

**HONOLULU CITY COUNCIL**  
*KE KANIHELA O KE KALANA O HONOLULU*  
CITY AND COUNTY OF HONOLULU

No. 25 - 271

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**RESOLUTION**

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RELATING TO THE INCLUSION OF A PROPOSAL IN THE 2026 HAWAII STATE ASSOCIATION OF COUNTIES LEGISLATIVE PACKAGE TO REPEAL COUNTY REQUIREMENTS RELATED TO ACCESSORY DWELLING UNITS ON RESIDENTIALLY ZONED LOTS.

WHEREAS, the Hawai'i State Association of Counties ("HSAC") is composed of the members of all four county councils of the State of Hawai'i ("State"); and

WHEREAS, each year, HSAC considers, adopts, and transmits legislative priorities to the Hawai'i State Legislature ("Legislature") for consideration ("HSAC legislative package"); and

WHEREAS, the HSAC legislative package represents the State legislative priorities of the four counties; and

WHEREAS, a lack of affordable housing has been an ongoing issue in the State and has risen to crisis levels in recent years, exacerbating rates of homelessness and outmigration; and

WHEREAS, Hawai'i among has the highest home prices, homelessness rates, and median rents in the nation; and

WHEREAS, in recent years, the four counties have enacted policies to address these issues through, among other things, appropriations for affordable housing initiatives and amendments to the county zoning codes, including amendments to the types of permitted uses within the various zoning districts and amendments to the development standards for buildings within the various zoning districts; and

WHEREAS, in 2024, the Legislature passed Senate Bill 3202, SD2, HD1, CD1, which Governor Josh Green signed into law as Act 39, Session Laws of Hawaii 2024 ("Act 39"), which required the four counties to enact ordinances to allow additional dwelling units on residentially zoned lots, to allow further subdivision of such lots, and to amend the calculation of impact fees for certain developments; and

WHEREAS, Act 39 mandates increased density in residential neighborhoods and amendments to City and County of Honolulu ("City") zoning and subdivision ordinances without ensuring the amendments are consistent with the City's General Plan, Development Plans, and Sustainable Communities Plans, which is inconsistent with the planning process mandated by Section 46-4, Hawaii Revised Statutes; and



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WHEREAS, Act 39 creates inconsistencies with the City's Land Use Ordinance, which contains five residential zoning districts to account for a planned mix of zoning lot sizes, density allowances, and number of dwelling units, by evenly applying mandates across the various residential zoning districts; and

WHEREAS, Act 39 also disregards the City's plan for residential communities and does not allow counties to enforce zoning, development standards, and infrastructure requirements for subdivision and building permit approvals; and

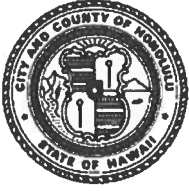
WHEREAS, each county should be allowed to make decisions related to density and infrastructure, but Act 39 mandates uniform increased density without affordability safeguards or requiring that additional dwelling units be for local residents, which could result in an increase in out-of-state development and potential increases in real property tax valuations and housing costs; and

WHEREAS, while addressing the State's housing crisis is critical, applying uniform policies applicable to all counties does not acknowledge the unique challenges that each county faces and does not allow for creative county-specific solutions; and

WHEREAS, the City Council believes that the counties should be able to enact ordinances and policies specific to their county to address housing issues while also maintaining consistency with their respective long-range, comprehensive general plan development plans, and other plans for infrastructure expansion and development; and

WHEREAS, approval by all four county councils is required to include proposals in the HSAC legislative package; now, therefore,

BE IT RESOLVED by the Council of the City and County of Honolulu that it approved for inclusion in the 2026 Hawai'i State Association of Counties' legislative package, a proposal to repeal county requirements related to accessory dwelling units on residentially zoned lots, attached hereto as Exhibit A; and



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No. 25-271

**RESOLUTION**

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BE IT FINALLY RESOLVED that copies of this resolution be transmitted to the President of the Hawai'i State Association of Counties.

INTRODUCED BY:

Tony Watson  
\_\_\_\_\_  
\_\_\_\_\_  
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\_\_\_\_\_  
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DATE OF INTRODUCTION:

SEP 24 2025  
Honolulu, Hawai'i

Councilmembers

**EXHIBIT A**

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# A BILL FOR AN ACT

RELATING TO URBAN DEVELOPMENT.

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

PART I

1  
2 SECTION 1. SECTION 46-4.8, Hawaii Revised Statutes, is  
3 repealed.

