
A BILL FOR AN ACT

RELATING TO KAKAAKO.

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

1 SECTION 1. The purpose of this Act is to increase the
2 Kakaako community development district's reserved housing
3 requirement for a planned development with a height of more than
4 forty-five feet or a floor area that equals or exceeds one and
5 one-half times the lot area for the development in the mauka
6 area.

7 For a planned development, this Act requires at least
8 twenty-five per cent (or thirty-five per cent after December 31,
9 2017 unless the legislature determines there is adequate
10 reserved housing in Kakaako) of the floor area to be constructed
11 and made available as reserved housing units for low- and
12 moderate-income families.

13 Under this Act, the floor area applicable to the percentage
14 for reserved housing units is the total floor area of every
15 building of the planned development, except the floor area
16 developed for community or special facility uses. The developer
17 is required to divide the reserved housing floor area into the



1 number, types, and sizes of reserved housing units set by the
2 Hawaii community development authority.

3 The legislature intends that the reserved housing
4 requirement apply to every planned development with a height of
5 more than forty-five feet or a floor area that equals or exceeds
6 one and one-half times the lot area for the development, even if
7 the developer intends to construct only commercial, industrial,
8 or resort uses on the lot. It is not the intent of the
9 legislature, however, to place a disproportionate burden on
10 small businesses in the area, and this Act provides an exemption
11 for small lots.

12 This Act also establishes a reserved housing requirement
13 for a planned development with multi-family dwelling units on a
14 lot of at least twenty thousand square feet, but less than one
15 acre. For a planned development, at least twenty per cent of
16 the multi-family dwelling units to be constructed are required
17 to be set aside for reserved housing. This requirement is the
18 same as the existing rule for a planned development with multi-
19 family dwelling units on a lot of at least twenty thousand
20 square feet.

21 This Act requires the Hawaii community development
22 authority to adopt and implement rules without regard to the



1 notice and public hearing requirements of chapter 91, Hawaii
2 Revised Statutes. The provision is intended to facilitate the
3 adoption of the rules.

4 To prevent a flurry of permit applications for planned
5 developments on lots of at least one acre before adoption of the
6 rules, this Act prohibits the Hawaii community development
7 authority from accepting these applications until the rules take
8 effect. This action is necessary to ensure that the public
9 receives the maximum benefit from this Act.

10 With respect to the eligibility requirements of a low- or
11 moderate-income family to purchase or rent a reserved housing
12 unit, it is not intended that this Act cause any change from the
13 requirements under existing statutes or rules, but is intended
14 that the present eligibility requirements remain the same until
15 amended by statute or rule.

16 SECTION 2. Chapter 206E, Hawaii Revised Statutes, is
17 amended by adding a new section to part II to be appropriately
18 designated and to read as follows:

19 "§206E- Reserved housing requirement for Kakaako mauka
20 area. (a) For the purpose of this section:

21 "Base zoning" means the use, lot area, building area,
22 height, density, bulk, yard, setback, open space, on-site



1 parking and loading, and other zoning standards or other
2 restrictions imposed upon a development on a particular lot.

3 "Community service use" means any of the following uses:

- 4 (1) Nursing or convalescent home, nursing facility,
5 assisted living administration, or ancillary assisted
6 living amenities for the elderly or persons with
7 disabilities;
8 (2) Child care, day care, or senior citizen center;
9 (3) Nursery school or kindergarten;
10 (4) Church;
11 (5) Charitable institution or nonprofit organization;
12 (6) Public use; or
13 (7) Consulate.

14 "Countable floor area" of a planned development means the
15 total floor area of every building on the lot of a planned
16 development, except the floor area developed for the following:

- 17 (1) Community service use; or
18 (2) Special facility use.

19 "Floor area" means the area of the several floors of a
20 building, including basement but not unroofed areas, measured
21 from the exterior faces of the exterior walls or from the center
22 line of party walls separating portions of a building. The



1 floor area of a building or portion thereof not provided with
2 surrounding exterior walls shall be the usable area under the
3 horizontal projection of the roof or floor above, including but
4 not limited to elevator shafts, corridors, and stairways.
5 "Floor area" shall not include the area for parking facilities
6 and loading spaces, driveways and access ways, lanais or
7 balconies of dwelling or lodging units that do not exceed
8 fifteen per cent of the total floor area of the units to which
9 they are appurtenant, attic areas with head room less than seven
10 feet, covered rooftop areas, and rooftop machinery equipment and
11 elevator housings on the top of buildings.

