
A BILL FOR AN ACT

RELATING TO KAKAAKO.

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

1 SECTION 1. Chapter 206E, Hawaii Revised Statutes, is
2 amended by adding a new section to part II to be appropriately
3 designated and to read as follows:

4 "§206E- Reserved housing requirement for Kakaako mauka
5 area. (a) For the purpose of this section:

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

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

11 (1) Nursing or convalescent home, nursing facility,
12 assisted living administration, or ancillary assisted
13 living amenities for the elderly or persons with
14 disabilities;

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

16 (3) Nursery school or kindergarten;

17 (4) Church;

1 (5) Charitable institution or nonprofit organization;

2 (6) Public use;

3 (7) Public utility; or

4 (8) Consulate.

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

8 (1) Community service use;

9 (2) Special facility use; or

10 (3) Industrial use.

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

19 "Floor area" shall not include the area for parking facilities
20 and loading spaces, driveways and access ways, lanais or
21 balconies of dwelling or lodging units that do not exceed
22 fifteen per cent of the total floor area of the units to which

1 they are appurtenant, attic areas with head room less than seven
2 feet, covered rooftop areas, and rooftop machinery equipment and
3 elevator housings on the top of buildings.

4 "Industrial use" shall have the same meaning as in section
5 171-131.

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

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

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

18 (1) Purchase by a family that:

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

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

1 (2) Rent to a family that:

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

4 (B) Complies with other eligibility requirements
5 established by statute or rule.

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

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

14 (b) At least fifty per cent of the countable floor area of
15 each planned development on a lot of at least 80,000 square feet
16 shall be developed as and made available for reserved housing
17 units; provided that after five years from the effective date of
18 Act , Session Laws of Hawaii 2009, the percentage shall
19 increase to at least sixty per cent. The developer of the
20 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 properties of one acre or less the reserved
17 housing requirements shall not be applicable.

18 (d) As an alternative to requiring a developer to develop
19 and make available any reserved housing floor area or unit, the
20 authority may allow the developer to make an in lieu cash
21 payment to the authority. The authority shall establish the
22 amount of the cash payment, which may vary depending upon

1 projected gross revenue of the developer from the planned
2 development, amount of reserved housing units to be provided for
3 the planned development, affordability of non-reserved housing
4 units to be provided in the planned development, estimated
5 development cost of the reserved housing units if provided on
6 the same lot as the planned development, or other factors deemed
7 appropriate by the authority; provided that this subsection
8 shall apply to properties less than 80,000 square feet.

9 (e) Subject to the rules of the authority, reserved
10 housing units shall be built prior to or concurrent with the
11 planned development. Any project that provides more reserved
12 housing units than required under this section may transfer
13 excess housing credits to another project in Kakaako toward
14 satisfaction of the reserved housing unit requirement of that
15 project as follows:

- 16 (1) \$60,000 for a studio with one bathroom of at least
17 four hundred square feet;
18 (2) \$75,000 for a one bedroom with one bathroom of at
19 least 500 square feet;
20 (3) \$105,000 for a two bedroom with one bathroom of at
21 least 700 square feet;

- 1 (4) \$112,500 for a two bedroom with one and a half
2 bathrooms of at least 750 square feet;
- 3 (5) \$120,000 for a two bedroom with two bathrooms of at
4 least 800 square feet;
- 5 (6) \$135,000 for a three bedroom with two bathrooms of at
6 least 900 square feet; and
- 7 (7) \$150,000 for a four bedroom with two bathrooms of at
8 least 1,000 square feet.

9 In the alternative, the developer of a planned development may
10 sell a credit to another developer of a planned development in
11 Kakaako at a price mutually agreed upon. The developer who
12 purchases the credit may deduct the credit from the reserved
13 housing square footage or units required for the developer's
14 planned development.

15 The authority shall annually review the amount and price
16 for the transfer of the excess credits and may increase the
17 amount as deemed necessary. The terms of the reserved housing
18 credits transfer shall be subject to the approval of the
19 authority.

20 (f) The authority shall adopt rules in accordance with
21 chapter 91 to implement this section."

1 SECTION 2. Section 206E, Hawaii Revised Statutes, is
2 amended by amending section 206E-31.5 to read as follows:

3 "[+]§206E-31.5[+] **Prohibitions.** Anything contained in
4 this chapter to the contrary notwithstanding, the authority is
5 prohibited from:

6 (1) Selling or otherwise assigning the fee simple interest
7 in any lands in the Kakaako community development
8 district to which the authority in its corporate
9 capacity holds title, except with respect to:

- 10 (A) Utility easements;
- 11 (B) Remnants as defined in section 171-52;
- 12 (C) Grants to any state or county department or
13 agency; or
- 14 (D) Private entities for purposes of any easement,
15 roadway, or infrastructure improvements; or

16 (2) Approving any plan or proposal for any residential
17 development or substitute housing in that portion of
18 the Kakaako community development district makai of
19 Ala Moana boulevard and between Kewalo basin and the
20 foreign trade zone."

