
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 planned developments for lots of three acres or more,
8 this Act requires at least twenty-five per cent of the total
9 floor area to be constructed and made available as reserved
10 housing units. This requirement shall be increased to thirty-
11 five per cent after December 31, 2017 unless the legislature
12 determines there is adequate reserved housing in Kakaako.

13 Under this Act, the floor area applicable to the percentage
14 for reserved housing units is the total floor area of the
15 planned development, except the floor area developed for
16 community or special facility uses. The developer is required
17 to divide the reserved floor area (the product resulting from

1 the percentage multiplied by the total floor area) into the
2 number, types, and sizes of reserved housing units set by the
3 Hawaii community development authority.

4 The legislature intends that the reserved housing
5 requirement apply to every planned development with a height of
6 more than forty-five feet or a floor area that equals or exceeds
7 one and one-half times the lot area for the development, even if
8 the developer intends to construct only commercial, industrial,
9 or resort uses on the lot.

10 This Act also establishes a reserved housing requirement
11 for a planned development with multi-family dwelling units on a
12 lot of at least 20,000 square feet, but less than three acres.
13 For such a planned development project, at least twenty per cent
14 of the multi-family dwelling units to be constructed are
15 required to be set aside for reserved housing. This requirement
16 is the same as the existing rule for a planned development with
17 multi-family dwelling units on a lot of at least twenty thousand
18 square feet.

19 This Act requires the Hawaii community development
20 authority to adopt and implement rules without regard to the
21 notice and public hearing requirements of chapter 91, Hawaii

1 Revised Statutes. This waiver provision is intended to
2 facilitate the adoption of the rules.

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 The purpose of this Act is to increase the requirement for
10 reserved housing units within planned developments proposed on
11 lots of three acres or more in the Kakaako community development
12 district, mauka area from twenty per cent of units to twenty-
13 five per cent of total floor area. The increased requirement
14 would apply only to planned developments that occur on lots of
15 three acres or more.

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 "Area median income" means the median annual income,
22 adjusted for family size, for households in the city and county

1 of Honolulu as most recently established by the United States
2 Department of Housing and Urban Development.

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

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

- 8 (1) Nursing or convalescent home, nursing facility,
9 assisted living administration, or ancillary assisted
10 living amenities for the elderly or persons with
11 disabilities;
- 12 (2) Child care, day care, or senior citizen center;
- 13 (3) Nursery school or kindergarten;
- 14 (4) Church;
- 15 (5) Charitable institution or nonprofit organization;
- 16 (6) Public use;
- 17 (7) Public utility facility; or
- 18 (8) Consulate.

19 "Countable floor area" of a planned development means the
20 total floor area of a planned development, except the total
21 floor area developed for the following:

- 22 (1) Community service use; or

1 (2) Special facility use.

2 "Floor area" means the total area of the several floors of
3 a building, including the basement but not unroofed areas,
4 measured from the exterior faces of the exterior walls or from
5 the center line of party walls separating portions of a
6 building. The floor area of a building or portion thereof not
7 provided with surrounding exterior walls shall be the usable
8 area under the horizontal projection of the roof or floor above,
9 including but not limited to elevator shafts, corridors, and
10 stairways. "Floor area" shall not include the area for parking
11 facilities and loading spaces, driveways and access ways, lanais
12 or balconies of dwelling or lodging units that do not exceed
13 fifteen per cent of the total floor area of the units to which
14 they are appurtenant, attic areas with head room less than seven
15 feet, covered rooftop areas, and rooftop machinery equipment and
16 elevator housings on the top of buildings.

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 that is 10,000 square
20 feet or more on which the development is situated in exchange
21 for public facilities, amenities, and reserved housing units
22 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 area 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 area 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 and are proposed
5 on development for lots of three acres or more shall be
6 developed and made available for reserved housing units. The
7 developer of the planned development shall divide the floor area
8 required for reserved housing into, and construct the number,
9 types, and sizes of reserved housing units set by the authority.
10 The authority shall set the number, types, and sizes of reserved
11 housing units to establish sale prices or rents to be charged
12 that are affordable to families intended to be served by the
13 reserved housing units. The authority also shall set the number
14 of parking stalls to be assigned to the reserved housing units.
15 The countable floor area upon which the reserved housing
16 floor area requirement is calculated shall be the countable
17 floor area in the plan submitted to the authority before any
18 building permit application is submitted. The reserved housing
19 floor area requirement shall not be changed if, subsequent to
20 the approval or submission of the plan to the authority, the
21 countable floor area is decreased. If, however, the countable
22 floor area is increased before the issuance of a building permit

1 for a building on the lot, the reserved housing floor area
2 requirement shall be appropriately increased.