12 "Median income" means the median annual income, adjusted
13 for family size, for households in the city and county of
14 Honolulu as most recently established by the United States
15 Department of Housing and Urban Development for the section 8
16 housing assistance payment program.

17 "Planned development" means a development for which the
18 authority approves a greater density or any other difference
19 from the base zoning applicable to the lot on which the
20 development is situated in exchange for public facilities,
21 amenities, and reserved housing units provided by the developer.



1 "Reserved housing unit" means a multi-family dwelling unit
2 that is developed for the following:

3 (1) Purchase by a family that:

4 (A) Has an income of not more than one hundred forty
5 per cent of the median income; and

6 (B) Complies with other eligibility requirements
7 established by statute or rule; or

8 (2) Rent to a family that:

9 (A) Has an income of not more than one hundred per
10 cent of the median income; and

11 (B) Complies with other eligibility requirements
12 established by statute or rule.

13 A "reserved housing unit" shall be one of the following types of
14 dwelling units: studio with one bathroom; one bedroom with one
15 bathroom; two bedrooms with one bathroom; two bedrooms with one
16 and one-half bathrooms; two bedrooms with two bathrooms; three
17 bedrooms with one and one-half bathrooms; three bedrooms with
18 two bathrooms; and four bedrooms with two bathrooms.

19 "Special facility use" means a use in a "special facility"
20 as defined under section 206E-181.

21 (b) At least twenty-five per cent (or thirty-five per cent
22 after December 31, 2017 unless the legislature determines there



1 is adequate reserved housing in Kakaako) of the countable floor
2 area of each planned development with a height of more than
3 forty-five feet or a floor area that equals or exceeds one and
4 one-half times the lot area for the development shall be
5 developed and made available for reserved housing units;
6 provided that this section shall not apply to a lot of less than
7 one acre in size. The developer of the planned development
8 shall divide the floor area required for reserved housing into,
9 and construct the number, types, and sizes of reserved housing
10 units set by the authority. The authority shall set the number,
11 types, and sizes of reserved housing units to establish sale
12 prices or rents to be charged that are affordable to families
13 intended to be served by the reserved housing units. The
14 authority also shall set the number of parking stalls to be
15 assigned to the reserved housing units.

16 The countable floor area upon which the reserved housing
17 floor area requirement is calculated shall be the countable
18 floor area in the plan submitted to the authority before any
19 building permit application is submitted. The reserved housing
20 floor area requirement shall not be changed if, subsequent to
21 the approval or submission of the plan to the authority, the
22 countable floor area is decreased. If, however, the countable



1 floor area is increased before the issuance of a building permit
2 for a building on the lot, the reserved housing floor area
3 requirement shall be appropriately increased.

4 (c) For a planned development with multi-family dwelling
5 units on a lot of between twenty thousand and 43,559 square
6 feet, at least twenty per cent of the units shall be reserved
7 housing units. The types and sizes of the reserved housing
8 units shall be set by the authority to establish sale prices or
9 rents to be charged that are affordable to families intended to
10 be served by the reserved housing units. The authority also
11 shall set the number of parking stalls to be assigned to the
12 reserved housing units.

13 (d) The reserved housing floor area or units required for
14 a planned development under this section need not be developed
15 on the same lot as the planned development, provided that
16 section 206E-4(18) shall apply.

17 (e) The authority shall not allow the developer of the
18 planned development to make a cash payment to the authority in
19 lieu of developing and making available the reserved housing
20 floor area or units required under this section.

