
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 with a
3 height of more than forty-five feet or a floor area that equals
4 or exceeds 1.5 times the lot area for such development in the
5 Kakaako community development district, mauka area. For a
6 planned development, at least twenty-five (or thirty-five per
7 cent after December 31, 2017 unless the legislature determines
8 there is adequate reserved housing in Kakaako) per cent of the
9 floor area is required to be constructed and made available as
10 reserved housing units for low- and moderate-income families.
11 The floor area countable for establishing the percentage for
12 reserved housing units is the total floor area of every building
13 of the planned development, except the floor area developed for
14 community or special facility uses. The developer is required
15 to divide the reserved housing floor area into the number,
16 types, and sizes of reserved housing units set by the Hawaii
17 community development authority. The legislature intends that
18 the reserved housing requirement apply to every planned



1 development with a height of more than forty-five feet or a
2 floor area that equals or exceeds 1.5 times the lot area for
3 such development, even if the developer intends to construct
4 only commercial, industrial, or resort uses on the lot.

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

14 This Act requires the Hawaii community development
15 authority to adopt and implement rules without regard to the
16 notice and public hearing requirements of chapter 91, Hawaii
17 Revised Statutes. The provision is intended to facilitate the
18 adoption of the rules.

19 To prevent a flurry of permit applications for planned
20 developments on lots of at least one acre before adoption of the
21 rules, this Act prohibits the Hawaii community development
22 authority from accepting these applications until the rules take



1 effect. This action is necessary to ensure that the public
2 receives the maximum benefit from this Act.

3 With respect to the eligibility requirements of a low- or
4 moderate-income family to purchase or rent a reserved housing
5 unit, it is not intended that this Act cause any change from the
6 requirements under existing statutes or rules, but is intended
7 that the present eligibility requirements remain the same until
8 amended by statute or rule.

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

12 **"§206E- Reserved housing requirement for Kakaako mauka**
13 **area.** (a) For the purpose of this section:

14 "Base zoning" means the use, lot area, building area,
15 height, density, bulk, yard, setback, open space, on-site
16 parking and loading, and other zoning standards or other
17 restrictions imposed upon a development on a particular lot.

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

- 19 (1) Nursing or convalescent home, nursing facility,
20 assisted living administration, or ancillary assisted
21 living amenities for the elderly or persons with
22 disabilities;



- 1 (2) Child care, day care, or senior citizen center;
- 2 (3) Nursery school or kindergarten;
- 3 (4) Church;
- 4 (5) Charitable institution or nonprofit organization;
- 5 (6) Public use; or
- 6 (7) Consulate.

7 "Countable floor area" of a planned development means the
8 total floor area of every building on the lot of a planned
9 development, except the floor area developed for the following:

- 10 (1) Community service use; or
- 11 (2) Special facility use.

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

20 "Floor area" shall not include the area for parking facilities
21 and loading spaces, driveways and access ways, lanais or
22 balconies of dwelling or lodging units that do not exceed



1 fifteen per cent of the total floor area of the units to which
2 they are appurtenant, attic areas with head room less than seven
3 feet, covered rooftop areas, and rooftop machinery equipment and
4 elevator housings on the top of buildings.

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

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

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

- 17 (1) Purchase by a family that:
 - 18 (A) Has an income of not more than one hundred forty
 - 19 per cent of the median income; and
 - 20 (B) Complies with other eligibility requirements
 - 21 established by statute or rule; or

22 (2) Rent to a family that:



- 1 (A) Has an income of not more than one hundred per
2 cent of the median income; and
- 3 (B) Complies with other eligibility requirements
4 established by statute or rule.

5 A "reserved housing unit" shall be one of the following types of
6 dwelling units: studio with one bathroom; one bedroom with one
7 bathroom; two bedrooms with one bath; two bedrooms with one and
8 one-half bathrooms; two bedrooms with two bathrooms; three
9 bedrooms with one and one-half bathrooms; three bedrooms with
10 two bathrooms; and four bedrooms with two bathrooms.

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

13 (b) At least twenty-five (or thirty-five per cent after
14 December 31, 2017 unless the legislature determines there is
15 adequate reserved housing in Kakaako) per cent of the countable
16 floor area of each planned development with a height of more
17 than forty-five feet or a floor area that equals or exceeds 1.5
18 times the lot area for such development shall be developed as
19 and made available for reserved housing units. The developer of
20 the planned development shall divide the floor area required for
21 reserved housing into and construct the number, types, and sizes
22 of reserved housing units set by the authority. The authority



1 shall set the number, types, and sizes of reserved housing units
2 to establish sale prices or rents to be charged that are
3 affordable to families intended to be served by the reserved
4 housing units. The authority also shall set the number of
5 parking stalls to be assigned to the reserved housing units.

