

BILL NO. 2202

CHAPTER ____
HOUSING POLICY FOR THE COUNTY OF KAUA'I

ARTICLE 1. GENERAL PROVISIONS

Sec. __-1.1 Title.

This Chapter shall be known as the Housing Policy for the County of Kaua'i.

Sec. __-1.2 Purpose.

(a) To establish that a portion of residential developments and large resort, commercial, and industrial developments shall provide workforce housing opportunities for Kaua'i residents that are affordable to households earning from eighty percent (80%) and below of the Kaua'i median household income to one hundred ~~forty eight~~ percent (140~~180~~%) of the Kaua'i median household income. The term "workforce housing" shall hereinafter be used collectively in place of the housing terms "low income," "affordable," "~~gap group,~~" and "employee" housing formerly used to describe income groups related to housing exactions and housing programs.

(b) To establish procedures for qualified residents to benefit from the sale or rent of workforce housing.

(c) To preserve the affordability of workforce housing for the future.

(d) To provide government assistance to expedite workforce housing development through the waiver of certain County fees, through the implementation of a fast track permitting, and exercising housing powers to exempt workforce developments from development standards that do not jeopardize health or safety.

Sec. __-1.3 Definitions.

The following definitions shall apply for the purposes of this chapter.

"CZO" means the Comprehensive Zoning Ordinance of the County of Kaua'i as codified in Chapter 8 of the Kaua'i County Code, 1987, as amended.

"County" means the County of Kaua'i, a political subdivision of the State of Hawai'i.

"County buyback rights" means the reserved rights of the County to repurchase a workforce housing unit which is offered for sale within the restricted sales term, from three (3) to thirty (30) years from the date of sale. See "restriction on sale or transfer, and use".

"County fees" means any and all fees payable to the County which arise out of the development and construction of the workforce housing units.

"County permits" means all permits and approvals required and issuable by the County for the development and construction of the workforce housing units.

"Developer" means a land owner or ~~representative of an~~ authorized agent of a land owner of real property (1) that seeks any County approvals for development or subdivision of real property, or and (2) that has applied to the County for a State Land Use District Boundary Amendment or a zoning district boundary amendment, or (3) that has previously obtained from the County a State Land Use District Boundary Amendment or zoning district boundary amendment, but has not yet satisfied an existing

BILL NO. 2202

housing condition, or the County has not yet agreed to the specific means to satisfy all or any portion of an existing housing condition.

"Dwelling unit" has the same meaning as contained in the CZO.

"Fast track" means the process adopted by the County to expedite the processing of County permits.

~~"Household" means an individual or a family, with or without children.~~

Household" means all persons living together in a dwelling unit, whether or not they are related by blood, marriage or adoption.

~~"Housing Agency" means the Kaua'i County Housing Agency of the Offices of Community Assistance, County of Kaua'i.~~

"Housing standards" means the standards mutually agreed upon by the developer and the Housing Agency which shall guide and determine the numbers and types of workforce housing units to be developed.

"HUD" means the United States Department of Housing and Urban Development.

"Immediate family member" means the parents, brothers, sisters, spouses or reciprocal beneficiaries, children, parents-in-law, grandparents, grandchildren of an individual, or a member of an immediate family member through the Hawaiian "Hanai" custom. Reciprocal beneficiary means a relationship of two adults that have selected a life partner in lieu of a spouse pursuant Hawai'i Revised Statutes Sections 572C-4 and 572C-5.

"Income qualified buyer" means a qualified buyer whose income is within the limits of the workforce housing income group that is targeted for the purchase of workforce housing units intended as affordable for that workforce housing income group.

"Income qualified renter" means a qualified renter whose income is within the limits of the workforce housing income group that is targeted to rent the workforce housing units intended as affordable for that workforce housing income group.

"Kaua'i median household income" means the median household income for the County of Kaua'i as determined annually by HUD.

"Limited appreciation leasehold estate" means a leasehold estate administered through the Housing Agency or the Kaua'i community housing land trust where the lease term is ninety-nine (99) years, appreciation is limited to one percent (1%) per year for the first ten (10) years of the lease and three percent (3%) per year for all remaining years on the sales price of the leasehold estate, plus any capital improvements added by the lessee, the lessee is required to occupy the property as their primary residence, the lease may be transferred to an immediate family member with the approval of the Housing Agency, sub-leasing is prohibited, and sale of the leasehold estate shall only be to the County.