21 (f) Subject to the rules of the authority, reserved
22 housing units shall be built prior to or concurrently with the



1 planned development. Any project that provides more reserved
2 housing units than required under this section may transfer
3 excess housing credits to another project in Kakaako toward
4 satisfaction of the reserved housing units requirement of that
5 project as follows:

- 6 (1) \$60,000 for a studio with one bathroom of at least
7 four hundred square feet;
- 8 (2) \$75,000 for a one bedroom with one bathroom of at
9 least five hundred square feet;
- 10 (3) \$105,000 for a two bedroom with one bathroom of at
11 least seven hundred square feet;
- 12 (4) \$112,500 for a two bedroom with one and a half
13 bathroom of at least seven hundred fifty square feet;
- 14 (5) \$120,000 for a two bedroom with two bathrooms of at
15 least eight hundred square feet;
- 16 (6) \$135,000 for a three bedroom with two bathrooms of at
17 least nine hundred square feet;
- 18 (7) \$150,000 for a four bedroom with two bathrooms of at
19 least one thousand square feet.

20 Alternatively, the developer of a planned development may
21 sell a credit to another developer of a planned development in
22 Kakaako at a price mutually agreed upon. The developer who



1 purchases the credit may deduct the credit from the reserved
2 housing square footage or units required for the developer's
3 planned development.

4 The authority shall annually review the amount and price
5 for the transfer of the excess credits and is authorized to
6 increase the amount as deemed necessary. The terms of the
7 reserved housing credits transfer shall be approved by the
8 authority.

9 (g) After January 1, 2009, the authority shall adopt rules
10 in accordance with chapter 91 to effectuate the purposes of this
11 section; provided that prior to January 1, 2009, the authority
12 shall adopt rules to effectuate the purposes of this section
13 without regard to chapter 91."

14 SECTION 3. Section 206E-4, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§206E-4 Powers; generally.** Except as otherwise limited
17 by this chapter, the authority may:

- 18 (1) Sue and be sued;
- 19 (2) Have a seal and alter the same at pleasure;
- 20 (3) Make and execute contracts and all other instruments
21 necessary or convenient for the exercise of its powers
22 and functions under this chapter;



- 1 (4) Make and alter bylaws for its organization and
2 internal management;
- 3 (5) Make rules with respect to its projects, operations,
4 properties, and facilities, which rules shall be in
5 conformance with chapter 91;
- 6 (6) Through its executive director appoint officers,
7 agents, and employees, prescribe their duties and
8 qualifications, and fix their salaries, without regard
9 to chapter 76;
- 10 (7) Prepare or cause to be prepared a community
11 development plan for all designated community
12 development districts;
- 13 (8) Acquire, reacquire, or contract to acquire or
14 reacquire by grant or purchase real, personal, or
15 mixed property or any interest therein; to own, hold,
16 clear, improve, and rehabilitate, and to sell, assign,
17 exchange, transfer, convey, lease, or otherwise
18 dispose of or encumber the same;
- 19 (9) Acquire or reacquire by condemnation real, personal,
20 or mixed property or any interest therein for public
21 facilities, including but not limited to streets,



- 1 sidewalks, parks, schools, and other public
2 improvements;
- 3 (10) By itself, or in partnership with qualified persons,
4 acquire, reacquire, construct, reconstruct,
5 rehabilitate, improve, alter, or repair or provide for
6 the construction, reconstruction, improvement,
7 alteration, or repair of any project; own, hold, sell,
8 assign, transfer, convey, exchange, lease, or
9 otherwise dispose of or encumber any project, and in
10 the case of the sale of any project, accept a purchase
11 money mortgage in connection therewith; and repurchase
12 or otherwise acquire any project [~~which~~] that the
13 authority has [~~theretofore~~] sold or otherwise
14 conveyed, transferred, or disposed of;
- 15 (11) Arrange or contract for the planning, replanning,
16 opening, grading, or closing of streets, roads,
17 roadways, alleys, or other places, or for the
18 furnishing of facilities or for the acquisition of
19 property or property rights or for the furnishing of
20 property or services in connection with a project;
- 21 (12) Grant options to purchase any project or to renew any
22 lease entered into by it in connection with any of its



