

COUNCIL OF THE COUNTY OF MAUI
HOUSING, HUMAN SERVICES, AND
TRANSPORTATION COMMITTEE

October 20, 2017

Committee
Report No. _____

Honorable Chair and Members
of the County Council
County of Maui
Wailuku, Maui, Hawaii

Chair and Members:

Your Housing, Human Services, and Transportation Committee, having met on August 17, 2017 and October 5, 2017, makes reference to County Communication 16-132, from Councilmember Stacy Crivello, relating to amendments to the Residential Workforce Housing Policy.

By correspondence dated August 8, 2016, the Director of Housing and Human Concerns transmitted a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 2.96, MAUI COUNTY CODE, RELATING TO RESIDENTIAL WORKFORCE HOUSING POLICY."

The purpose of the proposed bill is to amend the County's Residential Workforce Housing Policy, Chapter 2.96, Maui County Code ("MCC"), including provisions relating to housing credits, residential workforce housing restrictions for rental units, and vacancies in residential workforce housing units.

Your Committee notes that the Council's Housing, Human Services, and Transportation Committee (2015-2017 Council Term) met on November 17, 2016.

By correspondence dated August 10, 2017, the Department of the Corporation Counsel transmitted a revised proposed bill, approved as to form and legality, incorporating nonsubstantive revisions.

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The Deputy Corporation Counsel noted the revised proposed bill establishes credits for residential workforce housing rental units, in a process similar to credits issued for residential workforce housing for sale units. The bill also includes a process for maintaining the required distribution of workforce housing rentals among appropriate income groups, an annual recertification of tenants meeting income guidelines, and processes to address graduated income tenants and vacancies of units.

Your Committee had concerns with the ability of developers to hold credits in perpetuity and instead suggested that credits expire after 10 years. The Deputy Corporation Counsel said this may be difficult for credits already issued, as developers had already met the initial requirements in order to receive the credits.

Your Committee discussed establishing an expiration date for the issuance of credits altogether, with the ability to reassess in 10 years. Your Committee felt this may help to reinforce the urgency for developers to build homes now, rather than later.

Your Committee had concerns with the issuance of credits for units built in areas outside the initial project and community plan area. The Deputy Corporation Counsel noted that in order for a developer to receive credits, the residential workforce housing unit needs to be built within the same community plan area. He further noted there are no restrictions on where credits can be used.

The Housing Administrator added that there are no restrictions on the transferability of credits. He said placing additional restrictions on credits may make building residential workforce housing units less desirable for developers.

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Your Committee expressed concern with Section 2.96.100(D)(6), MCC, of the revised proposed bill relating to the 30-day period after which the owner or owner's representative may rent the residential workforce housing unit on the open market for a period not to exceed 12 months, if, with reasonable best efforts, they are unable to rent to an income qualified applicant in the same income group as the vacating tenant. The Deputy Corporation Counsel said the 30-day period was a safety measure in the event there were no qualified renters and as a further incentive for developers to build low income housing. The Housing Administrator assured your Committee that the Department will monitor rent rules on a quarterly basis. He noted that rent rules would be specific to each project and specify which section of Chapter 2.96 the project belonged to and the terms it needed to abide by.

Your Committee recommended further revising the revised proposed bill by deleting the additional language in Section 2.96.100(D)(6), MCC.

Your Committee voted 4-0 to recommend passage of the revised proposed bill on first reading and filing of the correspondence. Committee Chair Crivello and members Carroll, King, and White voted "aye." Committee members Atay, Guzman, and Hokama were excused.

Your Committee is in receipt of a further revised proposed bill, approved as to form and legality by the Department of the Corporation Counsel, incorporating your Committee's recommended revisions and nonsubstantive revisions.

Your Housing, Human Services, and Transportation Committee RECOMMENDS the following:

1. That Bill _____ (2017), attached hereto, entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 2.96, MAUI COUNTY

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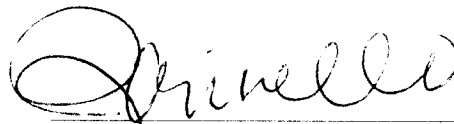
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CODE, RELATING TO RESIDENTIAL WORKFORCE HOUSING POLICY," be PASSED ON FIRST READING and be ORDERED TO PRINT; and

2. That the correspondence dated August 8, 2016 be FILED.

This report is submitted in accordance with Rule 8 of the Rules of the Council.



STACY CRIVELLO, Chair

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ORDINANCE NO. _____

BILL NO. _____ (2017)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 2.96, MAUI COUNTY
CODE, RELATING TO RESIDENTIAL WORKFORCE HOUSING POLICY

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. Section 2.96.050, Maui County Code, is amended by
amending subsection A to read as follows:

“A. Credits may be [given under the following
circumstances:] issued by the director, upon request by the
developer, provided that:

[1. Upon developer's request, credits may be given for
every single-family dwelling unit, two-family dwelling unit, or
multi-family dwelling unit constructed and sold at affordable
rates, in excess of the residential workforce housing units
required by section 2.96.040, provided that developments
comprised of one hundred percent residential workforce
housing units shall be eligible for credits totalling no more
than seventy-five percent of the total number of residential
workforce housing units constructed.