4 [~~"§46-4.8 Accessory dwelling units on residentially zoned~~  
5 ~~lots.~~ (a) ~~Each county shall adopt or amend accessory dwelling~~  
6 ~~unit ordinances pursuant to this section to help address~~  
7 ~~deficits in their housing inventory based on Hawaii housing~~  
8 ~~planning studies published by the Hawaii housing finance and~~  
9 ~~development corporation.~~

10 (b) ~~Except as provided in subsections (c) and (d), each~~  
11 ~~county shall adopt or amend ordinances defining~~  
12 ~~reasonable standards that allow for the construction of at least~~  
13 ~~two accessory dwelling units, or the reasonable equivalent, for~~  
14 ~~residential use on all residentially zoned lots.~~

15 (c) ~~A county that does not adopt or amend an ordinance~~  
16 ~~pursuant to subsection (b) shall adopt or amend ordinances~~  
17 ~~pursuant to this subsection and subsection (d), if applicable,~~  
18 ~~defining:~~

\_\_\_\_.B. NO. \_\_\_\_\_

- 1       ~~(1) Districts that authorize at least two accessory~~
- 2           ~~dwelling units, or the reasonable equivalent, for~~
- 3           ~~residential use per each permitted existing single-~~
- 4           ~~family dwelling on a residentially zoned lot; provided~~
- 5           ~~that these districts shall be:~~
- 6           ~~(A) Consistent with the county's comprehensive~~
- 7                   ~~general plan;~~
- 8           ~~(B) Reasonably distributed throughout the county's~~
- 9                   ~~various regional planning areas; and~~
- 10          ~~(C) Estimated to add development potential equivalent~~
- 11           ~~to half of the county's projected five-year~~
- 12           ~~demand of needed housing units for ownership or~~
- 13           ~~rental as stated in the 2019 Hawaii housing~~
- 14           ~~planning study; and~~
- 15       ~~(2) Districts that authorize at least two accessory~~
- 16           ~~dwelling units or the reasonable equivalent for~~
- 17           ~~residential use per each permitted existing single-~~
- 18           ~~family dwelling on a residentially zoned lot within a~~
- 19           ~~reasonable walking distance to and from:~~
- 20           ~~(A) Stations of a locally preferred alternative for a~~
- 21                   ~~mass transit project; and~~

\_\_\_\_.B. NO. \_\_\_\_\_

1           ~~(B) Urban principal arterials as classified by the~~  
2           ~~Federal Highway Administration for purposes of~~  
3           ~~federal-aid highways projects and situated within~~  
4           ~~a primary urban area, urban core, or county~~  
5           ~~equivalent identified by a county comprehensive~~  
6           ~~general plan.~~

7           ~~(d) In addition to the requirements under subsection (c),~~  
8           ~~a county with a population of five hundred thousand or~~  
9           ~~more shall adopt or amend an ordinance defining~~  
10           ~~reasonable standards to add development potential in~~  
11           ~~existing apartment districts or apartment mixed-use~~  
12           ~~districts equivalent to the county's projected five-~~  
13           ~~year demand of needed housing units for ownership or~~  
14           ~~rental in the 2019 Hawaii housing planning study.~~

15           ~~(e) Accessory dwelling units developed pursuant to this~~  
16           ~~section shall be subject to all development standards~~  
17           ~~adopted by the respective county, including but not~~  
18           ~~limited to those adopted pursuant to this chapter.~~

19           ~~(f) Nothing in this section shall preclude a county from~~  
20           ~~denying applications for permits if there is~~  
21           ~~insufficient utility infrastructure to service the~~

\_\_\_\_.B. NO. \_\_\_\_\_

1           ~~additional demand caused by the development of~~  
2           ~~accessory dwelling units pursuant to this section.~~  
3       ~~(g) If a county does not adopt or amend zoning ordinances~~  
4           ~~pursuant to this section by December 31, 2026, the~~  
5           ~~county shall not deny any permit application on the~~  
6           ~~basis of exceeding the maximum number of housing units~~  
7           ~~allowed if any owner, or their designated~~  
8           ~~representative, of a single-family dwelling in a~~  
9           ~~residentially zoned lot applies for construction of up~~  
10          ~~to two accessory dwelling units, or the reasonable~~  
11          ~~equivalent, until the county adopts or amends an~~  
12          ~~ordinance pursuant to this section; provided that a~~  
13          ~~county may deny a permit application on the basis of~~  
14          ~~infrastructure, design, or development standards.~~  
15       ~~(h) No county shall adopt prohibitions on using any~~  
16           ~~dwelling unit on a residentially zoned lot as~~  
17           ~~separately leased long-term rentals, as defined by~~  
18           ~~each county.~~  
19       ~~(i) This section shall not apply to:~~  
20       ~~(1) Any area outside of the urban district established by~~  
21           ~~chapter 205;~~

