

JAN 19 2022

A BILL FOR AN ACT

RELATING TO COUNTY ZONING ORDINANCES.

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

1 SECTION 1. The legislature finds that the coronavirus
2 disease 2019 (COVID-19) pandemic has deeply impacted Hawaii's
3 health and economy by forcing many of the State's businesses to
4 close or reduce their workforces. These closures and reductions
5 have caused many residents to experience unemployment, loss of
6 housing, and food insecurity.

7 The legislature finds that it is in the public interest to
8 address the economic downturn caused by COVID-19 by providing
9 additional economic and housing opportunities for the State's
10 residents. The legislature finds that one of the greatest
11 contributors to the high cost of housing in Hawaii is the
12 inefficient permitting and regulatory process between the
13 counties and various state agencies. Streamlining this process
14 would decrease the time to secure permits, reduce carrying
15 costs, lower the cost of housing, and create more job and
16 housing opportunities in the State.



1 The purpose of this Act is to prohibit the counties from
2 requiring, as part of a zoning ordinance or county rule, a
3 developer of a development with more than one residential unit
4 to obtain the approval of any state agency unless that approval
5 is expressly required by law.

6 SECTION 2. Section 46-4, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "**§46-4 County zoning.** (a) This section and any
9 ordinance, rule, or regulation adopted in accordance with this
10 section shall apply to lands not contained within the forest
11 reserve boundaries as established on January 31, 1957, or as
12 subsequently amended.

13 Zoning in all counties shall be accomplished within the
14 framework of a long-range, comprehensive general plan prepared
15 or being prepared to guide the overall future development of the
16 county. Zoning shall be one of the tools available to the
17 county to put the general plan into effect in an orderly manner.
18 Zoning in the counties of Hawaii, Maui, and Kauai means the
19 establishment of districts of such number, shape, and area, and
20 the adoption of regulations for each district to carry out the
21 purposes of this section. In establishing or regulating the



1 districts, full consideration shall be given to all available
2 data as to soil classification and physical use capabilities of
3 the land to allow and encourage the most beneficial use of the
4 land consonant with good zoning practices. The zoning power
5 granted herein shall be exercised by ordinance which may relate
6 to:

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



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

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

18 Any civil fine or penalty provided by ordinance under this
19 section may be imposed by the district court, or by the zoning
20 agency after an opportunity for a hearing pursuant to chapter



1 91. The proceeding shall not be a prerequisite for any
2 injunctive relief ordered by the circuit court.

3 Nothing in this section shall invalidate any zoning
4 ordinance or regulation adopted by any county or other agency of
5 government pursuant to the statutes in effect prior to July 1,
6 1957.

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

16 Neither this section nor any ordinance enacted pursuant to
17 this section shall prohibit the continued lawful use of any
18 building or premises for any trade, industrial, residential,
19 agricultural, or other purpose for which the building or
20 premises is used at the time this section or the ordinance takes
21 effect; provided that a zoning ordinance may provide for



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

10 (b) Any final order of a zoning agency established under
11 this section may be appealed to the circuit court of the circuit
12 in which the land in question is found. The appeal shall be in
13 accordance with the Hawaii rules of civil procedure.

14 (c) Each county may adopt reasonable standards to allow
15 the construction of two single-family dwelling units on any lot
16 where a residential dwelling unit is permitted.

17 (d) Neither this section nor any other law, county
18 ordinance, or rule shall prohibit group living in facilities
19 with eight or fewer residents for purposes or functions that are
20 licensed, certified, registered, or monitored by the State;
21 provided that a resident manager or a resident supervisor and



1 the resident manager's or resident supervisor's family shall not
2 be included in this resident count. These group living
3 facilities shall meet all applicable county requirements not
4 inconsistent with the intent of this subsection, including but
5 not limited to building height, setback, maximum lot coverage,
6 parking, and floor area requirements.

7 (e) Neither this section nor any other law, county
8 ordinance, or rule shall prohibit the use of land for employee
9 housing and community buildings in plantation community
10 subdivisions as defined in section 205-4.5(a)(12); in addition,
11 no zoning ordinance shall provide for the elimination,
12 amortization, or phasing out of plantation community
13 subdivisions as a nonconforming use.

14 (f) Neither this section nor any other law, county
15 ordinance, or rule shall prohibit the use of land for medical
16 cannabis production centers or medical cannabis dispensaries
17 established and licensed pursuant to chapter 329D; provided that
18 the land is otherwise zoned for agriculture, manufacturing, or
19 retail purposes.

20 (g) No county zoning ordinance or county rule shall
21 require the developer of a development with more than one



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1 residential unit to obtain the approval of any state agency
2 unless that approval is expressly required under law. Any
3 county zoning ordinance or county rule in conflict with this
4 subsection shall be void with respect to any such development."

5 SECTION 3. New statutory material is underscored.

6 SECTION 4. This Act shall take effect on July 1, 2022.

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INTRODUCED BY: *Krueger*



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Report Title:

Counties; Zoning; State Agencies; Developers

Description:

Prohibits the counties from requiring, as part of a county zoning ordinance or county rule, a developer with more than one residential unit to obtain the approval of any state agency unless that approval is expressly required by law.

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

