

JAN 18 2008

---

---

# 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 reserved housing requirement for a planned development on a lot  
3 of at least one acre in the Kakaako community development  
4 district, mauka area. For such a planned development, at least  
5 fifty per cent of the floor area is required to be constructed  
6 and made available as reserved housing units for low- and  
7 moderate-income families. The floor area countable for  
8 establishing the percentage for reserved housing units is the  
9 total floor area of every building of the planned development,  
10 except the floor area developed for community or special  
11 facility uses. The developer is required to divide the reserved  
12 housing floor area into the number, types, and sizes of reserved  
13 housing units set by the Hawaii community development authority.  
14 The legislature intends that the reserved housing requirement  
15 apply to every planned development on a lot of at least one  
16 acre, even if the developer intends to construct only  
17 commercial, industrial, or resort uses on the lot.



1           This Act also establishes a reserved housing requirement  
2 for a planned development with multi-family dwelling units on a  
3 lot of at least twenty thousand square feet, but less than one  
4 acre. For such a planned development, at least twenty per cent  
5 of the multi-family dwelling units to be constructed are  
6 required to be set aside for reserved housing. This requirement  
7 is the same as that presently existing under rule for a planned  
8 development with multi-family dwelling units on a lot of at  
9 least twenty thousand square feet.

10           This Act requires the Hawaii community development  
11 authority to adopt implementing rules without regard to the  
12 notice and public hearing requirements of chapter 91, Hawaii  
13 Revised Statutes. The provision is intended to facilitate the  
14 adoption of the rules.

15           To prevent a flurry of permit applications for planned  
16 developments on lots of at least one acre before adoption of the  
17 rules, this Act prohibits the authority from accepting such  
18 applications until the rules take effect. The legislature finds  
19 that this action is necessary to ensure that the public receives  
20 the maximum benefit from this Act.

21           With respect to the eligibility requirements of a low- or  
22 moderate-income family to purchase or rent a reserved housing



1 unit, the legislature does not intend that this Act cause any  
 2 change from the requirements under existing statute or rule.  
 3 The legislature intends that the present eligibility  
 4 requirements remain the same until amended by statute or rule.

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

8 "§206E- Reserved housing requirement for Kakaako mauka  
 9 area. (a) For the purpose of this section:

10 "Base zoning" means the use, lot area, building area,  
 11 height, density, bulk, yard, setback, open space, on-site  
 12 parking and loading, and other zoning standards or other such  
 13 restrictions imposed upon a development on a particular lot.

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

15 (1) Nursing or convalescent home, nursing facility,  
 16 assisted living administration, or ancillary assisted  
 17 living amenities for the elderly or persons with  
 18 disabilities;

19 (2) Child care, day care, or senior citizen center;

20 (3) Nursery school or kindergarten;

21 (4) Church;

22 (5) Charitable institution or nonprofit organization;



1       (6) Public use; or

2       (7) Consulate.

3       "Countable floor area" of a planned development means the  
4 total floor area of every building on the lot of a planned  
5 development, except the floor area developed for the following:

6       (1) Community service use; or

7       (2) Special facility use.

8       "Floor area" means the area of the several floors of a  
9 building, including basement but not unroofed areas, measured  
10 from the exterior faces of the exterior walls or from the center  
11 line of party walls separating portions of a building. The  
12 floor area of a building or portion thereof not provided with  
13 surrounding exterior walls shall be the usable area under the  
14 horizontal projection of the roof or floor above, including but  
15 not limited to elevator shafts, corridors, and stairways.

16 "Floor area" shall not include the area for parking facilities  
17 and loading spaces, driveways and access ways, lanais or  
18 balconies of dwelling or lodging units that do not exceed  
19 fifteen per cent of the total floor area of the units to which  
20 they are appurtenant, attic areas with head room less than seven  
21 feet, covered rooftop areas, and rooftop machinery equipment and  
22 elevator housings on the top of buildings.



1       "Median income" means the median annual income, adjusted  
2 for family size, for households in the city and county of  
3 Honolulu as most recently established by the United States  
4 Department of Housing and Urban Development for the section 8  
5 housing assistance payments program.