"Limited equity housing cooperative" means a cooperative owned by a non-profit corporation or non-profit housing sponsor, where the resident-owners own the cooperative as an undivided whole, rather than as individual units, with the exclusive right to occupy a specific unit within the cooperative, and, where the resident-owner must be bought out of their ownership to separate from the LEHC.

"Market unit" means a dwelling unit authorized to be developed by zoning designation and which is not subject to any buyer or price restrictions.

"Multi-family dwelling unit" means a multiple family dwelling as defined in the CZO.

"Qualified buyer" means the County or a qualified resident who:

BILL NO. 2202

(a) Has a gross income and credit history sufficient to qualify for the loan to finance the purchase; and

(b) Is a person:

(1) Who either oneself or together with spouse or household member, does not own a direct or indirect majority interest in fee simple or leasehold lands suitable for dwelling purposes; and

(2) Whose spouse or household member does not own a direct or indirect majority interest in fee simple or leasehold lands suitable for dwelling purposes, except when husband and wife are living apart under a decree of separation from bed and board issued by the family court pursuant to Hawai'i Revised Statutes Section 580-71.

"Qualified renter" means a qualified resident who demonstrates an ability to pay rent and to be a responsible tenant in conformance to standards employed by the Housing Agency for prospective tenants in County owned rental projects, including, but not limited to, satisfactory reference from a prospective tenant's ~~pervious~~previous landlords and a credit report reflecting responsible payment of rent or repayment of debt.

"Qualified resident" means a person who:

(a) Is a citizen of the United States or a resident alien;

(b) Is at least eighteen (18) years of age;

(c) Is a full-time resident of Kaua'i County; and

(d) Shall physically reside in the workforce housing unit purchased or rented.

"Rental notice" means a notice published in a newspaper of general circulation in the County of Kauai notifying income-qualified buyers of the developer's intent to offer workforce housing units for rent.

"Rental notice date" means the date of publication of the notice of intent to rent workforce housing units.

"Restriction on sale or transfer, and use" means the restriction document attached to the deed on all fee-simple housing units sales to qualified buyers that requires an owner to give the County the option to purchase the property at the original sales price, plus the cost of improvements and simple interest at the rate of one percent (1%) per year, and requires the owner to occupy the property as their primary residence.

"Sales notice" means a notice published in a newspaper of general circulation in the County of Kaua'i notifying income-qualified buyers of the developer's intent to offer workforce housing units for sale.

"Sales notice date" means the date of publication of the notice of intent to sell workforce housing units.

"Single-family dwelling unit" means a single-family attached dwelling or a single-family detached dwelling as defined in the CZO.

"Workforce for-sale housing price limits" means the price limits for fee simple or leasehold dwelling units established by the Housing Agency by household size and by dwelling unit size.

"Workforce housing" or "workforce unit" or "workforce housing unit" means a lot, single-family dwelling unit, or multiple-family dwelling unit that may be rented or sold at cost levels that are affordable to households that earn from eighty percent (80%)

BILL NO. 2202

and below of the Kaua'i median household income to one hundred ~~fortyeighty~~-percent (180%) of the Kaua'i median household income.

"Workforce housing income groups" means the ~~four~~~~six~~ income groups earning from 80% and below of the Kaua'i median household income to ~~140~~~~180~~% of the Kaua'i median household income, as follows:

(a) "80% and below" of the Kaua'i median household income with for-sale price and rent limits at both 60% and 80% of the Kaua'i median household income;

(b) "80% to 100%" of the Kaua'i median household income with for-sale price and rent limits at 100% of the Kaua'i median household income;

(c) "100% to 120%" of the Kaua'i median household income with for sale price and rent limits at 120% of the Kaua'i median household income; and

(d) "120 to 140%" of the Kaua'i median household income with for sale price and rent limits at 140% of the Kaua'i median household income;

~~(e) "140% to 160%" of the Kaua'i median household income with for sale price and rent limits at 160% of the Kaua'i median household income; and~~

~~(f) "160% to 180%" with for sale price and rent limits at 180% of the Kaua'i median household income.~~

"Workforce housing income limits" means those household income levels that shall be published annually by the Housing Agency to establish the upper limits of workforce income groups by household size and by dwelling unit size.

"Workforce housing rent limits" means the rent price limits for workforce dwelling units established by the Housing Agency by household size and by dwelling unit size.