\_\_\_\_.B. NO. \_\_\_\_\_

- 1       ~~(2) County powers within special management areas~~  
2       ~~delineated pursuant to chapter 205A; and~~
- 3       ~~(3) Any area within an urban district that a county deems~~  
4       ~~to be at high risk of a natural hazard such as~~  
5       ~~flooding, lava, or fire, as determined by the most~~  
6       ~~current data and maps issued by a federal or state~~  
7       ~~department or agency.~~
- 8       ~~(j) Neither this section, any permit issued in accordance~~  
9       ~~with this section, or structures developed pursuant to~~  
10       ~~this section shall create any vested rights for any~~  
11       ~~applicant, permit holder, or land owner. This section~~  
12       ~~shall not preempt a county's ability to accept,~~  
13       ~~review, approve, and deny permit applications.~~
- 14       ~~(k) For purposes of this section, "residentially zoned~~  
15       ~~lot" means a zoning lot in a county zoning district~~  
16       ~~that is principally reserved for single-family and~~  
17       ~~two-family detached dwellings. "Residentially zoned~~  
18       ~~lot" does not include a lot in a county zoning~~  
19       ~~district that is intended for rural, low density~~  
20       ~~residential development, and open space~~  
21       ~~preservation." ]~~

1 SECTION 2. SECTION 205-20, Hawaii Revised Statutes, is  
2 repealed.

3 [~~§205-20 Private covenants; residentially zoned lots;~~  
4 ~~urban district.~~ (a) ~~No private covenant for a residentially~~  
5 ~~zoned lot within an urban district recorded after the effective~~  
6 ~~date of this Act shall limit the:~~

7 (1) ~~Number of accessory dwelling units on that~~  
8 ~~residentially zoned lot below the amount allowed~~  
9 ~~pursuant to section 46-4.8; or~~

10 (2) ~~Long term rental of residential units on that~~  
11 ~~residentially zoned lot.~~

12 (b) ~~This section shall not apply to any private covenants~~  
13 ~~recorded before the effective date of this Act.~~

14 (c) ~~For purposes of this section, "residentially zoned~~  
15 ~~lot" means a zoning lot in a county zoning district~~  
16 ~~that is principally reserved for single-family and~~  
17 ~~two-family detached dwellings. "Residentially zoned~~  
18 ~~lot" does not include a lot in a county zoning~~  
19 ~~district that is intended for rural, low density~~  
20 ~~residential development, and open space~~  
21 ~~preservation." ]~~

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PART II

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

**"§46-4 County zoning.** (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. 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

\_\_\_\_.B. NO. \_\_\_\_\_

1 granted in this section shall be exercised by ordinance, which  
2 may relate to:

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

\_\_\_\_.B. NO. \_\_\_\_\_

- 1 (11) Minimum and maximum lot sizes; and
- 2 (12) Other regulations the boards or city council find
- 3 necessary and proper to permit and encourage the
- 4 orderly development of land resources within their
- 5 jurisdictions.

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

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

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

\_\_\_\_.B. NO. \_\_\_\_\_

1           The powers granted in this section shall be liberally  
2 construed in favor of the county exercising them, and in a  
3 manner that promotes the orderly development of each county or  
4 city and county in accordance with a long-range, comprehensive  
5 general plan to ensure the greatest benefit for the State as a  
6 whole. This section shall not be construed to limit or repeal  
7 any powers of any county to achieve these ends through zoning  
8 and building regulations, except insofar as forest and water  
9 reserve zones are concerned and as provided in subsections  
10 (c) [7] and (d) [~~7~~, ~~(g)~~, and ~~section 46-4.8~~].

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

1 (single-family or duplex) or agricultural uses. Nothing in this  
2 section shall affect or impair the powers and duties of the  
3 director of transportation as set forth in chapter 262.

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

8 (c) [~~Except as provided in section 46-4.8,~~  
9 ~~each~~] Each county may adopt reasonable standards to allow the  
10 construction of two single-family dwelling units on any lot  
11 where a residential dwelling unit is permitted.

12 (d) Neither this section nor any other law, county  
13 ordinance, or rule shall prohibit group living in facilities  
14 with eight or fewer residents for purposes or functions that are  
15 licensed, certified, registered, or monitored by the State;  
16 provided that a resident manager or a resident supervisor and  
17 the resident manager's or resident supervisor's family shall not  
18 be included in this resident count. These group living  
19 facilities shall meet all applicable county requirements not  
20 inconsistent with the intent of this subsection, including but  
21 not limited to building height, setback, maximum lot coverage,  
22 parking, and floor area requirements.