- 1 projects, on such terms and conditions as it deems
2 advisable;
- 3 (13) Prepare or cause to be prepared plans, specifications,
4 designs, and estimates of costs for the construction,
5 reconstruction, rehabilitation, improvement,
6 alteration, or repair of any project, and from time to
7 time to modify [~~such~~] the plans, specifications,
8 designs, or estimates;
- 9 (14) Provide advisory, consultative, training, and
10 educational services, technical assistance, and advice
11 to any person, partnership, or corporation, either
12 public or private, in order to carry out the purposes
13 of this chapter, and engage the services of
14 consultants on a contractual basis for rendering
15 professional and technical assistance and advice;
- 16 (15) Procure insurance against any loss in connection with
17 its property and other assets and operations in [~~such~~]
18 amounts and from [~~such~~] insurers as it deems
19 desirable;
- 20 (16) Contract for and accept gifts or grants in any form
21 from any public agency or from any other source;



- 1 (17) Do any and all things necessary to carry out its
2 purposes and exercise the powers given and granted in
3 this chapter; and
- 4 (18) Allow satisfaction of any affordable housing
5 requirements imposed by the authority upon any
6 proposed development project through the construction
7 of reserved housing, as defined in section 206E-101,
8 by a person on land located outside the geographic
9 boundaries of the authority's jurisdiction. [~~Such~~
10 ~~substituted~~] Substitute housing shall be located on
11 the same island as the development project and shall
12 be substantially equal in value to the required
13 reserved housing units that were to be developed on
14 site. The authority shall establish the following
15 priority in the development of reserved housing:
- 16 (A) Within the community development district [~~+~~] but
17 not the area prohibited under section 206E-
18 31.5(2);
- 19 (B) Within areas immediately surrounding the
20 community development district;
- 21 (C) Areas within the central urban core;



1 (D) In outlying areas within the same island as the
2 development project.

3 The Hawaii community development authority shall
4 adopt rules relating to the approval of reserved
5 housing that are developed outside of a community
6 development district. The rules shall include, but
7 are not limited to, the establishment of guidelines to
8 ensure compliance with the above priorities."

9 SECTION 4. Section 206E-33, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "**§206E-33 Kakaako community development district;**
12 **development guidance policies.** The following shall be the
13 development guidance policies generally governing the
14 authority's action in the Kakaako community development
15 district:

16 (1) Development shall result in a community [~~which~~] that
17 permits an appropriate land mixture of residential,
18 commercial, industrial, and other uses. In view of
19 the innovative nature of the mixed use approach, urban
20 design policies should be established to provide
21 guidelines for the public and private sectors in the
22 proper development of this district; while the



1 authority's development responsibilities apply only to
2 the area within the district, the authority may engage
3 in any studies or coordinative activities permitted in
4 this chapter [~~which~~] that affect areas lying outside
5 the district, where the authority in its discretion
6 decides that those activities are necessary to
7 implement the intent of this chapter. The studies or
8 coordinative activities shall be limited to facility
9 systems, resident and industrial relocation, and other
10 activities with the counties and appropriate state
11 agencies. The authority may engage in construction
12 activities outside of the district; provided that
13 [~~such~~] the construction relates to infrastructure
14 development or residential or business relocation
15 activities; provided further, notwithstanding section
16 206E-7, that [~~such~~] the construction shall comply with
17 the general plan, development plan, ordinances, and
18 rules of the county in which the district is located;

- 19 (2) Existing and future industrial uses shall be permitted
20 and encouraged in appropriate locations within the
21 district. No plan or implementation strategy shall
22 prevent continued activity or redevelopment of



- 1 industrial and commercial uses [~~which~~] that meet
2 reasonable performance standards;
- 3 (3) Activities shall be located [~~se-as~~] to provide primary
4 reliance on public transportation and pedestrian
5 facilities for internal circulation within the
6 district or designated subareas;
- 7 (4) Major view planes, view corridors, and other
8 environmental elements, such as natural light and
9 prevailing winds, shall be preserved through necessary
10 regulation and design review;
- 11 (5) Redevelopment of the district shall be compatible with
12 plans and special districts established for the Hawaii
13 Capital District, and other areas surrounding the
14 Kakaako district;
- 15 (6) Historic sites and culturally significant facilities,
16 settings, or locations shall be preserved;
- 17 (7) Land use activities within the district, where
18 compatible, shall to the greatest possible extent be
19 mixed horizontally, that is, within blocks or other
20 land areas, and vertically, as integral units of
21 multi-purpose structures;