6       "Planned development" means a development for which the  
7 authority approves a greater density or any other difference  
8 from the base zoning applicable to the lot on which the  
9 development is situated in exchange for public facilities,  
10 amenities, and reserved housing units provided by the developer.

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

13       (1) Purchase by a family that:

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

16           (B) Complies with other eligibility requirements  
17           established by statute or rule; or

18       (2) Rent to a family that:

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

21           (B) Complies with other eligibility requirements  
22           established by statute or rule.



1 A "reserved housing unit" shall be one of the following types of  
2 dwelling units: studio with one bathroom; one bedroom with one  
3 bathroom; two bedrooms with one and one-half bathrooms; two  
4 bedrooms with two bathrooms; three bedrooms with one and one-  
5 half bathrooms; three bedrooms with two bathrooms; and four  
6 bedrooms with two bathrooms.

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

9 (b) At least fifty per cent of the countable floor area of  
10 each planned development on a lot of at least one acre shall be  
11 developed as and made available for reserved housing units. The  
12 developer of the planned development shall divide the floor area  
13 required for reserved housing into and construct the number,  
14 types, and sizes of reserved housing units set by the authority.  
15 The authority shall set the number, types, and sizes of reserved  
16 housing units to establish sale prices or rents to be charged  
17 that are affordable to families intended to be served by the  
18 reserved housing units. The authority also shall set the number  
19 of parking stalls to be assigned to the reserved housing units.

20 The countable floor area upon which the reserved housing  
21 floor area requirement is calculated shall be the countable  
22 floor area in the plan approved by the authority in the planned



1 development permit. The reserved housing floor area requirement  
2 shall not be changed if, subsequent to the planned development  
3 permit approval, the countable floor area is decreased. If,  
4 however, the countable floor area is increased before the  
5 issuance of a building permit for a building on the lot, the  
6 reserved housing floor area requirement shall be appropriately  
7 increased.

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

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

21 (e) As an alternative to requiring a developer to develop  
22 and make available any reserved housing floor area or unit, the



1 authority may allow the developer to make an in lieu cash  
2 payment to the authority. The authority shall establish the  
3 amount of the cash payment, which may vary depending upon  
4 projected gross revenue of the developer from the planned  
5 development, amount of reserved housing units to be provided for  
6 the planned development, affordability of non-reserved housing  
7 units to be provided in the planned development, estimated  
8 development cost of the reserved housing units if provided on  
9 the same lot as the planned development, or other factors deemed  
10 appropriate by the authority.

11 (f) The authority shall adopt rules in accordance with  
12 chapter 91 and section 6 of this Act to implement this section."

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

15 "**§206E-4 Powers; generally.** Except as otherwise limited  
16 by this chapter, the authority may:

- 17 (1) Sue and be sued;
- 18 (2) Have a seal and alter the same at pleasure;
- 19 (3) Make and execute contracts and all other instruments  
20 necessary or convenient for the exercise of its powers  
21 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 plans, specifications, designs, or  
8 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 housing shall be located on the same  
11 island as the development project and shall be  
12 substantially equal in value to the required reserved  
13 housing units that were to be developed on site. The  
14 authority shall establish the following priority in  
15 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 construction shall comply with the  
17 general plan, development plan, ordinances, and rules  
18 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 [~~so 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;

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 amendatory 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 amendatory rules adopted



1 pursuant to section 6, 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 amendatory rules  
6 adopted pursuant to section 6, the Hawaii community development  
7 may accept any planned development permit application for a  
8 planned development on a lot of at least one acre.

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

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



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

3 SECTION 10. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5 SECTION 11. This Act shall take effect upon its approval.

6

INTRODUCED BY:

*[Signature]*  
*Brunell Kohrt*



**Report Title:**

Kakaako Community Development District, Mauka Area; Reserved Housing

**Description:**

Increases the reserved housing requirement for a planned development on a lot of at least one acre in the Kakaako community development district, mauka area.

