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COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.mauicounty.gov

April 7, 2020

Director of Council Services
Traci N. T. Fujita, Esq.

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2020 APR -8 AM 7:46

OFFICE OF THE
COUNTY CLERK

The Honorable Alice L. Lee
Council Chair
County of Maui
Wailuku, Hawaii 96793

Dear Chair Lee:

**SUBJECT: A PROPOSED BILL RELATING TO WORKFORCE
HOUSING AND 201H, HAWAII REVISED STATUTES
HOUSING PROJECTS**

May I request the attached 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," be placed on the next Council meeting agenda.

Sincerely,

Handwritten signature of Michael J. Molina in cursive.

MICHAEL J. MOLINA
Councilmember

CM:MHP:outgoing:afford_hsg_201h_council_refer:grs

Enclosure

cc: Lori Ann Tsuhako, Director, Department of Housing and Human Concerns

COUNTY COMMUNICATION NO. 20-241

ORDINANCE NO. _____

BILL NO. _____ (2020)

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

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. 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 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, 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 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 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 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/land required.

2. Any such appeal shall 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 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 set forth in detail the factual and legal basis for the claim of reduction, adjustment, or waiver, and the developer shall 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 convene a meeting within forty-five days of the county clerk's receipt of the appeal, to consider the appeal. The council shall 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 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 invalidate the reduction, adjustment, or waiver previously granted.

D. Adjustment by 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 chapter 201H, Hawaii Revised Statutes, shall be subject to the requirements of this chapter, provided that where the terms of this chapter and chapter 201H are in conflict, [the terms contained in chapter 201H shall control] the stricter provisions shall prevail.

F. Projects pursuant to Chapter 201H, Hawaii Revised Statutes, shall be required to provide a minimum of 75 percent affordable units, of the total dwelling units, for very low, low, low-moderate, and moderate-income households.

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 shall take effect upon its approval.

APPROVED AS TO FORM AND LEGALITY:

/s/ Mimi Desjardins

MIMI DESJARDINS
Department of the Corporation Counsel
County of Maui
2020-04-07 Ord Amd section 2.96.030
LF 2020-0271