A BILL FOR AN ACT

RELATING TO COUNTY ZONING.

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

SECTION 1. Section 46-4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) This section and any ordinance, rule, or regulation adopted in accordance with this section shall apply to lands not contained within the forest reserve boundaries as established on January 31, 1957, or as subsequently amended.

Zoning in all counties shall be accomplished within the framework of a long-range, comprehensive general plan prepared or being prepared to guide the overall future development of the county. Zoning shall be one of the tools available to the county to put the general plan into effect in an orderly manner. The general plan shall be strictly enforced and no variance or exception to any ordinance, rule, or regulation adopted under this section shall be granted except under exigent circumstances that cannot be addressed by any other means available to the county. Zoning in the counties of Hawaii, Maui, and Kauai means the establishment of districts of such number, shape, and area,
and the adoption of regulations for each district to carry out
the purposes of this section. In establishing or regulating the
districts, full consideration shall be given to all available
data as to soil classification and physical use capabilities of
the land to allow and encourage the most beneficial use of the
land consonant with good zoning practices. The zoning power
granted herein shall be exercised by ordinance which may relate
to:

(1) The areas within which agriculture, forestry,
industry, trade, and business may be conducted;

(2) The areas in which residential uses may be regulated
or prohibited;

(3) The areas bordering natural watercourses, channels,
and streams, in which trades or industries, filling or
dumping, erection of structures, and the location of
buildings may be prohibited or restricted;

(4) The areas in which particular uses may be subjected to
special restrictions;

(5) The location of buildings and structures designed for
specific uses and designation of uses for which
buildings and structures may not be used or altered;
(6) The location, height, bulk, number of stories, and size of buildings and other structures;
(7) The location of roads, schools, and recreation areas;
(8) Building setback lines and future street lines;
(9) The density and distribution of population;
(10) The percentage of a lot that may be occupied, size of yards, courts, and other open spaces;
(11) Minimum and maximum lot sizes; and
(12) Other regulations the boards or city council find necessary and proper to permit and encourage the orderly development of land resources within their jurisdictions.

The council of any county shall prescribe rules, regulations, and administrative procedures and provide personnel it finds necessary to enforce this section and any ordinance enacted in accordance with this section. The ordinances may be enforced by appropriate fines and penalties, civil or criminal, or by court order at the suit of the county or the owner or owners of real estate directly affected by the ordinances. No fine or other monetary penalty imposed for a violation of an ordinance adopted pursuant to this section shall be waived or
discounted except by court order holding that the fine or
penalty amount is arbitrary, capricious, or unconscionable.
Any civil fine or penalty provided by ordinance under this
section may be imposed by the district court, or by the zoning
agency after an opportunity for a hearing pursuant to chapter
91. The proceeding shall not be a prerequisite for any
injunctive relief ordered by the circuit court[ ]; provided that
injunctive relief from a fine or other monetary penalty shall be
available only to the extent permitted in this section.
Nothing in this section shall invalidate any zoning
ordinance or regulation adopted by any county or other agency of
government pursuant to the statutes in effect prior to July 1,
1957.
The powers granted herein shall be [liberally] strictly
construed [in favor of the county exercising them, and] in such
a manner as to promote the orderly development of each county or
city and county in accordance with a long-range, comprehensive
general plan to ensure the greatest benefit for the State as a
whole. This section shall not be construed to limit or repeal
any powers of any county to achieve these ends through zoning
and building regulations, except insofar as forest and water
reserve zones are concerned and as provided in subsections (c) and (d).

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

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.
SECTION 3. This Act shall take effect upon its approval.

INTRODUCED BY: 

JAN 24 2019
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.

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