6 The countable floor area upon which the reserved housing
7 floor area requirement is calculated shall be the countable
8 floor area in the plan approved by the authority in the planned
9 development permit. The reserved housing floor area requirement
10 shall not be changed if, subsequent to the planned development
11 permit approval, the countable floor area is decreased. If,
12 however, the countable floor area is increased before the
13 issuance of a building permit for a building on the lot, the
14 reserved housing floor area requirement shall be appropriately
15 increased.

16 (c) For a planned development with multi-family dwelling
17 units on a lot of between twenty thousand and 43,559 square
18 feet, at least twenty per cent of the units shall be reserved
19 housing units. The types and sizes of the reserved housing
20 units shall be set by the authority to establish sale prices or
21 rents to be charged that are affordable to families intended to
22 be served by the reserved housing units. The authority also



1 shall set the number of parking stalls to be assigned to the
2 reserved housing units.

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

7 (e) Subject to the rules of the authority, reserved
8 housing units may be built prior to but not later than
9 concurrently with the planned development. Any project that
10 provides more reserved housing units than required under this
11 section may transfer excess housing credits to another project
12 in Kakaako toward satisfaction of the reserved housing units
13 requirement of that project for:

14 (1) \$60,000 for a studio with one bathroom of at least 400
15 square feet;

16 (2) \$75,000 for a one bedroom with one bathroom of at
17 least 500 square feet;

18 (3) \$105,000 for a two bedroom with one bathroom of at
19 least 700 square feet;

20 (4) \$112,500 for a two bedroom with one and a half
21 bathroom of at least 750 square feet;



1 (5) \$120,000 for a two bedroom with two bathrooms of at
2 least 800 square feet;

3 (6) \$135,000 for a three bedroom with two bathrooms of at
4 least 900 square feet;

5 (7) \$150,000 for a four bedroom with two bathrooms of at
6 least 1,000 square feet.

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

12 (f) After January 1, 2009, the authority shall adopt rules
13 in accordance with chapter 91. Prior to January 1, 2009, the
14 authority shall adopt rules to effectuate the purposes of this
15 section without regard to chapter 91."

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

18 "**§206E-4 Powers; generally.** Except as otherwise limited
19 by this chapter, the authority may:

20 (1) Sue and be sued;

21 (2) Have a seal and alter the same at pleasure;



- 1 (3) Make and execute contracts and all other instruments
2 necessary or convenient for the exercise of its powers
3 and functions under this chapter;
- 4 (4) Make and alter bylaws for its organization and
5 internal management;
- 6 (5) Make rules with respect to its projects, operations,
7 properties, and facilities, which rules shall be in
8 conformance with chapter 91;
- 9 (6) Through its executive director appoint officers,
10 agents, and employees, prescribe their duties and
11 qualifications, and fix their salaries, without regard
12 to chapter 76;
- 13 (7) Prepare or cause to be prepared a community
14 development plan for all designated community
15 development districts;
- 16 (8) Acquire, reacquire, or contract to acquire or
17 reacquire by grant or purchase real, personal, or
18 mixed property or any interest therein; to own, hold,
19 clear, improve, and rehabilitate, and to sell, assign,
20 exchange, transfer, convey, lease, or otherwise
21 dispose of or encumber the same;



1 (9) Acquire or reacquire by condemnation real, personal,
 2 or mixed property or any interest therein for public
 3 facilities, including but not limited to streets,
 4 sidewalks, parks, schools, and other public
 5 improvements;

6 (10) By itself, or in partnership with qualified persons,
 7 acquire, reacquire, construct, reconstruct,
 8 rehabilitate, improve, alter, or repair or provide for
 9 the construction, reconstruction, improvement,
 10 alteration, or repair of any project; own, hold, sell,
 11 assign, transfer, convey, exchange, lease, or
 12 otherwise dispose of or encumber any project, and in
 13 the case of the sale of any project, accept a purchase
 14 money mortgage in connection therewith; and repurchase
 15 or otherwise acquire any project [~~which~~] that the
 16 authority has [~~theretofore~~] sold or otherwise
 17 conveyed, transferred, or disposed of;

18 (11) Arrange or contract for the planning, replanning,
 19 opening, grading, or closing of streets, roads,
 20 roadways, alleys, or other places, or for the
 21 furnishing of facilities or for the acquisition of



