

COUNCIL OF THE COUNTY OF MAUI
AFFORDABLE HOUSING COMMITTEE

February 19, 2021

Committee
Report No. 21-1

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

Chair and Members:

Your Affordable Housing Committee, having met on February 1, 2021, makes reference to County Communication 20-241, from Councilmember Michael J. Molina, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 2.96.030, MAUI COUNTY CODE, RELATING TO WORKFORCE HOUSING AND 201H HAWAII REVISED STATUTES HOUSING PROJECTS."

The purpose of the proposed bill is to increase the percentage of affordable and workforce housing units required for projects developed under Chapter 201H, Hawaii Revised Statutes, to a minimum of 75 percent of the total dwelling units.

Your Committee noted the 201H process allows for exemptions and incentives for the development of housing projects where, "more than 50 per cent of total dwelling units shall be for very low, low, low-moderate, and moderate-income households." (Hawaii Administrative Rules 15-307-26(a)(3)(C)).

Your Committee notes the proposed bill would require projects to provide residential workforce housing units as defined under Section 2.96.020, Maui County Code, with the exception of units for "above-moderate income" households.

The Deputy Director of Housing and Human Concerns stated that most 201H projects submitted to the Council provide more than 50 percent of total units for residential workforce housing. According to the Department's "Maui County Affordable Housing Projects – Status Update (January 2021)," 12 projects are listed as 201H housing projects. Of these projects, 10 are 100 percent workforce housing, and the other two are 51 and 56 percent workforce housing.

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Your Committee expressed concern that the proposed bill could have a negative impact on housing construction in the County. Your Committee also questioned the extent of the County's authority to modify the State's provisions under 201H.

Your Committee discussed possible benefits of postponing action on the proposed bill until the Comprehensive Affordable Housing Plan is completed.

Your Committee concluded that increasing affordable housing opportunities for Maui County residents is an urgent priority. Your Committee noted the extensive exemptions and cost savings afforded to developers through the 201H process, including exemptions from construction fees and standards.

Your Committee amended the proposed bill to allow for 201H projects with an affordable unit percentage requirement lower than 75 percent, but greater than 50 percent, upon Council approval by resolution.

Your Committee voted 5-3 to recommend passage of the revised proposed bill on first reading and filing of the communication. Committee Chair Johnson, Vice-Chair Molina, and members Paltin, Rawlins-Fernandez, and Sinenci voted "aye." Councilmembers King, Lee, and Sugimura voted "no." Councilmember Kama was excused.

Your Committee is in receipt of a revised proposed bill, approved as to form and legality by the Department of the Corporation Counsel, entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 2.96.030, MAUI COUNTY CODE, RELATING TO RESIDENTIAL WORKFORCE HOUSING PROJECTS DEVELOPED UNDER CHAPTER 201H, HAWAII REVISED STATUTES," incorporating your Committee's recommended revisions and nonsubstantive revisions.

Your Affordable Housing Committee **RECOMMENDS** the following:

COUNCIL OF THE COUNTY OF MAUI
AFFORDABLE HOUSING COMMITTEE

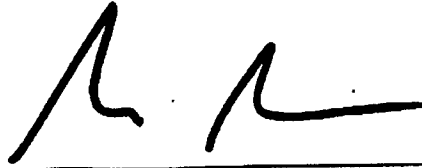
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1. That Bill 10 (2021), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 2.96.030, MAUI COUNTY CODE, RELATING TO RESIDENTIAL WORKFORCE HOUSING PROJECTS DEVELOPED UNDER CHAPTER 201H, HAWAII REVISED STATUTES," be PASSED ON FIRST READING and be ORDERED TO PRINT; and

2. That County Communication 20-241 be FILED.

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



GABE JOHNSON, Chair

ah:cr:20015aa:ans

ORDINANCE NO. _____

BILL NO. _____ (2021)

A BILL FOR AN ORDINANCE AMENDING SECTION 2.96.030, MAUI COUNTY CODE, RELATING TO RESIDENTIAL WORKFORCE HOUSING PROJECTS DEVELOPED UNDER CHAPTER 201H, HAWAII REVISED STATUTES

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

SECTION 1. Section 2.96.030, Maui County Code, is amended to read as follows:

“2.96.030 Applicability. A. Any development, including the subdivision of land [and/]or the construction of single-family dwelling units, two-family dwelling units, multi-family dwelling units, or hotels, as defined in section 19.04.040 [of this code], whether constructed at one time or over several years, [shall be] is subject to this chapter upon final subdivision or building permit approval, whichever is applicable and occurs first, if it will result in the creation of the following:

1. Ten or more lots, lodging units, time share units, or dwelling units, excluding farm labor dwellings or a second farm dwelling, as defined in section 19.04.040 [of this code; provided that,] so long as such farm labor dwelling or farm dwelling is in full compliance with chapter 205, Hawaii Revised Statutes, and is not part of a condominium property regime, as [set forth] stated in chapter 514A, Hawaii Revised Statutes;

2. A conversion of ten or more hotel units to dwelling units or time share units; or

3. Any hotel redevelopment or renovation project that increases the number of lodging or dwelling units in a hotel by ten or more.