3 (c) For a planned development on a lot of at least 20,000
4 square feet and less than three acres, at least twenty per cent
5 of the units shall be reserved housing units. The types and
6 sizes of the reserved housing units shall be set by the
7 authority to establish sale prices or rents to be charged that
8 are affordable to families intended to be served by the reserved
9 housing units. The authority also shall set the number of
10 parking stalls to be assigned to the reserved housing units.

11 The reserved housing floor area or units required for a
12 planned development under this section need not be developed on
13 the same lot as the planned development, provided that section
14 206E-4(18) shall apply.

15 (d) The authority shall not allow the developer of the
16 planned development to make a cash payment to the authority in
17 lieu of developing and making available the reserved housing
18 floor area or units required under this section; provided that
19 this subsection shall not apply if fractional units are
20 created."

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

- 1 **"§206E-4 Powers; generally.** Except as otherwise limited
2 by this chapter, the authority may:
- 3 (1) Sue and be sued;
 - 4 (2) Have a seal and alter the same at pleasure;
 - 5 (3) Make and execute contracts and all other instruments
6 necessary or convenient for the exercise of its powers
7 and functions under this chapter;
 - 8 (4) Make and alter bylaws for its organization and
9 internal management;
 - 10 (5) Make rules with respect to its projects, operations,
11 properties, and facilities, which rules shall be in
12 conformance with chapter 91;
 - 13 (6) Through its executive director appoint officers,
14 agents, and employees, prescribe their duties and
15 qualifications, and fix their salaries, without regard
16 to chapter 76;
 - 17 (7) Prepare or cause to be prepared a community
18 development plan for all designated community
19 development districts;
 - 20 (8) Acquire, reacquire, or contract to acquire or
21 reacquire by grant or purchase real, personal, or
22 mixed property or any interest therein; to own, hold,

1 clear, improve, and rehabilitate, and to sell, assign,
2 exchange, transfer, convey, lease, or otherwise
3 dispose of or encumber the same;

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

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

21 (11) Arrange or contract for the planning, replanning,
22 opening, grading, or closing of streets, roads,

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

- 1 (15) Procure insurance against any loss in connection with
2 its property and other assets and operations in [~~such~~]
3 amounts and from [~~such~~] insurers as it deems
4 desirable;
- 5 (16) Contract for and accept gifts or grants in any form
6 from any public agency or from any other source;
- 7 (17) Do any and all things necessary to carry out its
8 purposes and exercise the powers given and granted in
9 this chapter; and
- 10 (18) Allow satisfaction of any affordable housing
11 requirements imposed by the authority upon any
12 proposed development project through the construction
13 of reserved housing, as defined in section 206E-101,
14 by a person on land located outside the geographic
15 boundaries of the authority's jurisdiction. [~~Such~~
16 ~~substituted~~] Substitute housing shall be located on
17 the same island as the development project and shall
18 be substantially equal in value to the required
19 reserved housing units that were to be developed on
20 site. The authority shall establish the following
21 priority in the development of reserved housing:

1 (A) Within the community development district~~[7]~~ but
2 not the area prohibited under section
3 206E-31.5(2);

4 (B) Within areas immediately surrounding the
5 community development district;

6 (C) Areas within the central urban core;

7 (D) In outlying areas within the same island as the
8 development project.

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

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

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

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

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

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

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

6 SECTION 5. The Hawaii community development authority
7 shall adopt new rules or amend existing rules to implement this
8 Act without regard to the public notice and public hearing
9 requirements of section 91-3, Hawaii Revised Statutes, or the
10 small business impact review requirements of chapter 201M,
11 Hawaii Revised Statutes. The authority shall adopt the rules
12 before January 1, 2010. Any subsequent amendment of the rules
13 adopted pursuant to this section shall be subject to all
14 applicable provisions of chapter 91 and chapter 201M, Hawaii
15 Revised Statutes.

16 SECTION 6. A planned development permit application for
17 any planned development, which is pending on the effective date
18 of this Act, shall not be subject to this Act or rules adopted
19 pursuant to section 5 of this Act. The planned development
20 application which is pending on the effective date of this Act
21 shall be subject to the laws and rules in effect on the date of
22 the permit application; provided that any unbuilt portion of a

1 major master plan which was pending as of the effective date of
2 this Act shall comply with the requirements of this Act.

3 SECTION 7. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 8. 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 to twenty-five per cent of floor space in the Kakaako community development district, mauka area for lots three acres or more in size. (SD2)