21 SECTION 3. Section 206E-33, Hawaii Revised Statutes, is
22 amended to read as follows:

1 "**§206E-33 Kakaako community development district;**
2 **development guidance policies.** The following shall be the
3 development guidance policies generally governing the
4 authority's action in the Kakaako community development
5 district:

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

1 agencies. The authority may engage in construction
2 activities outside of the district; provided that
3 [~~such~~] the construction relates to infrastructure
4 development or residential or business relocation
5 activities; provided further, notwithstanding section
6 206E-7, that such construction shall comply with the
7 general plan, development plan, ordinances, and rules
8 of the county in which the district is located;

9 (2) Existing and future industrial uses shall be permitted
10 and encouraged in appropriate locations within the
11 district. No plan or implementation strategy shall
12 prevent continued activity or redevelopment of
13 industrial and commercial uses [~~which~~] that meet
14 reasonable performance standards;

15 (3) Activities shall be located [~~so as~~] to provide primary
16 reliance on public transportation and pedestrian
17 facilities for internal circulation within the
18 district or designated subareas;

19 (4) Major view planes, view corridors, and other
20 environmental elements such as natural light and
21 prevailing winds, shall be preserved through necessary
22 regulation and design review;

- 1 (5) Redevelopment of the district shall be compatible with
2 plans and special districts established for the Hawaii
3 Capital District, and other areas surrounding the
4 Kakaako district;
- 5 (6) Historic sites and culturally significant facilities,
6 settings, or locations shall be preserved;
- 7 (7) Land use activities within the district, where
8 compatible, shall to the greatest possible extent be
9 mixed horizontally, that is, within blocks or other
10 land areas, and vertically, as integral units of
11 multi-purpose structures;
- 12 (8) Residential development may require a mixture of
13 densities, building types, and configurations in
14 accordance with appropriate urban design guidelines~~[+]~~
15 and the integration both vertically and horizontally
16 of residents of varying incomes, ages, and family
17 groups~~[; and an increased supply of housing for~~
18 ~~residents of low or moderate income may be required~~
19 ~~as a condition of redevelopment in residential use.];~~
20 provided that the reserved housing requirements of
21 section 206E- shall be imposed upon a planned
22 development when applicable. Residential development

1 shall provide necessary community facilities, such as
2 open space, parks, community meeting places, child
3 care centers, and other services, within and adjacent
4 to residential development; and

5 (9) Public facilities within the district shall be
6 planned, located, and developed [~~se-as~~] to support the
7 redevelopment policies for the district established by
8 this chapter and plans and rules adopted pursuant to
9 it."

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

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

20 SECTION 5. The Hawaii community development authority
21 shall adopt new or amended rules to implement this Act without
22 regard to the public notice and public hearing requirements of

1 section 91-3, Hawaii Revised Statutes, or the small business
2 impact review requirements of chapter 201M, Hawaii Revised
3 Statutes. The authority shall adopt the rules before January 1,
4 2010. Any subsequent amendment of the rules adopted pursuant to
5 this section shall be subject to all applicable provisions of
6 chapter 91 and chapter 201M, Hawaii Revised Statutes.

7 SECTION 6. (a) From the effective date of this Act until
8 the effective date of the new or amendatory rules adopted
9 pursuant to section 5, the Hawaii community development
10 authority shall not accept any planned development permit
11 application for a planned development on a lot of at least
12 80,000 square feet.

13 (b) From the effective date of the new or amendatory rules
14 adopted pursuant to section 5, the Hawaii community development
15 may accept any planned development permit application for a
16 planned development on a lot of at least 80,000 square feet.

17 SECTION 7. From the effective date of this Act until the
18 effective date of the new or amended rules adopted pursuant to
19 section 5, the Hawaii community development authority may accept
20 any planned development permit application for a planned
21 development with multi-family dwelling units on a lot less than
22 one acre. The reserved housing unit requirement for this type

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

3 SECTION 8. Any major development subject to this Act for
4 which the building permit application is pending on the
5 effective date of this Act, shall not be subject to this Act or
6 rules adopted pursuant to section 5 of this Act. Such a major
7 development shall be subject to the statutes and rules in effect
8 on the date of the building permit application.

9 SECTION 9. This Act shall apply to the unbuilt portion of
10 a major development within the area of approval of an approved
11 master plan which was pending on the effective date of this Act;
12 provided that the developer shall have five years from the
13 effective date of this Act to build before this Act shall apply.

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

16 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 on a lot of at least 80,000 square feet in the Kakaako community development district, mauka area. Effective 7/1/2050. (SD1)