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# 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.



1 Infrastructure improvements are badly needed to increase safety  
2 and promote healthy lifestyle habits such as walking and 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 "fast track" process and reduced up-front costs that  
7 will, in turn, act as catalytic projects for neighborhood  
8 reinvestment.

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

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

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

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

20 "Legislative body" means the legislative body of the county  
21 to which a qualified developer submits an application for final  
22 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 of each  
17 county.

18 **§46-C Planning districts.** There are established planning  
19 districts contained within the urban district that shall consist  
20 of:

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



- 1 (A) Situated in a site subject to approval by the
- 2 legislature;
- 3 (B) Approved by the respective legislative body of
- 4 the county in which the project is situated; and
- 5 (C) Eligible as a community financed project or
- 6 business improvement district; or

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

- 9 (A) Bus transit station or center, as designated by
- 10 the county to achieve density and ridership
- 11 goals, that has existing infrastructure, public
- 12 utilities, and roadways or is within a developed
- 13 community; or
- 14 (B) Rail transit station, as designated by the
- 15 county, located at east Kapolei, the University
- 16 of Hawaii West Oahu, West Loch, Waipahu, or
- 17 Leeward Community College;

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

20 **§46-D Exceptional planning projects; application by**  
21 **developer; review.** (a) A qualified developer may submit to a  
22 planning agency an application for approval of an exceptional



1 planning project within a planning district. The application,  
2 excluding an application for a main-street redevelopment  
3 project, shall include a transit ridership study that  
4 demonstrates the need for development by determining the size of  
5 the service population, transportation demands, and other  
6 factors that will achieve desired transit ridership goals and  
7 overall land use density, as determined by the planning agency.

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

16 (c) If the planning agency approves the application, with  
17 or without modifications, the planning agency shall forward the  
18 application with its recommendation to the legislative body.  
19 The legislative body shall have forty-five days from the date of  
20 receipt of the planning agency's recommendation to approve,  
21 approve with modifications, or disapprove the application by  
22 resolution.



1           **§46-E Indemnity.** No claim shall be prosecuted or  
2 maintained against any county, its officials, or employees on  
3 account of acts taken by them acting in their official  
4 capacities in reviewing, approving, modifying, or disapproving  
5 the application or plans and specifications of an exceptional  
6 planning project.

7           **§46-F State incentives; exemptions.** Subject to rules  
8 adopted pursuant to sections 46-H and 46-J, exceptional planning  
9 projects approved by the legislature shall be exempt from all  
10 state fees associated with land development; provided that  
11 approval for the exemption is granted by the state agency that  
12 would otherwise receive the fee.

13           **§46-G County incentives; exemptions.** Subject to rules  
14 adopted pursuant to sections 46-H and 46-J, exceptional planning  
15 projects approved by the legislative body shall receive  
16 exemptions from the zone change process and compliance with  
17 zoning standards. Additionally, a county may adopt any other  
18 incentives that it deems appropriate to be granted to  
19 exceptional planning projects.

20           **§46-H Transit-oriented or main-street redevelopment**  
21 **program.** (a) Any county with a planning district may establish



1 a transit-oriented or main-street redevelopment program. The  
2 program shall include:

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

10 (b) In developing the program, the county may establish  
11 minimum eligibility criteria for exceptional planning projects,  
12 including:

- 13 (1) Minimum and maximum project sizes;
- 14 (2) Requiring a mix of commercial and residential uses;
- 15 (3) Establishing workforce and affordable housing  
16 requirements;
- 17 (4) Proposing parking ratios below any existing required  
18 ratio and a maximum cap on the total number of parking  
19 spaces, proposing a centralized public or private  
20 parking structure, or proposing a transportation plan  
21 with innovative parking solutions;



1 (5) Creating street level activities, including early  
2 evening hour activities and retail and public  
3 gathering areas; and

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

7 (c) Any county or county agency participating in the  
8 program shall enact ordinances or adopt rules or regulations as  
9 necessary for the purposes of this section, including:

10 (1) Criteria for granting exemptions pursuant to sections  
11 46-F and 46-G;

12 (2) Considerations, upon submission of an application for  
13 an exceptional planning project to the planning  
14 agency, regarding the existing use of lands, including  
15 zoning, location, and future impacts; and

16 (3) Assurances for a fair and equitable application  
17 process.

