
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 approved by the authority in the planned
19 development permit. The reserved housing floor area requirement
20 shall not be changed if, subsequent to the planned development
21 permit approval, the countable floor area is decreased. If,
22 however, the countable floor area is increased before the



1 issuance of a building permit for a building on the lot, the
2 reserved housing floor area requirement shall be appropriately
3 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) Subject to the rules of the authority, reserved
18 housing units shall be built prior to or concurrently with the
19 planned development. Any project that provides more reserved
20 housing units than required under this section may transfer
21 excess housing credits to another project in Kakaako toward



1 satisfaction of the reserved housing units requirement of that
2 project as follows:

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

17 The authority shall annually review the amount and price for the
18 transfer of the excess credits and is authorized to increase the
19 amount as deemed necessary. The terms of the reserved housing
20 credits transfer shall be approved by the authority.

21 (f) After January 1, 2009, the authority shall adopt rules
22 in accordance with chapter 91 to effectuate the purposes of this



1 section; provided that prior to January 1, 2009, the authority
2 shall adopt rules to effectuate the purposes of this section
3 without regard to chapter 91."

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

6 "**§206E-4 Powers; generally.** Except as otherwise limited
7 by this chapter, the authority may:

- 8 (1) Sue and be sued;
- 9 (2) Have a seal and alter the same at pleasure;
- 10 (3) Make and execute contracts and all other instruments
11 necessary or convenient for the exercise of its powers
12 and functions under this chapter;
- 13 (4) Make and alter bylaws for its organization and
14 internal management;
- 15 (5) Make rules with respect to its projects, operations,
16 properties, and facilities, which rules shall be in
17 conformance with chapter 91;
- 18 (6) Through its executive director appoint officers,
19 agents, and employees, prescribe their duties and
20 qualifications, and fix their salaries, without regard
21 to chapter 76;



- 1 (7) Prepare or cause to be prepared a community
2 development plan for all designated community
3 development districts;
- 4 (8) Acquire, reacquire, or contract to acquire or
5 reacquire by grant or purchase real, personal, or
6 mixed property or any interest therein; to own, hold,
7 clear, improve, and rehabilitate, and to sell, assign,
8 exchange, transfer, convey, lease, or otherwise
9 dispose of or encumber the same;
- 10 (9) Acquire or reacquire by condemnation real, personal,
11 or mixed property or any interest therein for public
12 facilities, including but not limited to streets,
13 sidewalks, parks, schools, and other public
14 improvements;
- 15 (10) By itself, or in partnership with qualified persons,
16 acquire, reacquire, construct, reconstruct,
17 rehabilitate, improve, alter, or repair or provide for
18 the construction, reconstruction, improvement,
19 alteration, or repair of any project; own, hold, sell,
20 assign, transfer, convey, exchange, lease, or
21 otherwise dispose of or encumber any project, and in
22 the case of the sale of any project, accept a purchase



1 money mortgage in connection therewith; and repurchase
2 or otherwise acquire any project [~~which~~] that the
3 authority has [~~theretofore~~] sold or otherwise
4 conveyed, transferred, or disposed of;

5 (11) Arrange or contract for the planning, replanning,
6 opening, grading, or closing of streets, roads,
7 roadways, alleys, or other places, or for the
8 furnishing of facilities or for the acquisition of
9 property or property rights or for the furnishing of
10 property or services in connection with a project;

11 (12) Grant options to purchase any project or to renew any
12 lease entered into by it in connection with any of its
13 projects, on such terms and conditions as it deems
14 advisable;

15 (13) Prepare or cause to be prepared plans, specifications,
16 designs, and estimates of costs for the construction,
17 reconstruction, rehabilitation, improvement,
18 alteration, or repair of any project, and from time to
19 time to modify [~~such~~] the plans, specifications,
20 designs, or estimates;

21 (14) Provide advisory, consultative, training, and
22 educational services, technical assistance, and advice



- 1 to any person, partnership, or corporation, either
2 public or private, in order to carry out the purposes
3 of this chapter, and engage the services of
4 consultants on a contractual basis for rendering
5 professional and technical assistance and advice;
- 6 (15) Procure insurance against any loss in connection with
7 its property and other assets and operations in [~~such~~]
8 amounts and from [~~such~~] insurers as it deems
9 desirable;
- 10 (16) Contract for and accept gifts or grants in any form
11 from any public agency or from any other source;
- 12 (17) Do any and all things necessary to carry out its
13 purposes and exercise the powers given and granted in
14 this chapter; and
- 15 (18) Allow satisfaction of any affordable housing
16 requirements imposed by the authority upon any
17 proposed development project through the construction
18 of reserved housing, as defined in section 206E-101,
19 by a person on land located outside the geographic
20 boundaries of the authority's jurisdiction. [~~Such~~
21 ~~substituted~~] Substitute housing shall be located on
22 the same island as the development project and shall



1 be substantially equal in value to the required
2 reserved housing units that were to be developed on
3 site. The authority shall establish the following
4 priority in the development of reserved housing:

5 (A) Within the community development district[+] but
6 not the area prohibited under section 206E-
7 31.5(2);

8 (B) Within areas immediately surrounding the
9 community development district;

10 (C) Areas within the central urban core;

11 (D) In outlying areas within the same island as the
12 development project.

