
A BILL FOR AN ACT

RELATING TO URBAN DEVELOPMENT.

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

1 PART I

2 SECTION 1. Chapter 46, Hawaii Revised Statutes, is amended
3 by adding a new section to part I to be appropriately designated
4 and to read as follows:

5 "§46- Additional dwelling units in urban districts.

6 (a) Notwithstanding any law, ordinance, code, or standard to
7 the contrary, a residentially zoned lot within an urban district
8 established by chapter 205 shall be allowed additional
9 residential units.

10 (b) For residentially zoned lots within an urban district
11 established by chapter 205, each county:

12 (1) Shall allow for at least two additional dwelling
13 units, which shall be considered accessory to any
14 dwelling unit or residential unit duly permitted by
15 ordinance within a residentially zoned lot;

16 (2) May:



- 1 (A) Continue to apply any ordinance enacted pursuant
2 to section 46-4 relating to location; height;
3 bulk; number of stories; size of buildings;
4 building setback lines; future street lines;
5 percentage of a lot that may be occupied; open
6 spaces; areas in which particular uses may be
7 subjected to special restrictions; and building,
8 electrical, mechanical, and housing code
9 regulations that promote and protect the public
10 health, safety, and welfare;
- 11 (B) Restrict short-term rentals, as defined by each
12 county, including by imposition of mandatory
13 owner-occupancy requirements for short-term
14 rentals;
- 15 (C) Reject a permit application for development on
16 the residentially zoned lot if the county
17 determines there is insufficient infrastructure
18 for the development;
- 19 (D) Adopt by ordinance or rule additional design
20 guidelines specifically for additional dwelling
21 units; and



1 (E) By ordinance or rule, consider permits under
2 other ordinances for additional dwelling units or
3 residential units toward meeting the
4 requirements of subsection (b) (1); and

5 (3) Shall not adopt:

6 (A) Accessory or additional dwelling unit
7 owner-occupancy requirements;

8 (B) Prohibitions on long-term rentals, as defined by
9 each county; or

10 (C) Setback and design requirements more restrictive
11 than the principal unit. For purposes of this
12 subparagraph, "principal unit" means the
13 single-family housing unit, duplex, triplex,
14 townhouse, or other housing unit located on the
15 same lot as an accessory or additional dwelling
16 unit.

17 (c) This section shall not apply to:

18 (1) County powers within special management areas
19 delineated pursuant to chapter 205A; and

20 (2) Any area within an urban district that a county deems
21 to be at high risk of a natural hazard such as



1 flooding, lava, or fire, as determined by the most
2 current data and maps issued by a state or federal
3 department or agency.

4 (d) For purposes of this section, "dwelling unit" has the
5 same meaning as in section 521-8."

6 SECTION 2. Chapter 205, Hawaii Revised Statutes, is
7 amended by adding a new section to part I to be appropriately
8 designated and to read as follows:

9 "§205- Private covenants; residentially zoned lots;
10 urban district. No private covenant for a residentially zoned
11 lot within an urban district adopted after the effective date of
12 Act , Session Laws of Hawaii 2024, shall:

13 (1) Limit the number of residential units on that lot
14 below the amount allowed pursuant to section 46- ;

15 or

16 (2) Restrict the long-term rental of residential units on
17 that lot."

18 PART II

19 SECTION 3. Section 46-4, Hawaii Revised Statutes, is
20 amended to read as follows:



1 "**S46-4 County zoning.** (a) This section and any
 2 ordinance, rule, or regulation adopted in accordance with this
 3 section shall apply to lands not contained within the forest
 4 reserve boundaries as established on January 31, 1957, or as
 5 subsequently amended.

6 Zoning in all counties shall be accomplished within the
 7 framework of a long-range, comprehensive general plan prepared
 8 or being prepared to guide the overall future development of the
 9 county. Zoning shall be one of the tools available to the
 10 county to put the general plan into effect in an orderly manner.
 11 Zoning in the counties of Hawaii, Maui, and Kauai means the
 12 establishment of districts of such number, shape, and area, and
 13 the adoption of regulations for each district to carry out the
 14 purposes of this section. In establishing or regulating the
 15 districts, full consideration shall be given to all available
 16 data as to soil classification and physical use capabilities of
 17 the land to allow and encourage the most beneficial use of the
 18 land consonant with good zoning practices. The zoning power
 19 granted herein shall be exercised by ordinance [~~which~~] that may
 20 relate to:



