
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 80,000 square feet in the Kakaako community
4 development district, mauka area. For this type of planned
5 development, at least fifty per cent of the floor area is
6 required to be constructed and made available as reserved
7 housing units for low- and moderate-income families. The
8 legislature intends that the reserved housing requirement apply
9 to every planned development on a lot of at least 80,000 square
10 feet, even if the developer intends to construct only commercial
11 or resort uses on the lot.

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 20,000 square feet, but less than 80,000 square
15 feet. For this type of planned development, at least twenty per
16 cent of the multi-family dwelling units to be constructed are
17 required to be set aside for reserved housing. This requirement

1 is the same as that presently existing under rule for a planned
2 development with multi-family dwelling units on a lot of at
3 least 20,000 square feet.

4 This Act requires the Hawaii community development
5 authority to adopt implementing rules without regard to the
6 notice and public hearing requirements of chapter 91, Hawaii
7 Revised Statutes. The provision is intended to facilitate the
8 adoption of the rules.

9 To prevent a flurry of permit applications for planned
10 developments on lots of at least 80,000 square feet before
11 adoption of the rules, this Act prohibits the authority from
12 accepting applications until the rules take effect. The
13 legislature finds that this action is necessary to ensure that
14 the public receives the maximum benefit from this Act.

15 With respect to the eligibility requirements of a low- or
16 moderate-income family to purchase or rent a reserved housing
17 unit, the legislature does not intend that this Act cause any
18 change from the requirements under existing statute or rule.
19 The legislature intends that the present eligibility
20 requirements remain the same until amended by statute or rule.

1 SECTION 2. 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;
- 18 (5) Charitable institution or nonprofit organization;
- 19 (6) Public use; or
- 20 (7) Consulate.

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

- 4 (1) Community service use;
5 (2) Special facility use; or
6 (3) Industrial use.

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

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

1 "Industrial use" shall have the same meaning as in section
2 171-131.

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

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

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

15 (1) Purchase by a family that:

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

18 (B) Complies with other eligibility requirements
19 established by statute or rule; or

20 (2) Rent to a family that:

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

1 (B) Complies with other eligibility requirements
2 established by statute or rule.

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

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

11 (b) At least fifty per cent of the countable floor area of
12 each planned development on a lot of at least 80,000 square feet
13 shall be developed as and made available for reserved housing
14 units. The developer of the planned development shall divide
15 the floor area required for reserved housing into and construct
16 the number, types, and sizes of reserved housing units set by
17 the authority. The authority shall set the number, types, and
18 sizes of reserved housing units to establish sale prices or
19 rents to be charged that are affordable to families intended to
20 be served by the reserved housing units. The authority also
21 shall set the number of parking stalls to be assigned to the
22 reserved housing units.

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

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

20 (d) The reserved housing floor area or units required for
21 a planned development under this section need not be developed

1 on the same lot as the planned development, provided that
2 section 206E-4(18) shall apply.

3 (e) As an alternative to requiring a developer to develop
4 and make available any reserved housing floor area or unit, the
5 authority may allow the developer to make an in lieu cash
6 payment to the authority. The authority shall establish the
7 amount of the cash payment, which may vary depending upon
8 projected gross revenue of the developer from the planned
9 development, amount of reserved housing units to be provided for
10 the planned development, affordability of non-reserved housing
11 units to be provided in the planned development, estimated
12 development cost of the reserved housing units if provided on
13 the same lot as the planned development, or other factors deemed
14 appropriate by the authority.

15 (f) The authority shall adopt rules in accordance with
16 chapter 91 and section 6 of Act _____, Session Laws of Hawaii
17 2009, to implement this section."

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

20 "**§206E-4 Powers; generally.** Except as otherwise limited
21 by this chapter, the authority may:

22 (1) Sue and be sued;

- 1 (2) Have a seal and alter the same at pleasure;
- 2 (3) Make and execute contracts and all other instruments
3 necessary or convenient for the exercise of its powers
4 and functions under this chapter;
- 5 (4) Make and alter bylaws for its organization and
6 internal management;
- 7 (5) Make rules with respect to its projects, operations,
8 properties, and facilities, which rules shall be in
9 conformance with chapter 91;
- 10 (6) Through its executive director appoint officers,
11 agents, and employees, prescribe their duties and
12 qualifications, and fix their salaries, without regard
13 to chapter 76;
- 14 (7) Prepare or cause to be prepared a community
15 development plan for all designated community
16 development districts;
- 17 (8) Acquire, reacquire, or contract to acquire or
18 reacquire by grant or purchase real, personal, or
19 mixed property or any interest therein; to own, hold,
20 clear, improve, and rehabilitate, and to sell, assign,
21 exchange, transfer, convey, lease, or otherwise
22 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 plans, specifications, designs, or
12 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 housing shall be located on the same
15 island as the development project and shall be
16 substantially equal in value to the required reserved
17 housing units that were to be developed on site. The
18 authority shall establish the following priority in
19 the development of reserved housing:
- 20 (A) Within the community development district[~~r~~] but
21 not the area prohibited under section
22 206E-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 construction shall comply with the
20 general plan, development plan, ordinances, and rules
21 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 [~~so 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[+] and the
7 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; and
- 19 (9) Public facilities within the district shall be
20 planned, located, and developed [~~so 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 median
11 income and that meets other eligibility requirements as the
12 authority may adopt by rule."

13 SECTION 6. The Hawaii community development authority
14 shall adopt new or amended rules to implement this Act without
15 regard to the public notice and public hearing requirements of
16 section 91-3, Hawaii Revised Statutes, or the small business
17 impact review requirements of chapter 201M, Hawaii Revised
18 Statutes. The authority shall adopt the rules before January 1,
19 2010. Any subsequent amendment of the rules adopted pursuant to
20 this section shall be subject to all applicable provisions of
21 chapter 91 and chapter 201M, Hawaii Revised Statutes.

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

7 (b) From the effective date of the new or amendatory rules
8 adopted pursuant to section 6, the Hawaii community development
9 may accept any planned development permit application for a
10 planned development on a lot of at least 80,000 square feet.

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

20 SECTION 9. Any planned development, the planned
21 development permit application for which is pending on the
22 effective date of this Act, shall not be subject to this Act or

1 rules adopted pursuant to section 6. This type of planned
2 development shall be subject to the statutes and rules in effect
3 on the date of the permit application.

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

6 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. (SD1)