Sec. -1.4 Applicability.

The workforce housing requirements shall apply to:

(a) ~~New zoning district boundary amendments that create additional residential uses in any type of zoning district.~~ New zoning district boundary amendments of lands from any zoning district into the Residential, Resort, Commercial, Industrial, Project Development, or Open Districts, or amendment into the Visitor Destination Area;

(b) ~~New zoning district boundary amendments to residential, resort, commercial, industrial, open, or rural districts.~~ New State Land Use District Boundary Amendments involving lands fifteen acres or less in size from any State Land Use District to the State Land Use Agricultural, Rural or Urban Districts;

(c) Previously approved zoning district boundary amendments, and previously approved State Land Use District Boundary Amendments for lands fifteen acres or less in size, which ordinance contains affordable housing conditions that have not been satisfied as of the effective date of this ordinance, or that the County has not yet agreed on through executed agreement of the specific means of satisfying the housing conditions;

(d) Subdivision of land in any Residential zoning district which would allow the construction of ten (10) or more residential dwelling units at a density of more than two (2) dwelling units per acre, or subdivision in any Residential, Ag or Open zoning district which would allow the construction of five (5) or more residential dwelling units at a density of two (2) or less dwelling units per acre; and

BILL NO. 2202

(e) Development of land or buildings, or redevelopment of land or buildings, on a parcel in any zoning district which would allow the for the purpose of construction of five or more residential dwelling units, hotel units or time share units.

Sec. -1.5 Administration.

The Kaua'i County Housing Agency of the Offices of Community Assistance of the County of Kaua'i shall administer this ordinance.

ARTICLE 2. REQUIREMENTS AND SATISFACTION

Sec. -2.1 Residential Developments.

The following workforce housing requirements shall be applicable to residential zoning district boundary amendments or other zoning district boundary amendments that propose residential use that allow the development of five (5) or more units: Any zoning amendment, State Land Use District boundary amendment, subdivision, or development or redevelopment of buildings for residential purposes to which this policy is applicable pursuant to Section -1.4 shall meet all of the following workforce housing requirements, unless an alternative is approved pursuant to Article 3:

(a) Dedication of Land to County. Developer shall dedicate approximately ten percent (10%) of the developer's project area by title transfer to the County. This dedicated land shall have all necessary infrastructures available to the site for residential development. The size of land area must be large enough to provide affordable units equal to 10% of total project units at a density no greater than fourteen (14) units per acre. The land shall be County owned and preserved as permanent affordable housing. The land shall be developed into housing affordable primarily for households earning eighty percent (80%) and below the Kaua'i median household income by either the developer, the County, and/or a nonprofit housing organization into rental housing, limited equity cooperative housing, or for sale leasehold housing. These lands and projects may be managed and/or administered by the Housing Agency or an affordable housing community land trust on behalf of the County. Dedication of Land to County. Developer shall dedicate approximately ten percent (10%) of the developer's project area by title transfer to the County, and shall provide all infrastructure necessary for its residential development as required in this Section. The land shall be County owned and preserved as permanent affordable housing in perpetuity. The land shall be developed into housing affordable primarily for households earning eighty percent (80%) and below the Kaua'i median household income, by the County, or in conjunction with a nonprofit housing organization, into rental housing, limited equity cooperative housing, or for-sale leasehold housing. These lands and projects may be managed and administered by the Housing Agency or an affordable housing community land trust on behalf of the County.

The developing entity shall develop the land area with affordable units, the number of which shall be equivalent to 10% of the density allowed to the overall project area, provided that the land shall be developed at a maximum of R-14 density.

(b) Workforce Housing Sales. Thirty-Two percent (30%) of the total project units shall be for-sale units sold to qualified Kaua'i residents or to the County as follows:

BILL NO. 2202

(1) Quality. Workforce housing units for sale shall be comparable to market units in number of bedrooms and bathrooms, however, if the market units are designed as up-scale dwelling units, then the affordable units may be more modest in size, flooring, counter tops, fixtures, appliances, and hardware, provided the quality is comparable in quality to contemporary workforce housing produced by other developers and subject to approval by the Housing Agency.

(2) Economic Integration. The workforce housing units shall be integrated into the project, being mixed alongside market units on the project site.

