewater
11 treatment and recycling requirements under this section.

12 (c) Notwithstanding any provision relating to permits
13 under chapter 342D or any other applicable law to the contrary,
14 the department of health shall expedite the application process
15 for any permit application from a developer of a residential
16 community who has agreed to be subject to this chapter and, upon
17 the execution of a written development agreement pursuant to
18 section -3, shall have 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 permit application and no
21 decision has been rendered, the permit shall be deemed approved.



1 **§ -9 Water conservation management. (a)**

2 Notwithstanding any provision under chapter 174C to the
3 contrary, the deputy for water resource management for the
4 department of land and natural resources shall advise and
5 coordinate with other applicable state departments and agencies
6 and a developer who has agreed to be subject to this chapter to
7 develop a plan on a case-by-case basis that will enable a
8 residential community in Hawaii to implement a water
9 conservation management plan.

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

19 (c) Notwithstanding any provision relating to permits
20 under chapter 174C or any other applicable law to the contrary,
21 the commission on water resource management for the department
22 of land and natural resources shall expedite the application



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

9 **§ -10 Community land use and planning. (a)**

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

16 (b) The development plan for the residential community
17 shall include:

18 (1) Designation of at least fifty per cent of the entire
19 tract of land for the residential community for open
20 space; provided that:

21 (A) Open space shall not include areas designated for
22 golf courses; and



1 (B) Open space shall include the shoreline, if the
2 planned community abuts and includes shoreline
3 space;

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

7 (3) Free and open access to any nearby cultural or
8 historic sites, public beaches, shore, parks, trails,
9 or other public recreational areas.

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

18 **§ -11 Community affordable units.** (a) Notwithstanding
19 any provision under chapter 201H to the contrary, the developer
20 of a residential community in Hawaii who has agreed to be
21 subject to this chapter shall cooperate and coordinate with the
22 Hawaii housing finance and development corporation, as



1 necessary, to develop and implement a residential housing plan
2 that will designate and reserve at least thirty per cent of all
3 of its residential units within the planned community for
4 affordable housing units.

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

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



1 **§ -13 Community association; established.** Within one
2 year after occupancy of a residential community that is subject
3 to this chapter, the residents of the residential community
4 shall establish a community association that shall consist of
5 homeowners and renters of the residential community. The
6 community association shall serve in an administrative capacity
7 and adopt rules and bylaws.

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

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

20 (c) If noncompliance with this chapter subsequently occurs
21 one year or more after occupancy of the residential community
22 that is subject to this chapter, the energy resources



1 coordinator may enforce the requirements of this chapter against
2 the residential community's association.

3 (d) The energy resources coordinator shall adopt rules and
4 establish fines and penalties, pursuant to chapter 91, for
5 noncompliance with this chapter.

6 § -15 Rules. The department of business, economic
7 development, and tourism, the department of health, the
8 commission on water resource management, the Hawaii housing
9 finance and development corporation, and the land use commission
10 shall adopt rules, as necessary, in accordance with chapter 91
11 to carry out the purposes of this chapter."

12 SECTION 3. If any provision of this Act, or the
13 application thereof to any person or circumstance is held
14 invalid, the invalidity does not affect other provisions or
15 applications of the Act, which can be given effect without the
16 invalid provision or application, and to this end the provisions
17 of this Act are severable.

18 SECTION 4. This Act shall take effect on July 1, 2011.

19

INTRODUCED BY: _____



JAN 26 2011



Report Title:

Development; Sustainability; Sustainable Communities

Description:

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

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