- 1 (1) The areas within which agriculture, forestry,
2 industry, trade, and business may be conducted;
- 3 (2) The areas in which residential uses may be regulated
4 or prohibited;
- 5 (3) The areas bordering natural watercourses, channels,
6 and streams, in which trades or industries, filling or
7 dumping, erection of structures, and the location of
8 buildings may be prohibited or restricted;
- 9 (4) The areas in which particular uses may be subjected to
10 special restrictions;
- 11 (5) The location of buildings and structures designed for
12 specific uses and designation of uses for which
13 buildings and structures may not be used or altered;
- 14 (6) The location, height, bulk, number of stories, and
15 size of buildings and other structures;
- 16 (7) The location of roads, schools, and recreation areas;
- 17 (8) Building setback lines and future street lines;
- 18 (9) The density and distribution of population;
- 19 (10) The percentage of a lot that may be occupied, size of
20 yards, courts, and other open spaces;
- 21 (11) Minimum and maximum lot sizes; and



1 (12) Other regulations the boards or city council find
2 necessary and proper to permit and encourage the
3 orderly development of land resources within their
4 jurisdictions.

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

12 Any civil fine or penalty provided by ordinance under this
13 section may be imposed by the district court, or by the zoning
14 agency after an opportunity for a hearing pursuant to
15 chapter 91. The proceeding shall not be a prerequisite for any
16 injunctive relief ordered by the circuit court.

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



1 The powers granted [~~herein~~] in this section shall be
2 liberally construed in favor of the county exercising them, and
3 in [~~such~~] a manner [~~as to promote~~] that promotes the orderly
4 development of each county or city and county in accordance with
5 a long-range, comprehensive general plan to ensure the greatest
6 benefit for the State as a whole. This section shall not be
7 construed to limit or repeal any powers of any county to achieve
8 these ends through zoning and building regulations, except
9 insofar as forest and water reserve zones are concerned and as
10 provided in subsections (c) [~~and~~], (d) [~~-~~], (g), and
11 section 46-_____.

12 Neither this section nor any ordinance enacted pursuant to
13 this section shall prohibit the continued lawful use of any
14 building or premises for any trade, industrial, residential,
15 agricultural, or other purpose for which the building or
16 premises is used at the time this section or the ordinance takes
17 effect; provided that a zoning ordinance may provide for
18 elimination of nonconforming uses as the uses are discontinued,
19 or for the amortization or phasing out of nonconforming uses or
20 signs over a reasonable period of time in commercial,
21 industrial, resort, and apartment zoned areas only. In no event



1 shall [~~such~~] the amortization or phasing out of nonconforming
2 uses apply to any existing building or premises used for
3 residential (single-family or duplex) or agricultural uses.
4 Nothing in this section shall affect or impair the powers and
5 duties of the director of transportation as set forth in
6 chapter 262.

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

11 (c) [~~Each~~] Except as provided in section 46-___, each
12 county may adopt reasonable standards to allow the construction
13 of two single-family dwelling units on any lot where a
14 residential dwelling unit is permitted.

15 (d) Neither this section nor any other law, county
16 ordinance, or rule shall prohibit group living in facilities
17 with eight or fewer residents for purposes or functions that are
18 licensed, certified, registered, or monitored by the State;
19 provided that a resident manager or a resident supervisor and
20 the resident manager's or resident supervisor's family shall not
21 be included in this resident count. These group living



1 facilities shall meet all applicable county requirements not
2 inconsistent with the intent of this subsection, including but
3 not limited to building height, setback, maximum lot coverage,
4 parking, and floor area requirements.

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

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

18 (g) Notwithstanding any other law, county ordinance, or
19 rule, any application for subdivision, consolidation, or
20 resubdivision of parcels within the state urban land use
21 district as designated pursuant to section 205-2 shall be



1 reviewed and acted upon by the director of the county agency
2 responsible for land use; provided that:

3 (1) All resulting parcels are residentially zoned and at
4 least two thousand square feet in area, except that a
5 county may by ordinance or rule allow residentially
6 zoned parcels smaller than two thousand square feet;

7 (2) The parcel being subdivided is not located on a site
8 that is:

9 (A) Designated as important agricultural land
10 pursuant to part III of chapter 205;

11 (B) On wetlands, as defined in the United States Fish
12 and Wildlife Service Manual, Part 660 FW2;

13 (C) Within a floodplain as determined by maps
14 promulgated by the Federal Emergency Management
15 Agency;

16 (D) A habitat for protected or endangered species;

17 (E) Within a state historic district, listed on the
18 Hawaii register of historic places or national
19 register of historic places, listed as a historic
20 property on the Hawaii register of historic
21 places or the national register of historic



