
A BILL FOR AN ACT

RELATING TO COMMUNITY PLANNING.

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

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

4 **"PART . PLANNING DISTRICTS**

5 **§46-A Findings and purpose.** The legislature finds that
6 successful planning for growth requires reducing sprawl and
7 creating urban developments in existing and new communities that
8 offer a high quality of life for a broad range of household
9 types. Further, well-designed and well-integrated higher-
10 density development can significantly reduce dependency on cars
11 and decrease traffic congestion and vehicle emissions. Benefits
12 are even greater when job locations and retail shopping
13 locations are incorporated with the housing. Mixed-use
14 neighborhoods make it easier for persons to park their cars in
15 one location where they may accomplish several tasks. This not
16 only reduces the number of car trips required but also reduces
17 overall parking needs for the community and our carbon imprint.
18 Infrastructure improvements are greatly needed to increase



1 safety and promote healthy lifestyle habits such as walking and
2 biking.

3 The purpose of this part is to facilitate commercial and
4 residential development of an exceptional level of quality on
5 land adjacent to public transportation stations and centers by
6 creating a process and reduced up-front costs that will, in
7 turn, act as catalytic projects for neighborhood reinvestment.

8 **§46-B Definitions.** As used in this part, unless the
9 context otherwise requires:

10 "Action" or "action taken" means approval, approval with
11 modification, or disapproval.

12 "Application" means the preliminary plans and
13 specifications for an exceptional planning project and includes
14 materials, such as plans, information, or specifications,
15 submitted to a planning agency by a qualified developer.

16 "Exceptional planning project" or "project" means a project
17 as defined by the county that is located wholly within a
18 planning district and promotes public transit ridership.

19 "Legislative body" means the legislative body of the county
20 to which a qualified developer submits an application for final
21 approval of an exceptional planning project.



1 "Main-street redevelopment project" means a project
2 designed to promote, preserve, restore, and revitalize the
3 culture, history, architecture, economic viability, and public
4 transit ridership of a small town or community.

5 "Planning agency" or "agency" means the planning agency of
6 a county to which a qualified developer submits an application
7 for an exceptional planning project.

8 "Program" means the transit-oriented or main-street
9 redevelopment program pursuant to section 46-H, as established
10 by the county.

11 "Qualified developer" means a person, corporation,
12 organization, partnership, association, or other legal entity
13 that is:

- 14 (1) Licensed to do business in the State; and
- 15 (2) Bonded and in good standing in an amount to be
16 determined by the respective legislative body.

17 "Transit-oriented development" or "transit-oriented
18 redevelopment" means land use projects of relatively intense
19 concentration involving a mixture of uses that depend upon and
20 support transit ridership.



1 **§46-C Planning districts.** There are established planning
2 districts contained within the urban district that shall consist
3 of:

4 (1) A main-street redevelopment project that is:

5 (A) Situated in a site subject to approval by the
6 legislature;

7 (B) Approved by the respective legislative body in
8 which the project is situated; and

9 (C) Eligible as a community financed project or
10 business improvement district; or

11 (2) A transit-oriented development within a radius, as
12 specified by the counties pursuant to rule, of a:

13 (A) Bus transit station or center, as designated by
14 the county to achieve density and ridership
15 goals, that has existing infrastructure, public
16 utilities, and roadways or is within a developed
17 community; or

18 (B) Rail transit station, as designated by the
19 county, located at east Kapolei, the University
20 of Hawaii West Oahu, West Loch, Waipahu, or
21 Leeward Community College;



1 provided that the designation of a planning district shall not
2 change the land use classification of the parcel.

3 **§46-D Exceptional planning projects; application by**
4 **developer; review.** (a) A qualified developer may submit to a
5 planning agency an application for approval of an exceptional
6 planning project within a planning district. The application,
7 excluding an application for a main-street redevelopment
8 project, shall include a transit ridership study that
9 demonstrates the need for development by determining the size of
10 the service population, transportation demands, and other
11 factors that will achieve desired transit ridership goals and
12 overall land use density, as determined by the planning agency.

13 (b) The planning agency shall review the application and
14 secure any additional information that the planning agency deems
15 necessary for the purpose of taking action. The planning agency
16 shall take action within forty-five days of the application
17 being deemed complete; provided that the time to take action may
18 be extended up to ten days for good cause. No later than fifty-
19 five days of the application being deemed complete, the planning
20 agency shall notify the developer of the action taken.