(3) ~~Leasehold Sales. The developer shall sell the workforce housing units at workforce housing prices, through the County's limited appreciation leasehold estate program to be permanently affordable and part of the Kaua'i community land trust with the fee title transferred to the County for the following income groups:~~

~~(A) Five percent (5%) of total units priced to be affordable to households earning up to eighty (80%) of the Kaua'i median household income.~~

~~(B) Five percent (5%) of total units priced to be affordable to households earning up to one hundred percent (100%) of the Kaua'i median household income~~

~~(C) Five percent (5%) of total units priced to be affordable to households earning up to one hundred twenty percent (120%) of the Kaua'i median household income.~~

(4) Fee Simple Sales. The developer shall sell the workforce housing units in fee simple at workforce housing prices, with the County's restriction on sale or transfer, debt and use for all fee simple sales for the following income groups:

(A) Five percent (5%) of total units priced to be affordable to households earning up to one hundred forty-eighty percent (14080%) of the Kaua'i median household income.

(B) Five percent (5%) of total units priced to be affordable to households earning up to one hundred sixty-percent (160100%) of the Kaua'i median household income.

(C) Five percent (5%) of total units priced to be affordable to households earning up to one hundred eighty-twenty percent (180120%) of the Kaua'i median household income.

(D) Five percent (5%) of total units priced to be affordable to households earning up to one hundred forty percent (140%) of the Kaua'i median household income.

Sec. -2.2 Resort, Commercial, and Industrial Developments.

Commercial, Industrial, Project Development and Resort Zoning District Assessment. Developer requests for commercial, industrial, project development, visitor destination area and resort district zoning amendments which generate a need for new employees to fill one hundred (100) or more new full-time equivalent jobs may be assessed an affordable housing condition. The requirement for affordable housing will be established at the time of zoning permit application and shall be based on an analysis of the number of jobs to be generated, the availability of workers on Kauai to fill those jobs,

BILL NO. 2202

the resultant number and incomes of households to be supported by those jobs, the estimated number of those households which require housing assistance, and the amount of affordable housing inventory available to house those households. The analysis shall be conducted by an economist retained by, but independent of, the developer. The analysis shall be subject to approval by the County. The developer may be required to provide affordable housing when:

1. The proposed development requires permanent, new, full-time employees from outside the existing Kauai workforce,
2. The outside employees require housing assistance based on income criteria of the County's Affordable Housing Program, and
3. There is insufficient housing available at affordable prices for the outside employees.

~~The following workforce housing requirements shall be applicable to resort district boundary amendments that allow fifty (50) or more rooms and shall be applicable to resort, commercial, and industrial zoning district boundary amendments that are estimated to generate one hundred (100) or more new, full-time equivalent jobs:~~

~~(a) Dedication of Land to County. Developer shall dedicate approximately ten percent (10%) of the developer's project area by title transfer to the County. This dedicated land shall have all necessary infrastructures available to the site for residential development. The size of land area must be large enough to provide affordable units equal to 10% of total project units at a density no greater than fourteen (14) units per acre. The dedicated land may be off site, provided all necessary infrastructure is available at the off-site housing location, the location is within a ten (10) mile radius of the project, and the land is adequately zoned or, if not zoned, the land must be located where State land use and County zoning may be obtained by County initiative at the density that is consistent with the County General Plan, or the site is adjacent to existing zoning and the appropriate density will satisfy the ten percent (10%) land dedication requirement. The land shall be County owned and preserved as permanent affordable housing. The land shall be developed into housing affordable primarily for households earning eighty percent (80%) and below the Kaua'i median household income by either the developer, the County, and/or a nonprofit housing organization into rental housing, limited equity cooperative housing, or for sale leasehold housing. These lands and projects may be managed and/or administered by the Housing Agency or an affordable housing community land trust on behalf of the County.~~

~~(b) Workforce Housing Sales. Thirty percent (30%) of the total units shall be for sale units sold to qualified Kaua'i residents or to the County as follows:~~

~~(1) Quality Workforce housing units for sale shall be comparable to market units in number of bedrooms and bathrooms; however, if the market units are designed as up-scale dwelling units, then the affordable units may be more modest in size, flooring, counter tops, fixtures, appliances, and hardware, provided the quality is comparable in quality to contemporary workforce housing produced by other developers and subject to approval by the Housing Agency.~~

~~(2) Economic Integration. The workforce housing units shall be integrated into the project, being mixed alongside market units on the project site. Where no residential units are produced on-site, the developer may provide the required for~~

BILL NO. 2202

sale units off-site at a location within a ten (10) mile radius of the project. Where no market units are produced, the integration of workforce for sale units is not applicable unless market units are also produced.