18 §46-I Floor area ratio transfer. (a) There is  
19 established a discretionary review process to be conducted by  
20 the county legislative body, subject to the recommendation of  
21 the county planning director, for the transfer of floor area  
22 within a planning district from a sending site to a receiving



1 site. The purpose of this process is to encourage the transfer  
2 of floor area to properties with lot dimensions that allow for  
3 additional floor area while complying with the building envelope  
4 requirements and building height requirements set forth in a  
5 county land use ordinance.

6 (b) The proposed creation and redemption of floor area  
7 ratio transfers shall take place solely on a voluntary basis  
8 between consenting parties. Landowners shall not be required to  
9 create or convey floor area ratio transfers; provided that floor  
10 area ratio transfers shall be created, conveyed, or redeemed in  
11 accordance with this section to be recognized by a legislative  
12 body.

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

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

18 (1) A project agreement, including any accompanying permit  
19 approval request, improvement permit, development  
20 permit, conditional use permit, variance, and master  
21 plan permit; and



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

5 (A) Particular to a sending site:

6 (i) A cover letter identifying the landowner's  
7 name, mailing address, and contact  
8 information and briefly explaining what the  
9 landowner seeks to accomplish;

10 (ii) A certificate of title demonstrating  
11 ownership of the proposed sending site and  
12 receiving site;

13 (iii) A draft covenant that provides the  
14 protections and restrictions on the proposed  
15 property;

16 (iv) A baseline documentation report that  
17 establishes the current condition of the  
18 proposed sending site that contains, at a  
19 minimum, a general location map, legal  
20 description and sketch of parcel boundaries,  
21 and documentation (such as maps, written  
22 summaries, and photographs) of existing



1 conditions that relate to the proposed  
2 easement restrictions as well as the  
3 proposed rights to be retained by the  
4 landowner; and

5 (v) An affidavit signed by the landowner and  
6 preparer of the submittal, attesting to the  
7 accuracy of the information contained in the  
8 baseline documentation report; and

9 (B) Particular to a receiving site, plans, diagrams,  
10 and supporting text that clearly identify and  
11 illustrate the location and extent of proposed  
12 floor area transfer.

13 (e) The county legislative body shall review and act upon  
14 all applications for floor area ratio transfers to create,  
15 convey, and redeem floor area ratio transfer credits after  
16 receiving a recommendation from the respective county's director  
17 of the planning agency.

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



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

4 (2) That the creation, conveyance, and redemption of floor  
5 area ratio transfer credits enable the subject lots to  
6 fulfill the development objectives of the county  
7 general or development plans.

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

10 (1) Floor area ratio transfer credits shall not be created  
11 or redeemed in conjunction with a variance approval to  
12 exceed any maximum building height or building  
13 footprint, or reduce any setback specified in the  
14 county land use ordinance;

15 (2) No more than fifty per cent of the maximum permitted  
16 floor area ratio shall be transferred from any sending  
17 site; provided that contiguous lots may transfer one  
18 hundred per cent of the maximum permitted floor area  
19 ratio; and

20 (3) Floor area ratio transfer credits shall be created and  
21 redeemed concurrently. No floor area ratio transfer



1 credit may be reserved for future conveyance to a  
2 sending site.

3 (h) In order to establish floor area ratio transfer  
4 credits, the sending site landowner shall record a covenant  
5 running with the land over the sending site consistent with this  
6 section. The covenant shall:

7 (1) Run with the land on the sending site;

8 (2) Restrict the floor area ratio of the sending site to  
9 the ratio established by the transfer; and

10 (3) Name the planning agency as an intended beneficiary  
11 with the right to enforce the covenant.

12 (i) The director of the planning agency shall maintain a  
13 register of all floor area ratio transfer credits both created  
14 and redeemed pursuant to this section and shall update this  
15 register annually.

16 **§46-J Adoption of rules.** A planning agency may adopt  
17 rules pursuant to chapter 91 that are necessary to effectuate  
18 the purposes of this part, including rules to specify materials  
19 that shall be necessary components of a complete application."

20 SECTION 2. In codifying the new sections added by section  
21 1 of this Act, the revisor of statutes shall substitute



1 appropriate section numbers for the letters used in designating  
2 the new sections in this Act.

3 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 07/01/2050. (SD2)

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