21 (c) If the planning agency approves the application, with
22 or without modifications, the planning agency shall forward the



1 application with its recommendation to the legislative body.
2 The legislative body shall have forty-five days from the date of
3 receipt of the planning agency's recommendation to approve,
4 approve with modifications, or disapprove the application by
5 resolution.

6 **§46-E Indemnity.** No claim shall be prosecuted or
7 maintained against any county, its officials, or employees on
8 account of acts taken by them acting in their official
9 capacities in reviewing, approving, modifying, or disapproving
10 the application or plans and specifications of an exceptional
11 planning project.

12 **§46-F State incentives; exemptions.** Subject to rules
13 adopted pursuant to sections 46-H and 46-J, exceptional planning
14 projects approved by the legislature shall be exempt from all
15 state fees associated with land development; provided that
16 approval for the exemption is granted by the state agency that
17 would otherwise receive the fee.

18 **§46-G County incentives; exemptions.** Subject to rules
19 adopted pursuant to sections 46-H and 46-J, exceptional planning
20 projects approved by the legislative body shall receive
21 exemptions from the zone change process and compliance with
22 zoning standards. Additionally, a county may adopt any other



1 incentives that it deems appropriate to be granted to
2 exceptional planning projects.

3 **§46-H Transit-oriented or main-street redevelopment**

4 **program.** (a) Any county with a planning district may establish
5 a transit-oriented or main-street redevelopment program. The
6 program shall include:

- 7 (1) Guidelines for community-based planning for transit-
8 oriented or main-street redevelopment;
9 (2) Strategies for infrastructure upgrades to support
10 development and redevelopment;
11 (3) Minimum mixed use design and site plan guidelines;
12 (4) Guidelines for complete streets programs; and
13 (5) Strategies to promote public transit ridership.

14 (b) In developing the program, the county may establish
15 minimum eligibility criteria for exceptional planning projects,
16 including:

- 17 (1) Minimum and maximum project sizes;
18 (2) Requiring a mix of commercial and residential uses;
19 (3) Establishing workforce and affordable housing
20 requirements;
21 (4) Proposing parking ratios below any existing required
22 ratio and a maximum cap on the total number of parking



1 spaces, proposing a centralized public or private
2 parking structure, or proposing a transportation plan
3 with innovative parking solutions;

4 (5) Creating street level activities, including early
5 evening hour activities and retail and public
6 gathering areas; and

7 (6) Providing community benefits, including off-site open
8 space, on-site social services space, and major off-
9 site infrastructure upgrades.

10 (c) Any county or county agency participating in the
11 program shall consult with the department of transportation to
12 address potential impacts on airport and harbor facilities.

13 (d) Any county or county agency participating in the
14 program shall enact ordinances or adopt rules or regulations as
15 necessary for the purposes of this section, including:

16 (1) Criteria for granting exemptions pursuant to sections
17 46-F and 46-G;

18 (2) Considerations, upon submission of an application for
19 an exceptional planning project to the planning
20 agency, regarding the existing use of lands, including
21 zoning, location, and future impacts; and



1 (3) Assurances for a fair and equitable application
2 process.

3 **§46-I Floor area ratio transfer.** (a) There is
4 established a discretionary review process to be conducted by
5 the county legislative body, subject to the recommendation of
6 the county planning director, for the transfer of floor area
7 within a planning district from a sending site to a receiving
8 site. The purpose of this process is to encourage the transfer
9 of floor area to properties with lot dimensions that allow for
10 additional floor area while complying with the building envelope
11 requirements and building height requirements set forth in a
12 county land use ordinance.

13 (b) The proposed creation and redemption of floor area
14 ratio transfers shall take place solely on a voluntary basis
15 between consenting parties. Landowners shall not be required to
16 create or convey floor area ratio transfers; provided that floor
17 area ratio transfers shall be created, conveyed, or redeemed in
18 accordance with this section to be recognized by a legislative
19 body.

20 (c) Floor area ratio transfers shall not involve an
21 existing public park or open space.