1 places, or has been nominated and is being
2 considered for inclusion as a historic district,
3 place, or property under state or federal law;

4 (F) Subject to any land condition or features that
5 render the site unsuitable or hazardous to the
6 health, safety, and welfare of future residents
7 or the surrounding community;

8 (G) Within lava zone one or lava zone two, as
9 designated by the United States Geological
10 Survey; or

11 (H) Within the special management area, as defined in
12 section 205A-22;

13 (3) The proposed subdivision would not require the
14 demolition or alteration of housing that is subject
15 to:

16 (A) A recorded covenant, ordinance, or law that
17 restricts rents to levels affordable to
18 households of moderate, low, or very low income;

19 or

20 (B) Any form of rent or price control through an
21 agency's valid exercise of its police power;



1 (4) Chapter 514B shall not apply to resulting parcels from
2 the utilization of this subsection for the purposes of
3 subdivisions; and
4 (5) The parcel of record was in existence prior to the
5 effective date of Act , Session Laws of Hawaii
6 2024;
7 provided further that the director of the county agency
8 responsible for land use shall adopt rules pursuant to chapter
9 91 to define the development standards and related
10 infrastructure conditions to receive application approval from
11 the respective director, including prohibitions if the parcel is
12 located in the special management area, as defined in
13 section 205A-22."

PART III

15 SECTION 4. Section 46-143, Hawaii Revised Statutes, is
16 amended by amending subsection (d) to read as follows:

17 "(d) An impact fee shall be substantially related to the
18 needs arising from the development and shall not exceed a
19 proportionate share of the costs incurred or to be incurred in
20 accommodating the development. The following [~~seven~~] factors



1 shall be considered in determining a proportionate share of
2 public facility capital improvement costs:

- 3 (1) The level of public facility capital improvements
4 required to appropriately serve a development, based
5 on a needs assessment study that identifies:
 - 6 (A) Deficiencies in existing public facilities;
 - 7 (B) The means, other than impact fees, by which
8 existing deficiencies will be eliminated within a
9 reasonable period of time; and
 - 10 (C) Additional demands anticipated to be placed on
11 specified public facilities by a development;
- 12 (2) The availability of other funding for public facility
13 capital improvements, including but not limited to
14 user charges, taxes, bonds, intergovernmental
15 transfers, and special taxation or assessments;
- 16 (3) The cost of existing public facility capital
17 improvements;
- 18 (4) The methods by which existing public facility capital
19 improvements were financed;
- 20 (5) The extent to which a developer required to pay impact
21 fees has contributed in the previous five years to the



1 cost of existing public facility capital improvements
2 and received no reasonable benefit therefrom, and any
3 credits that may be due to a development because of
4 ~~[such]~~ the contributions;

5 (6) The extent to which a developer required to pay impact
6 fees over the next twenty years may reasonably be
7 anticipated to contribute to the cost of existing
8 public facility capital improvements through user
9 fees, debt service payments, or other payments, and
10 any credits that may accrue to a development because
11 of future payments; ~~[and]~~

12 (7) The extent to which a developer is required to pay
13 impact fees as a condition precedent to the
14 development of non-site related public facility
15 capital improvements, and any offsets payable to a
16 developer because of this provision~~[-]~~; and

17 (8) The square footage of the development; provided that:

18 (A) In cases where the developer is converting an
19 existing structure, the square footage of the
20 existing structure shall be deducted from the



1 total square footage of the development when
2 calculating impact fees; and
3 (B) In cases where the public facility impacted is a
4 water or sewage facility, the appropriate board
5 of water supply may choose to calculate impact
6 fees based on the total number of fixtures in the
7 development, rather than by square footage."

8 PART IV

9 SECTION 5. This Act does not affect rights and duties that
10 matured, penalties that were incurred, and proceedings that were
11 begun before its effective date.

12 SECTION 6. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 7. This Act shall take effect on January 1, 2026.



Report Title:

Counties; Zoning; Urban District; Subdivision; Residentially Zoned Lots; Approval; Impact Fees Assessment; Calculation

Description:

Provides that for residentially zoned lots within an urban district each county shall allow for at least 2 additional dwelling units. Establishes provisions by which a parcel zoned for residential use that is in the state urban land use district may or may not be prohibited from being subdivided, consolidated, or resubdivided. Requires the counties to consider the square footage of a development when determining the development's proportionate share of public facility capital improvement costs. Permits the appropriate board of water supply to calculate impact fees based on total number of fixtures when the public facility impacted is a water or sewage facility. Effective 1/1/2026. (SD2)

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