2. Credits may be issued for a one hundred percent
affordable project developed pursuant to section 201H-38,
Hawaii Revised Statutes, provided that, one residential
workforce housing credit shall be given, upon request by the
developer, for every single-family dwelling unit, two-family
dwelling unit, or multi-family dwelling unit constructed and
sold at affordable rates, in excess of fifty percent of the total
number of units constructed and sold at affordable rates in
the project. Credits shall not be issued for projects developed
pursuant to section 201H-38, Hawaii Revised Statutes, that
are not one hundred percent affordable.]

1. Each residential workforce housing unit
constructed in the development shall be encumbered by a
recorded deed restriction that meets the requirements of this
chapter.

2. Each residential workforce housing unit shall be sold or rented to an income eligible individual.

3. Credits may only be issued for each residential workforce housing unit sold or rented to an income eligible individual in the appropriate income group, that is in excess of the residential workforce housing requirement set forth in section 2.96.040, provided that, for those developments comprised of one hundred percent residential workforce housing units, only seventy-five percent of the residential workforce housing units sold or rented to income eligible individuals shall be eligible for credits. Further provided that, developments comprised of one hundred percent residential workforce housing units that are to be rented to households whose gross annual family income is sixty percent or less of the area median income as established by HUD, or as adjusted by the department for Hana, Lanai, and Molokai, shall be eligible for credits for each residential workforce housing unit constructed.

4. Notwithstanding the foregoing, for those developments developed pursuant to chapter 201H, Hawaii Revised Statutes, only those developments comprised of one hundred percent residential workforce housing units shall be eligible to receive credits. Credits may only be issued for those residential workforce housing units sold or rented to income eligible individuals in the appropriate income groups, in excess of fifty percent of the total number of residential workforce housing units constructed.”

SECTION 2. Section 2.96.070, Maui County Code, is amended to read as follows:

“2.96.070 Residential workforce housing restrictions – rental units. A. Timing of completion. Residential workforce housing units shall be made available for occupancy either prior to or concurrently with market rate units at the same ratio required of the development. Certificates of occupancy shall not be issued and/or final inspections shall not be passed for the market rate units unless certificates of occupancy are issued and/or final inspections are passed for the residential workforce housing units concurrently or sooner.

[B. Vacancies. Any rental unit vacancy must be filled by an applicant in the appropriate income group to better maintain an equal distribution of rentals across the "very low income" and "low income," "below-moderate income," and "moderate income" groups.

C. B. Deed restrictions.

1. The rental residential workforce housing unit [must remain affordable] shall be subject to the requirements of this chapter for thirty years, [from the] commencing on the date of initial occupancy.

2. For the thirty-year [affordability] deed-restricted period, the following shall apply:

a. The owner must notify the department upon a decision to sell the rental development and the County shall have the first option to purchase the rental development from the owner; said option shall be available to the County for a period of one hundred and twenty days from receipt of written notice from the owner and shall not apply to sales by reason of foreclosure.

b. Any new owner must comply with the deed restrictions.

c. Owner or owner's representative shall submit proof of compliance with income guidelines for rentals quarterly.

3. Within [90] ninety days of the expiration of the thirty-year [affordability] deed-restricted period, the owner shall offer the County the right to purchase the property at market value as determined by the owner.

4. The deed restriction shall set forth the number of units in the development that shall be designated as residential workforce housing units along with the relative income group of those units. The deed restriction may, but shall not be required to, identify specific units as residential workforce housing units.

[D.]C. Rental rates. The monthly rental rates set forth in the lease shall be [set by the department] based on HUD income limits subject to approval by the department or as otherwise provided in this chapter.

D. Failure to rent within income groups. In the event owner or owner's representative does not maintain the required distribution of rentals among the appropriate income groups or rents outside of the appropriate income groups, owner or owner's

representative shall pay to County, for deposit into the affordable housing fund, the difference between the actual rent paid and the rent for the appropriate income group as required under the deed restriction.

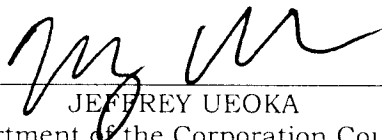
E. Annual recertification. Owner or owner's representative shall complete an annual recertification of tenants that are occupying the residential workforce housing units to verify that the tenants meet income guidelines.

F. Graduated income tenants. For those tenants who have graduated to a higher income group during the term of the lease but still remain within an appropriate income group, if owner or owner's representative elects to continue to lease to tenant, the monthly rental rate shall be the rate for the income group which tenant is within. For those tenants who during the term of the lease have graduated to an income level that is in excess of the income groups for rental units, if owner or owner's representative elects to continue to lease to tenant, the annual rental rate shall be equivalent to thirty percent of tenant's gross income. Owner or owner's representative shall be responsible for paying County in accordance with section D, above. Owner or owner's representative shall make its reasonable best efforts to maintain the proper distribution of rentals across the "very low income" and "low income," "below-moderate income," and "moderate income" groups."

SECTION 3. Material to be repealed is bracketed. New material is underscored. In printing this bill, the County Clerk need not include the brackets, the bracketed material, or the underscoring.

SECTION 4. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM AND LEGALITY:



JEFFREY UEOKA
Department of the Corporation Counsel
County of Maui
2016-1027/2017-0097
HHT-2(1) 2017-10-10 Revised Ordinance