\_\_\_\_.B. NO. \_\_\_\_\_

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

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

14 ~~[(g) Notwithstanding any other law, county charter, county~~  
15 ~~ordinance, or rule, any administrative authority to accept,~~  
16 ~~reject, and approve or deny any application for subdivision,~~  
17 ~~consolidation, or resubdivision of a parcel of land that has~~  
18 ~~been fully zoned for residential use within the state urban~~  
19 ~~district designated pursuant to section 205-2 shall be vested~~  
20 ~~with the director of the county agency responsible for land use~~  
21 ~~or a single county officer designated by ordinance; provided~~  
22 ~~that:~~

\_\_\_\_.B. NO. \_\_\_\_\_

- 1       ~~(1) The parcel of land being subdivided is not located on~~
- 2       ~~a site that is:~~
- 3       ~~(A) Designated as important agricultural land~~
- 4       ~~pursuant to part III of chapter 205;~~
- 5       ~~(B) On wetlands, as defined in the United States Fish~~
- 6       ~~and Wildlife Service Manual, Part 660 FW2;~~
- 7       ~~(C) Within a floodplain as determined by maps adopted~~
- 8       ~~by the Federal Emergency Management Agency;~~
- 9       ~~(D) A habitat for protected or endangered species;~~
- 10       ~~(E) Within a state historic district:~~
- 11       ~~(i) Listed on the Hawaii register of historic~~
- 12       ~~places or national register of historic~~
- 13       ~~places;~~
- 14       ~~(ii) Listed as a historic property on the Hawaii~~
- 15       ~~register of historic places or the national~~
- 16       ~~register of historic places; or~~
- 17       ~~(iii) During the period after a nomination for~~
- 18       ~~listing on the Hawaii register of historic~~
- 19       ~~places or national register of historic~~
- 20       ~~places is submitted to the department of~~
- 21       ~~land and natural resource's state historic~~
- 22       ~~preservation division and before the Hawaii~~



\_\_\_\_.B. NO. \_\_\_\_\_

1 considered in determining a proportionate share of public  
2 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  
22 cost of existing public facility capital improvements

\_\_\_\_.B. NO. \_\_\_\_\_

1 and received no reasonable benefit therefrom, and any  
2 credits that may be due to a development because of  
3 the contributions;

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

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

16 [~~8~~] ~~The square footage of the development; provided that:~~

17 ~~(A) In cases where the developer is converting an~~  
18 ~~existing structure, the square footage of the~~  
19 ~~existing structure shall be deducted from the~~  
20 ~~total square footage of the development when~~  
21 ~~calculating impact fees; and~~



**Report Title:**

Counties; Zoning; Accessory Dwelling Units; Urban District;  
Subdivision; Consolidation; Resubdivision; Parcels;  
Residentially Zoned Lots; Impact Fees Assessment; Calculation

**Description:**

Repeals Act 39, Session Laws of Hawaii 2024, which required the counties, no later than 12/31/2026, to adopt or amend an ordinance to allow at least two accessory dwelling units, subject to certain restrictions, on all residentially zoned lots. Repeals provisions that prohibit private covenants for residentially zoned lots within an urban district from limiting the number of accessory dwelling units below the amount allowed pursuant to State law or the long-term rental of residential units. Repeals provisions that require any administrative authority to act on any application for subdivision, consolidation, or resubdivision for certain parcels to be vested in the director of the county agency responsible for land use or another county officer. Repeals provisions that amend the calculation of impact fees for certain developments.

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

CITY COUNCIL  
CITY AND COUNTY OF HONOLULU  
HONOLULU, HAWAII  
CERTIFICATE

RESOLUTION 25-271

Introduced: 09/24/25 By: TOMMY WATERS

Committee: COUNCIL (CCL)

Title: RELATING TO THE INCLUSION OF A PROPOSAL IN THE 2026 HAWAII STATE ASSOCIATION OF COUNTIES  
LEGISLATIVE PACKAGE TO REPEAL COUNTY REQUIREMENTS RELATED TO ACCESSORY DWELLING UNITS ON  
RESIDENTIALLY ZONED LOTS.

Voting Legend: \* = Aye w/Reservations

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09/24/25 INTRO Introduced.

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10/01/25 CCL Adopted.

8 AYES: CORDERO, DOS SANTOS-TAM, KIA'ĀINA, NISHIMOTO, OKIMOTO,  
TULBA, WATERS, WEYER\*

1 ABSENT: TUPOLA

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I hereby certify that the above is a true record of action by the Council of the City and County of Honolulu on this  
RESOLUTION.

  
\_\_\_\_\_  
GLEN I. TAKAHASHI, CITY CLERK

  
\_\_\_\_\_  
TOMMY WATERS, CHAIR AND PRESIDING OFFICER