~~(3) Leasehold Sales. The developer shall sell the workforce housing units at workforce housing prices, through the County's limited appreciation leasehold estate program to be permanently affordable and part of the Kaua'i community land trust with the fee title transferred to the County for the following income groups:~~

~~(A) Five percent (5%) of total units priced to be affordable to households earning up to eighty (80%) of the Kaua'i median household income.~~

~~(B) Five percent (5%) of total units priced to be affordable to households earning up to one hundred percent (100%) of the Kaua'i median household income~~

~~(C) Five percent (5%) of total units priced to be affordable to households earning up to one hundred twenty percent (120%) of the Kaua'i median household income.~~

~~(4) Fee Simple Sales. The developer shall sell the workforce housing units at workforce housing prices, with the County's restriction on sale or transfer, and use for all fee simple sales for the following income groups:~~

~~(A) Five percent (5%) of total units priced to be affordable to households earning up to one hundred forty percent (140%) of the Kaua'i median household income.~~

~~(B) Five percent (5%) of total units priced to be affordable to households earning up to one hundred sixty percent (160%) of the Kaua'i median household income.~~

~~(C) Five percent (5%) of total units priced to be affordable to households earning up to one hundred eighty percent (180%) of the Kaua'i median household income.~~

Sec. ___-2.3 Mixed Developments.

Developments that have a combination of residential use and resort, commercial, and/or industrial use shall provide workforce housing appurtenant to each use, pursuant to the applicable residential or non-residential requirements stated in pursuant to this chapter.

Sec. ___-2.4 Workforce Housing Requirements Tables.

The Housing Agency shall maintain two tables to specify which workforce income groups shall be required where the calculation of the required workforce units by income group produces a fractional number of units:

(a) Small Residential Project Requirements Table. The small residential project requirements table provides the specific workforce housing units required for residential developments of twenty (20) units or less.

(b) Incremental Requirements Table. The calculation of the number of workforce housing units required will produce whole numbers wherever the total project unit count or employee count is an increment of twenty (20). The incremental requirements table

BILL NO. 2202

provides the specific workforce housing units required between zero (0) and twenty (20) and shall be used whenever the calculation of the workforce housing requirement produces a fractional number of workforce units, except for projects that qualify for the small residential project requirements table.

Sec. ___-2.5 Time of Satisfaction. Workforce housing requirements shall be satisfied prior to or concurrently with the development of the market residential, resort, commercial, or industrial development. A prorated workforce housing requirement is acceptable for any development that is phased.

Sec. ___-2.6 Immediate Family Member of Developer.

(a) Family Exemption. A developer is exempt, or partially exempt, from the workforce housing requirements where the intent of the development is to transfer all or part of family-held land to immediate family members, provided:

(1) The project is twelve (12) units or less,

(2) Title to the new units shall be transferred only to the developer's immediate family members, and

(3) All units exempt from the workforce housing requirements shall be subject to a shared appreciation program where the County shall be paid a share of the net appreciation for any subsequent sale or transfer of the exempted property for a period of ten (10) years.

(b) Reserved Sales. A developer may reserve and sell up to eight (8) of the required workforce housing units for sale to any income qualified immediate family member of the developer to satisfy all or a portion of the developer's workforce housing requirements, provided all units reserved for immediate family members shall be subject to a shared appreciation program where the County shall be paid a share of the net appreciation for any subsequent sale or transfer of such property for a period of ten (10) years.

(c) County Shared Appreciation Program. The annual percentage share the County shall be paid of net appreciation from the subsequent sale or transfer of any property exempt from workforce housing requirements or reserved and sold by the developer for immediate family members of the developer are as follows:

- 100% from the first day the immediate family member holds title to the end of year one (1),
- 95% from year one (1) to year two (2),
- 90% from year two (2) year three (3),
- 80% from year three (3) to year four (4),
- 70% from year four (4) year five (5),
- 60% from year five (5) to year six (6),
- 50% from year six (6) year seven (7),
- 45% from year seven (7) to year eight (8),
- 30% from year eight (8) to year nine (9), and
- 15% from year nine (9) to year ten (10).

