

JAN 21 2011

---

---

# A BILL FOR AN ACT

RELATING TO COUNTY ZONING ORDINANCES.

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

1           SECTION 1. Section 46-4, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

3           "(a) This section and any ordinance, rule, or regulation  
4 adopted in accordance with this section shall apply to lands not  
5 contained within the forest reserve boundaries as established on  
6 January 31, 1957, or as subsequently amended.

7           Zoning in all counties shall be accomplished within the  
8 framework of a long-range, comprehensive general plan prepared  
9 or being prepared to guide the overall future development of the  
10 county. Zoning shall be one of the tools available to the  
11 county to put the general plan into effect in an orderly manner.  
12 Zoning in the counties of Hawaii, Maui, and Kauai means the  
13 establishment of districts of [~~such~~] (a) number, shape, and  
14 area, and the adoption of regulations as necessary for each  
15 district to carry out the purposes of this section. In  
16 establishing or regulating the districts, full consideration  
17 shall be given to all available data as to soil classification  
18 and physical use capabilities of the land to allow and encourage



1 the most beneficial use of the land consonant with good zoning  
2 practices. The zoning power granted herein shall be exercised  
3 by ordinance which may relate to:

- 4 (1) The areas within which agriculture, forestry,  
5 industry, trade, and business may be conducted;
- 6 (2) The areas in which residential uses may be regulated  
7 or prohibited;
- 8 (3) The areas bordering natural watercourses, channels,  
9 and streams, in which trades or industries, filling or  
10 dumping, erection of structures, and the location of  
11 buildings may be prohibited or restricted;
- 12 (4) The areas in which particular uses may be subjected to  
13 special restrictions; provided that no use shall be  
14 subject to restrictions requiring the provision of  
15 off-street parking and loading;
- 16 (5) The location of buildings and structures designed for  
17 specific uses and designation of uses for which  
18 buildings and structures may not be used or altered;
- 19 (6) The location, height, bulk, number of stories, and  
20 size of buildings and other structures;
- 21 (7) The location of roads, schools, and recreation areas;
- 22 (8) Building setback lines and future street lines;



- 1           (9) The density and distribution of population;
- 2           (10) The percentage of a lot that may be occupied, size of
- 3                 yards, courts, and other open spaces;
- 4           (11) Minimum and maximum lot sizes; and
- 5           (12) Other regulations the boards or city council find
- 6                 necessary and proper to permit and encourage the
- 7                 orderly development of land resources within their
- 8                 jurisdictions.

9           The council of any county shall prescribe rules,  
10 regulations, and administrative procedures and provide personnel  
11 it finds necessary to enforce this section and any ordinance  
12 enacted in accordance with this section. The ordinances may be  
13 enforced by appropriate fines and penalties, civil or criminal,  
14 or by court order at the suit of the county or the owner or  
15 owners of real estate directly affected by the ordinances.

16           Any civil fine or penalty provided by ordinance under this  
17 section may be imposed by the district court, or by the zoning  
18 agency after an opportunity for a hearing pursuant to chapter  
19 91 [~~The~~]; provided that an administrative proceeding shall not  
20 be a prerequisite for any injunctive relief ordered by the  
21 circuit court.

1           Nothing in this section shall invalidate any zoning  
2 ordinance or regulation adopted by any county or other agency of  
3 government pursuant to the statutes in effect prior to July 1,  
4 1957.

5           The powers granted [~~herein~~] pursuant to this section shall  
6 be liberally construed in favor of the county exercising them,  
7 and in [~~such~~] a manner [~~as to promote~~] that promotes the orderly  
8 development of each county or city and county in accordance with  
9 a long-range, comprehensive general plan to ensure the greatest  
10 benefit for the State as a whole. This section shall not be  
11 construed to limit or repeal any powers of any county to achieve  
12 these ends through zoning and building regulations, except  
13 insofar as forest and water reserve zones are concerned and as  
14 provided in subsections [~~(e) and~~] (d) [~~(-)~~] and (e).

15           Neither this section nor any ordinance enacted pursuant to  
16 this section shall prohibit the continued lawful use of any  
17 building or premises for any trade, industrial, residential,  
18 agricultural, or other purpose for which the building or  
19 premises is used at the time this section or the ordinance takes  
20 effect; provided that a zoning ordinance may provide for  
21 elimination of nonconforming uses as the uses are  
22 discontinued[~~7~~] or for the amortization or phasing out of



1 nonconforming uses or signs over a reasonable period of time in  
2 commercial, industrial, resort, and apartment zoned areas only.  
3 In no event shall ~~such~~ the amortization or phasing out of  
4 nonconforming uses apply to any existing building or premises  
5 used for residential, including ~~[+]single-family or duplex[+]~~,  
6 or agricultural uses. Nothing in this section shall affect or  
7 impair the powers and duties of the director of transportation  
8 as set forth in chapter 262."

9 SECTION 2. Statutory material to be repealed is bracketed  
10 and stricken. New statutory material is underscored.

11 SECTION 3. This Act shall take effect July 1, 2011.

12

INTRODUCED BY:

A large, stylized handwritten signature in black ink, appearing to read "Dan W. ...", is written over a horizontal line. The signature is highly cursive and extends to the right of the line.



**Report Title:**

County Zoning Ordinances; Parking Requirements

**Description:**

Prohibits county zoning ordinances that restrict certain uses through requirements regarding the provision of off-street parking.

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