13 The Hawaii community development authority shall
14 adopt rules relating to the approval of reserved
15 housing that are developed outside of a community
16 development district. The rules shall include, but
17 are not limited to, the establishment of guidelines to
18 ensure compliance with the above priorities."

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

21 "**§206E-33 Kakaako community development district;**
22 **development guidance policies.** The following shall be the



1 development guidance policies generally governing the
2 authority's action in the Kakaako community development
3 district:

4 (1) Development shall result in a community [~~which~~] that
5 permits an appropriate land mixture of residential,
6 commercial, industrial, and other uses. In view of
7 the innovative nature of the mixed use approach, urban
8 design policies should be established to provide
9 guidelines for the public and private sectors in the
10 proper development of this district; while the
11 authority's development responsibilities apply only to
12 the area within the district, the authority may engage
13 in any studies or coordinative activities permitted in
14 this chapter [~~which~~] that affect areas lying outside
15 the district, where the authority in its discretion
16 decides that those activities are necessary to
17 implement the intent of this chapter. The studies or
18 coordinative activities shall be limited to facility
19 systems, resident and industrial relocation, and other
20 activities with the counties and appropriate state
21 agencies. The authority may engage in construction
22 activities outside of the district; provided that



- 1 [~~such~~] the construction relates to infrastructure
2 development or residential or business relocation
3 activities; provided further, notwithstanding section
4 206E-7, that [~~such~~] the construction shall comply with
5 the general plan, development plan, ordinances, and
6 rules of the county in which the district is located;
- 7 (2) Existing and future industrial uses shall be permitted
8 and encouraged in appropriate locations within the
9 district. No plan or implementation strategy shall
10 prevent continued activity or redevelopment of
11 industrial and commercial uses [~~which~~] that meet
12 reasonable performance standards;
- 13 (3) Activities shall be located [~~se-as~~] to provide primary
14 reliance on public transportation and pedestrian
15 facilities for internal circulation within the
16 district or designated subareas;
- 17 (4) Major view planes, view corridors, and other
18 environmental elements, such as natural light and
19 prevailing winds, shall be preserved through necessary
20 regulation and design review;
- 21 (5) Redevelopment of the district shall be compatible with
22 plans and special districts established for the Hawaii



1 Capital District, and other areas surrounding the
2 Kakaako district;

3 (6) Historic sites and culturally significant facilities,
4 settings, or locations shall be preserved;

5 (7) Land use activities within the district, where
6 compatible, shall to the greatest possible extent be
7 mixed horizontally, that is, within blocks or other
8 land areas, and vertically, as integral units of
9 multi-purpose structures;

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



1 care centers, and other services, within and adjacent
2 to residential development;
3 (9) Public facilities within the district shall be
4 planned, located, and developed [~~se-as~~] to support the
5 redevelopment policies for the district established by
6 this chapter and plans and rules adopted pursuant to
7 it."

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

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

18 SECTION 6. The Hawaii community development authority
19 shall adopt new or amend adopted rules to implement this Act
20 without regard to the public notice and public hearing
21 requirements of section 91-3, Hawaii Revised Statutes, or the
22 small business impact review requirements of chapter 201M,



1 Hawaii Revised Statutes. The authority shall adopt the rules
2 before January 1, 2009. Any subsequent amendment of the rules
3 adopted pursuant to this section shall be subject to all
4 applicable provisions of chapter 91 and chapter 201M, Hawaii
5 Revised Statutes.

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

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

17 SECTION 8. From the effective date of this Act until the
18 effective date of the new or amended rules adopted pursuant to
19 section 6 of this Act, the Hawaii community development
20 authority may accept any planned development permit application
21 for a planned development with multi-family dwelling units on a
22 lot of between twenty thousand and 43,559 square feet. The

1 reserved housing unit requirement for the planned development
2 shall be subject to the laws and rules in effect on the date of
3 the permit application.

4 SECTION 9. The planned development permit application for
5 any planned development, which is pending on the effective date
6 of this Act, shall not be subject to this Act or rules adopted
7 pursuant to section 6 of this Act. The planned development
8 shall be subject to the laws and rules in effect on the date of
9 the permit application.

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

12 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 for lots one acre or more in size. (SB2294 SD2)