- 1 (8) Residential development may require a mixture of
2 densities, building types, and configurations in
3 accordance with appropriate urban design guidelines[+]
4 and the integration both vertically and horizontally
5 of residents of varying incomes, ages, and family
6 groups; [~~and an increased supply of housing for~~
7 ~~residents of low or moderate income may be required~~
8 ~~as a condition of redevelopment in residential use.]~~
9 provided that the reserved housing requirements of
10 section 206E- shall be imposed upon a planned
11 development when applicable. Residential development
12 shall provide necessary community facilities, such as
13 open space, parks, community meeting places, child
14 care centers, and other services, within and adjacent
15 to residential development; and
- 16 (9) Public facilities within the district shall be
17 planned, located, and developed [~~se-as~~] to support the
18 redevelopment policies for the district established by
19 this chapter and plans and rules adopted pursuant to
20 it."



1 SECTION 5. Section 206E-101, Hawaii Revised Statutes, is
2 amended by amending the definition of "reserved housing" to read
3 as follows:

4 "Reserved housing" means [~~housing designated for residents~~
5 ~~in the low or moderate income ranges who meet such~~] a reserved
6 housing unit, as defined under section 206E- , developed and
7 made available for purchase by a family that has a household
8 income of not more than one hundred forty per cent of the area
9 median income and that meets other eligibility requirements as
10 the authority may adopt by rule."

11 SECTION 6. The Hawaii community development authority
12 shall adopt new or amend adopted rules to implement this Act
13 without regard to the public notice and public hearing
14 requirements of section 91-3, Hawaii Revised Statutes, or the
15 small business impact review requirements of chapter 201M,
16 Hawaii Revised Statutes. The authority shall adopt the rules
17 before January 1, 2009. Any subsequent amendment of the rules
18 adopted pursuant to this section shall be subject to all
19 applicable provisions of chapter 91 and chapter 201M, Hawaii
20 Revised Statutes.

21 SECTION 7. (a) From the effective date of this Act until
22 the effective date of the new or amended rules adopted pursuant



1 to section 6 of this Act, the Hawaii community development
2 authority shall not accept any planned development permit
3 application for a planned development on a lot of at least one
4 acre.

5 (b) From the effective date of the new or amended rules
6 adopted pursuant to section 6 of this Act, the Hawaii community
7 development authority may accept any planned development permit
8 application for a planned development on a lot of at least one
9 acre.

10 SECTION 8. From the effective date of this Act until the
11 effective date of the new or amended rules adopted pursuant to
12 section 6 of this Act, the Hawaii community development
13 authority may accept any planned development permit application
14 for a planned development with multi-family dwelling units on a
15 lot of between twenty thousand and 43,559 square feet. The
16 reserved housing unit requirement for the planned development
17 shall be subject to the laws and rules in effect on the date of
18 the permit application.

19 SECTION 9. The planned development permit application for
20 any planned development, which is pending on the effective date
21 of this Act, shall not be subject to this Act or rules adopted
22 pursuant to section 6 of this Act. The planned development



1 shall be subject to the laws and rules in effect on the date of
2 the permit application.

3 SECTION 10. (a) From the effective date of this Act until
4 the effective date of the new or amended rules adopted pursuant
5 to section 6, the Hawaii community development authority shall
6 prohibit the developer of a planned development in Kakaako from
7 submitting a building permit application for the planned
8 development to the city and county of Honolulu.

9 (b) From the effective date of the new or amended rules
10 adopted pursuant to section 6, the Hawaii community development
11 authority shall allow the developer of a planned development in
12 Kakaako to submit a building permit application for the planned
13 development to the city and county of Honolulu.

14 SECTION 11. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 12. This Act shall take effect on July 1, 2050.



Report Title:

Kakaako Community Development District, Mauka Area; Reserved Housing

Description:

Increases the reserved housing requirement for a planned development with a height of more than forty-five feet or a floor area that equals or exceeds 1.5 times the lot area for such development in the Kakaako community development district, mauka area for lots one acre or more in size. (SD1)

