

**For Immediate Release: April 14, 2020**

Press Release by:  
Councilmember Michael J. Molina



## ***Molina seeks to up the game for 201H Affordable Housing Projects***

WAILUKU – Councilmember Michael J. Molina transmitted to the County Council, 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 require that 201H affordable housing projects submitted to the county must consist of a minimum of 75 percent of the total units for individuals and families within very low, low, low-moderate, and moderate-income households.

Pursuant to Section 201H-41, Hawaii Revised Statutes (HRS), “the corporation (Hawaii Housing Finance and Development Corporation[HHFDC]) may develop or may enter into agreements to develop housing projects with an eligible developer if in the corporation’s reasonable judgement a project is primarily designed for lower income housing.”

Furthermore, the Hawaii Administrative Rules (HAR), Title 15, Subtitle 14, HHFDC, Chapter 307, State Assisted Land and Housing Development Program, states that “more than 50 percent of total dwelling units shall be for very low, low, low-moderate and moderate-income households.”

The HRS requires that 201H projects be “primarily” for lower income households; HAR require 201H projects be “more than 50% of total dwellings” for affordable housing.

“I believe the 50% requirement is not enough, said Molina. Developers that take advantage of expedited 201H permit process should provide more affordable housing to the community.”

The proposed bill will increase the requirement for 201H projects from 50% affordable to 75% affordable.

Typically, developers that submit 201H projects will provide the minimum required affordable dwellings at 50%+1, with the balance of the units being sold at significant market rate prices.

“I see the 201H program as an opportunity to take advantage of a relax review process so the market rate units can circumvent the normal scrutiny they would typically experience”, said Molina.

“If developers want to take advantage of the accelerated permit process, the benefit to the community should result in a significantly greater number of affordable housing units”, said Molina.

The 201H process allows projects that comply with Section 201H-41 (a) and (b), HRS to “be exempt from statutes, ordinance, charter provisions and rules of any government agency relating to zoning and construction standards for subdivisions, development, and improvement of land and the construction, improvement, and sale of dwelling units thereon.”

The proposed bill will be considered for referral to a Council Committee at the County Council meeting of April 17, 2020, at 9:00 a.m. in the Council Chamber.

*\* Mike Molina is Chair of the Council’s Governance, Ethics, and Transparency Committee. He holds the council seat for the Makawao-Haiku-Paia residency area. Go to [mike.molina@mauicounty.us](mailto:mike.molina@mauicounty.us) for more information or call 270-5507.*

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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