
A BILL FOR AN ACT

RELATING TO COUNTY ZONING.

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 The general plan shall be strictly enforced and no variance or
13 exception to any ordinance, rule, or regulation adopted under
14 this section shall be granted except under exigent circumstances
15 that cannot be addressed by any other means available to the
16 county. Zoning in the counties of Hawaii, Maui, and Kauai means
17 the establishment of districts of such number, shape, and area,



1 and the adoption of regulations for each district to carry out
2 the purposes of this section. In establishing or regulating the
3 districts, full consideration shall be given to all available
4 data as to soil classification and physical use capabilities of
5 the land to allow and encourage the most beneficial use of the
6 land consonant with good zoning practices. The zoning power
7 granted herein shall be exercised by ordinance which may relate
8 to:

- 9 (1) The areas within which agriculture, forestry,
10 industry, trade, and business may be conducted;
- 11 (2) The areas in which residential uses may be regulated
12 or prohibited;
- 13 (3) The areas bordering natural watercourses, channels,
14 and streams, in which trades or industries, filling or
15 dumping, erection of structures, and the location of
16 buildings may be prohibited or restricted;
- 17 (4) The areas in which particular uses may be subjected to
18 special restrictions;
- 19 (5) The location of buildings and structures designed for
20 specific uses and designation of uses for which
21 buildings and structures may not be used or altered;



- 1 (6) The location, height, bulk, number of stories, and
- 2 size of buildings and other structures;
- 3 (7) The location of roads, schools, and recreation areas;
- 4 (8) Building setback lines and future street lines;
- 5 (9) The density and distribution of population;
- 6 (10) The percentage of a lot that may be occupied, size of
- 7 yards, courts, and other open spaces;
- 8 (11) Minimum and maximum lot sizes; and
- 9 (12) Other regulations the boards or city council find
- 10 necessary and proper to permit and encourage the
- 11 orderly development of land resources within their
- 12 jurisdictions.

13 The council of any county shall prescribe rules,
14 regulations, and administrative procedures and provide personnel
15 it finds necessary to enforce this section and any ordinance
16 enacted in accordance with this section. The ordinances may be
17 enforced by appropriate fines and penalties, civil or criminal,
18 or by court order at the suit of the county or the owner or
19 owners of real estate directly affected by the ordinances. No
20 fine or other monetary penalty imposed for a violation of an
21 ordinance adopted pursuant to this section shall be waived or



1 discounted except by court order holding that the fine or
2 penalty amount is arbitrary, capricious, or unconscionable.

3 Any civil fine or penalty provided by ordinance under this
4 section may be imposed by the district court, or by the zoning
5 agency after an opportunity for a hearing pursuant to chapter
6 91. The proceeding shall not be a prerequisite for any
7 injunctive relief ordered by the circuit court [-]; provided that
8 injunctive relief from a fine or other monetary penalty shall be
9 available only to the extent permitted in this section.

10 Nothing in this section shall invalidate any zoning
11 ordinance or regulation adopted by any county or other agency of
12 government pursuant to the statutes in effect prior to July 1,
13 1957.

14 The powers granted herein shall be [~~liberally~~] strictly
15 construed [~~in favor of the county exercising them, and~~] in such
16 a manner as to promote the orderly development of each county or
17 city and county in accordance with a long-range, comprehensive
18 general plan to ensure the greatest benefit for the State as a
19 whole. This section shall not be construed to limit or repeal
20 any powers of any county to achieve these ends through zoning
21 and building regulations, except insofar as forest and water



1 reserve zones are concerned and as provided in subsections (c)
2 and (d).

3 Neither this section nor any ordinance enacted pursuant to
4 this section shall prohibit the continued lawful use of any
5 building or premises for any trade, industrial, residential,
6 agricultural, or other purpose for which the building or
7 premises is used at the time this section or the ordinance takes
8 effect; provided that a zoning ordinance may provide for
9 elimination of nonconforming uses as the uses are discontinued,
10 or for the amortization or phasing out of nonconforming uses or
11 signs over a reasonable period of time in commercial,
12 industrial, resort, and apartment zoned areas only. In no event
13 shall such amortization or phasing out of nonconforming uses
14 apply to any existing building or premises used for residential
15 [↵]single-family or duplex[↵] or agricultural uses. Nothing in
16 this section shall affect or impair the powers and duties of the
17 director of transportation as set forth in chapter 262."

18 SECTION 2. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.



1 SECTION 3. This Act shall take effect upon its approval.

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INTRODUCED BY:

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H.B. NO. 1500

Report Title:

Counties; Zoning; Fines and Penalties; General Plan

Description:

Limits the counties' authority to grant variances or exceptions to zoning ordinances and to waive or discount any fine or monetary penalty for violation of zoning ordinances. Limits judicial remedy for fines or penalties. Requires strict construction of zoning ordinances and county general plans.

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