ARTICLE 3. SATISFACTION HOUSING REQUIREMENT ALTERNATIVES

BILL NO. 2202

Sec. ___-3.1 ~~Satisfaction Alternatives~~ Authorized by the County Council.

The alternatives listed below to satisfy workforce housing requirements are available to a developer by obtaining approval from the County Council prior to any application for zoning permit or subdivision:

~~(a) Rental Units. Rental units may be substituted in place of for-sale units provided the units are made available to the same workforce income target group they are being substituted for, are at a cost that is consistent with the workforce housing income guidelines, and the rental units remain available and at the applicable affordable cost for a period of at least forty (40) years. The developer may donate the ownership of the rental units to the County, subject to approval of the County Council.~~

~~(b) (a) Land Dedication or Residential Off-Site. Land dedication or Ffor-sale housing units required by residential developers may be made available off-site, provided the units are made available to income groups one step lower than otherwise required the developer provides a fifty percent (50%) increase in the number of required units, lots, or land area, as applicable. The location of the off-site workforce housing shall be within a ten (10) mile radius the same real property tax district of the project.~~

~~(e) (b) In-Lieu Fee. An in-lieu fee may be paid in place of any workforce land donation or for-sale housing units required. The in-lieu fee for each required unit shall be calculated as follows:~~

~~(1) Determine the median average sales price for a market priced single family or condominium unit, as applicable, in the County tax district of the project for the previous calendar year project.~~

~~(2) Determine the applicable income group workforce housing price limit for a single family or condominium unit.~~

~~(3) The per unit in-lieu fee is the difference between the median sales price and the workforce sales price, not to exceed two hundred fifty thousand dollars (\$250,000.00) per unit.~~

~~(d) (c) Land In-Lieu. Land in-lieu may be donated for any workforce for-sale housing units required. The value of the land in-lieu shall be equal to or greater than the in-lieu fee calculation contained herein. The value of the land shall be determined by appraisal by a real estate appraiser licensed in the State of Hawai'i and retained by the developer.~~

~~(e) (d) Units In-Lieu of Land Donation. Projects that generate a land donation requirement of two (2) acres or less may produce rental or for-sale housing units with one-half affordable to households earning up to sixty percent (60%) of the Kaua'i median household income and one-half affordable to households earning up to eighty percent (80%) of the Kaua'i median household income in-lieu of donating land to the County.~~

~~(e) Modification of Requirements for Gap Group Housing. The County Council may reduce the number of workforce housing units required for a developer's project if that project targets a majority of the project's non-required units for gap group Kaua'i residents earning from one hundred forty percent (140%) to one hundred eighty percent (180%) of Kaua'i's median household income.~~

Sec. ___-3.2 Alternatives Authorized by the Housing Agency.

Rental Units In-Lieu of For Sale Units. Rental units may be substituted in place of for-sale units, by obtaining written approval from the Housing Agency prior to any

BILL NO. 2202

application for zoning permit or subdivision, provided the units are made available to the same workforce income target group they are being substituted for, are at a cost that is consistent with the workforce housing income guidelines, and the rental units remain available and at the applicable affordable cost for a period of at least forty (40) years. The developer may donate the ownership of the rental units to the County, subject to approval of the County Council.

ARTICLE 4. INCOME, SALES PRICE AND RENT LIMITS

Sec. ___-4.1 Income Limits.

(a) **Kaua'i Median Household Income and HUD Low Income Limits.** HUD provides the County with the Kaua'i median household income amount each year. In addition, HUD provides income limits, by household size, for extremely low income households that earn thirty percent (30%) of the median household income, very low income households that earn fifty percent (50%) of the median household income, households that earn sixty percent (60%) of the median household income, and low income households that earn eighty percent (80%) of the median household income.

(b) **Workforce Housing Income Limits.** The Housing Agency interpolates income limits for income groups above HUD's low income groups with the HUD median household income for Kaua'i as the base and the methodology utilized by HUD to calculate limits by household size. The Housing Agency rounds each income limit upwards to the nearest fifty dollars (\$50.00). Within thirty days from the date that HUD issues the Kaua'i median household income for the year, the Housing Agency will have available that year's workforce housing income limits by household size from a household of one (1) to a household of eight (8).

Sec. ___-4.2 For-Sale Price Limits.