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



- 1 amounts and from [~~such~~] insurers as it deems
2 desirable;
- 3 (16) Contract for and accept gifts or grants in any form
4 from any public agency or from any other source;
- 5 (17) Do any and all things necessary to carry out its
6 purposes and exercise the powers given and granted in
7 this chapter; and
- 8 (18) Allow satisfaction of any affordable housing
9 requirements imposed by the authority upon any
10 proposed development project through the construction
11 of reserved housing, as defined in section 206E-101,
12 by a person on land located outside the geographic
13 boundaries of the authority's jurisdiction. [~~Such~~
14 ~~substituted~~] Substitute housing shall be located on
15 the same island as the development project and shall
16 be substantially equal in value to the required
17 reserved housing units that were to be developed on
18 site. The authority shall establish the following
19 priority in the development of reserved housing:
- 20 (A) Within the community development district[+] but
21 not the area prohibited under section 206E-
22 31.5(2);



- 1 (B) Within areas immediately surrounding the
- 2 community development district;
- 3 (C) Areas within the central urban core;
- 4 (D) In outlying areas within the same island as the
- 5 development project.

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

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

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

- 19 (1) Development shall result in a community [~~which~~] that
- 20 permits an appropriate land mixture of residential,
- 21 commercial, industrial, and other uses. In view of
- 22 the innovative nature of the mixed use approach, urban



1 design policies should be established to provide
2 guidelines for the public and private sectors in the
3 proper development of this district; while the
4 authority's development responsibilities apply only to
5 the area within the district, the authority may engage
6 in any studies or coordinative activities permitted in
7 this chapter [~~which~~] that affect areas lying outside
8 the district, where the authority in its discretion
9 decides that those activities are necessary to
10 implement the intent of this chapter. The studies or
11 coordinative activities shall be limited to facility
12 systems, resident and industrial relocation, and other
13 activities with the counties and appropriate state
14 agencies. The authority may engage in construction
15 activities outside of the district; provided that
16 [~~such~~] the construction relates to infrastructure
17 development or residential or business relocation
18 activities; provided further, notwithstanding section
19 206E-7, that [~~such~~] the construction shall comply with
20 the general plan, development plan, ordinances, and
21 rules of the county in which the district is located;



- 1 (2) Existing and future industrial uses shall be permitted
2 and encouraged in appropriate locations within the
3 district. No plan or implementation strategy shall
4 prevent continued activity or redevelopment of
5 industrial and commercial uses [~~which~~] that meet
6 reasonable performance standards;
- 7 (3) Activities shall be located [~~se-as~~] to provide primary
8 reliance on public transportation and pedestrian
9 facilities for internal circulation within the
10 district or designated subareas;
- 11 (4) Major view planes, view corridors, and other
12 environmental elements, such as natural light and
13 prevailing winds, shall be preserved through necessary
14 regulation and design review;
- 15 (5) Redevelopment of the district shall be compatible with
16 plans and special districts established for the Hawaii
17 Capital District, and other areas surrounding the
18 Kakaako district;
- 19 (6) Historic sites and culturally significant facilities,
20 settings, or locations shall be preserved;
- 21 (7) Land use activities within the district, where
22 compatible, shall to the greatest possible extent be



1 mixed horizontally, that is, within blocks or other
2 land areas, and vertically, as integral units of
3 multi-purpose structures;

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

19 (9) Public facilities within the district shall be
20 planned, located, and developed [~~se-as~~] to support the
21 redevelopment policies for the district established by



1 this chapter and plans and rules adopted pursuant to
2 it."

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

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

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



1 SECTION 7. (a) From the effective date of this Act until
2 the effective date of the new or amended rules adopted pursuant
3 to section 6, the Hawaii community development authority shall
4 not accept any planned development permit application for a
5 planned development on a lot of at least one acre.

6 (b) From the effective date of the new or amended rules
7 adopted pursuant to section 6, the Hawaii community development
8 may accept any planned development permit application for a
9 planned development on a lot of at least one 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, the Hawaii community development authority may accept
13 any planned development permit application for a planned
14 development with multi-family dwelling units on a lot of between
15 twenty thousand and 43,559 square feet. The reserved housing
16 unit requirement for such a planned development shall be subject
17 to the statutes and rules in effect on the date of the permit
18 application.

19 SECTION 9. Any planned development, the planned
20 development permit application for which is pending on the
21 effective date of this Act, shall not be subject to this Act or
22 rules adopted pursuant to section 6. 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 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. (SD1)