B. Exemptions. This chapter [shall] does not apply to any development that falls into one or more of the following categories:

1. A development subject to an affordable housing requirement, evidenced by an executed affordable housing agreement with the County, currently in effect and approved prior to the effective date of this chapter;

2. A development subject to a change in zoning condition that requires affordable or residential workforce

housing, unless the condition expressly allows for the application of the affordable housing or residential workforce housing policy [set forth herein];

3. A subdivision granted preliminary subdivision approval prior to the effective date of this chapter;

4. A building permit application submitted prior to the effective date of this chapter;

5. A family subdivision[,] for immediate family members, as described in subsections 18.20.280.B.1 and B.2 [of this code];

6. A development by a government entity or a community land trust, as approved by the director; or

7. A development within the boundaries of the Wailuku redevelopment area, as defined by the Maui redevelopment agency [pursuant to] under chapter 53, Hawaii Revised Statutes.

C. Adjustment by developer.

1. A developer of any development subject to this chapter may appeal to the council for a reduction, adjustment, or waiver of the requirements based upon the absence of any reasonable relationship or nexus between the impact of the development and the number of residential workforce housing units or in-lieu fees[/] or land required.

2. Any such appeal [shall] must be made in writing and filed with the county clerk prior to final subdivision approval or issuance of a building permit for the development, whichever is applicable. Any such appeal [shall] will administratively stay the processing of the development's subdivision or building permit, whichever is applicable, until a decision on the appeal is rendered. The appeal [shall] must set forth in detail the factual and legal basis for the claim of reduction, adjustment, or waiver, and the developer [shall] will bear the burden of presenting substantial evidence to support the appeal, including comparable and relevant technical information.

3. The council, or if the appeal is assigned to a council committee, the council committee, [shall] must convene a meeting within forty-five days of the county clerk's receipt of the appeal, to consider the appeal. The council [shall] must approve or disapprove the appeal by resolution within forty-five days from the date the developer has concluded its presentation of evidence supporting the appeal in a council or committee meeting.

4. If the council or [a council] committee has not convened a meeting within forty-five days of the county clerk's receipt of the appeal, or if the council does not approve or

disapprove the appeal by resolution within forty-five days from the date the developer has concluded its presentation of evidence at the council or [council] committee meeting, the appeal, as submitted by the developer, [shall] will be deemed approved by the council.

5. If a reduction, adjustment, or waiver is granted by the council, any subsequent substantive change or modification in use within the development, as determined by the director, [shall] will invalidate the reduction, adjustment, or waiver previously granted.

D. Adjustment by [D]director. The director may, subject to council approval by resolution, authorize a reduction, adjustment, or waiver of any provision of this chapter.

E. Projects [pursuant to] under chapter 201H, Hawaii Revised Statutes, [shall be] are subject to the requirements of this chapter[, provided that where]. Where the terms of this chapter and chapter 201H are in conflict, [the terms contained in chapter 201H shall control] the stricter provisions will control.

F. Projects under chapter 201H, Hawaii Revised Statutes, are required to provide a minimum of seventy-five percent of the total dwelling units for very low, low, below-moderate, and moderate-income households, unless a lower percentage, which is greater than fifty percent, is approved by council resolution."

SECTION 2. 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 3. This Ordinance will take effect on approval.

APPROVED AS TO FORM AND LEGALITY:

/s/ Mimi Desjardins

Department of the Corporation Counsel
County of Maui

ah:misc:015abill01:ans

COUNCIL OF THE COUNTY OF MAUI

WAILUKU, HAWAII 96793

CERTIFICATION OF ADOPTION

It is HEREBY CERTIFIED that the recommendations contained in COMMITTEE REPORT NO. 21-1 were adopted by the Council of the County of Maui, State of Hawaii, on the 19th day of February, 2021, by the following vote:

MEMBERS	Alice L LEE Chair	Keani N. W. RAWLINS- FERNANDEZ Vice-Chair	Gabriel L. JOHNSON	Natalie A. KAMA	Kelly T. KING	Michael J. MOLINA	Tamara A. M. PALTIN	Shane M. SINENCI	Yuki Lei K. SUGIMURA
ROLL CALL	No	Aye	Aye	No	No	Aye	Aye	Aye	No



COUNTY CLERK