1 (d) All requests to create, convey, and redeem floor area
2 ratio transfer credits shall be accompanied by and occur in
3 conjunction with the following:

4 (1) A project agreement, including any accompanying permit
5 approval request, improvement permit, development
6 permit, conditional use permit, variance, and master
7 plan permit; and

8 (2) A proposal to create, convey, and redeem floor area
9 ratio transfer credits on forms prescribed by the
10 director of the planning agency that contain the
11 following information:

12 (A) Particular to a sending site:

13 (i) A cover letter identifying the landowner's
14 name, mailing address, and contact
15 information and briefly explaining what the
16 landowner seeks to accomplish;

17 (ii) A certificate of title demonstrating
18 ownership of the proposed sending site and
19 receiving site;

20 (iii) A draft covenant that provides the
21 protections and restrictions on the proposed
22 property;



1 (iv) A baseline documentation report that
2 establishes the current condition of the
3 proposed sending site that contains, at a
4 minimum, a general location map, legal
5 description and sketch of parcel boundaries,
6 and documentation (such as maps, written
7 summaries, and photographs) of existing
8 conditions that relate to the proposed
9 easement restrictions as well as the
10 proposed rights to be retained by the
11 landowner; and

12 (v) An affidavit signed by the landowner and
13 preparer of the submittal, attesting to the
14 accuracy of the information contained in the
15 baseline documentation report; and

16 (B) Particular to a receiving site, plans, diagrams,
17 and supporting text that clearly identify and
18 illustrate the location and extent of proposed
19 floor area transfer.

20 (e) The legislative body shall review and act upon all
21 applications for floor area ratio transfers to create, convey,
22 and redeem floor area ratio transfer credits after receiving a



1 recommendation from the respective county's director of the
2 planning agency.

3 (f) The legislative body shall make the following findings
4 of fact to approve an application to create, convey, and redeem
5 floor area ratio transfer credits:

6 (1) That the receiving site allows for additional floor
7 area while complying with the building envelope
8 requirements and the land use ordinance; and

9 (2) That the creation, conveyance, and redemption of floor
10 area ratio transfer credits enable the subject lots to
11 fulfill the development objectives of the county
12 general or development plans.

13 (g) The creation, conveyance, and redemption of floor area
14 ratio transfer credits shall be limited by the following:

15 (1) Floor area ratio transfer credits shall not be created
16 or redeemed in conjunction with a variance approval to
17 exceed any maximum building height or building
18 footprint, or reduce any setback specified in the
19 county land use ordinance;

20 (2) No more than fifty per cent of the maximum permitted
21 floor area ratio shall be transferred from any sending
22 site; provided that contiguous lots may transfer one



1 hundred per cent of the maximum permitted floor area
2 ratio; and

3 (3) Floor area ratio transfer credits shall be created and
4 redeemed concurrently. No floor area ratio transfer
5 credit may be reserved for future conveyance to a
6 sending site.

7 (h) To establish floor area ratio transfer credits, the
8 sending site landowner shall record a covenant running with the
9 land over the sending site consistent with this section. The
10 covenant shall:

- 11 (1) Run with the land on the sending site;
- 12 (2) Restrict the floor area ratio of the sending site to
13 the ratio established by the transfer; and
- 14 (3) Name the planning agency as an intended beneficiary
15 with the right to enforce the covenant.

16 (i) The director of the planning agency shall maintain a
17 register of all floor area ratio transfer credits both created
18 and redeemed pursuant to this section and shall update this
19 register annually.

20 **§46-J Adoption of rules.** A planning agency may adopt
21 rules pursuant to chapter 91 that are necessary to effectuate



1 the purposes of this part, including rules to specify materials
2 that shall be necessary components of a complete application."

3 SECTION 2. In codifying the new sections added by section
4 1 of this Act, the revisor of statutes shall substitute
5 appropriate section numbers for the letters used in designating
6 the new sections in this Act.

7 SECTION 3. This Act shall take effect on July 1, 2050.



Report Title:

Hawaii Community Development Authority; State-wide Planning

Description:

Establishes planning districts and creates a process for developers to apply for residential and commercial exceptional planning projects. Establishes the transit-oriented or main-street redevelopment program. Authorizes state and county incentives for exceptional planning projects. Establishes a discretionary review process for the transfer of floor area within the planning district. Effective July 1, 2050. (SB2927 HD1)

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