(a) **For-Sale Affordability Criteria.** The Housing Agency calculates for-sale dwelling unit price limits by household size and by income group by formula including the following factors:

- (1) Thirty percent (30%) of gross income is available for housing cost.
- (2) The estimated amounts for real property tax and home owners insurance consistent with industry standards.
- (3) If sale is a condominium or requires association or maintenance fees, the estimated cost for association or maintenance fees consistent with industry standards.
- (4) A fully amortized thirty (30) year fixed interest rate mortgage loan.
- (5) A loan interest rate consistent with prevailing mortgage interest rates for conventional owner-occupant first mortgage loans rounded upwards to the nearest quarter percent (0.25%).
- (6) A down payment amount equal to five percent (5%) of the sale price.
- (7) Sales prices are rounded to the nearest one hundred dollars (\$100.00).

(b) **Workforce For-Sale Housing Price Limits.** Within thirty days from the date that HUD issues the Kaua'i median household income for the year, the Housing Agency will have available that year's workforce for-sale housing price limits. The workforce

BILL NO. 2202

for-sale housing price limits will include the prices for the applicable HUD low income groups and the affordable and gap-group income groups by household size from a household of one (1) to a household of eight (8). The Housing Agency may revise the workforce for-sale housing price limits throughout the year as the prevailing first mortgage interest rates change.

Sec. ____-4.3 Rental Limits.

(a) The Housing Agency calculates rental rate limits by household size and by income group by methodology utilized to administer HUD's rent subsidy program as follows:

- (1) Thirty percent (30%) of gross income is available for housing cost.
- (2) Reduce the amount available for housing cost by subtracting the applicable utility allowance, prepared annually by the Housing Agency.
- (3) The net amount is the maximum rent allowable.
- (4) The net rent amounts are not rounded.

(b) Workforce Housing Rent Limits. Within thirty (30) days from the date that HUD issues the Kaua'i median household income for the year, the Housing Agency will have available that year's workforce housing rent limits. The workforce housing rent limits will include the rent for the applicable HUD low income groups and the affordable and gap-group income groups by household size from a household of one (1) to a household of eight (8).

ARTICLE 5. HOUSING ELIGIBILITY & SELECTION

Sec. ____-5.1 Kaua'i Resident Home-Buyer List.

(a) Purpose. The purpose of the Kaua'i Resident Home-Buyer List Program (Home-Buyer List) is to establish a long term program where Kaua'i residents can be placed on a list to be the first potential buyers of housing units or properties either developed directly by or for the County or privately developed to satisfy a County housing requirement.

(b) Objectives. The objectives of the Home-Buyer List are:

- (1) establish a permanent list of individuals who want to be resident buyers that keep their position on the list for buyer selection for all available applicable properties,
- (2) prepare residents for the home buying process through home-ownership education,
- (3) assist residents to become mortgage-ready so they will be able to buy a home, and
- (4) to keep residents aware of upcoming projects and opportunities to buy a home.

(c) Home-Buyer List Eligibility. Any individual shall be added to the Home-Buyer List who:

- (1) is either a citizen of the United States of America or a resident alien who physically resides on the Island of Kaua'i, State of Hawai'i, and
- (2) is at least eighteen (18) years old, and
- (3) by oneself or together with a spouse does not own a majority interest in any real estate suitable for residential purposes, and

BILL NO. 2202

(4) has completed a course of home-ownership education, approved by the Kaua'i County Housing Agency, that must consist of at least eight (8) hours of classroom instruction, including consultation to determine mortgage-ready status.

(d) Home-Buyer Policy Income Limits. There are no income limit restrictions for placement on the Home-Buyer List. However, income limits are utilized for the initial offerings of most housing units or properties sold by the County or privately sold by a developer satisfying a County housing requirement. Over income individuals on the Home-Buyer List would be eligible to purchase only after all income eligible potential buyers have had an opportunity to buy.

(e) Housing Project Income Limits. Each housing unit or property that becomes available for purchase to individuals on the Home-Buyer List may have income limit requirements that must be followed that could restrict who is eligible to buy. All Home-Buyer List applicants must comply with any income restrictions relevant to any applicable dwelling unit or source of financing.

(f) Home-Buyer Number.

(1) The number assigned to an eligible individual under this policy shall be known as their "Home-Buyer Number".

(2) Once an individual provides the necessary documentation to establish current Kaua'i residency and documents completion of the home ownership education and mortgage-ready consultation requirement, that individual shall be given a Home-Buyer Number that is the next number on the Home-Buyer List on a first-come, first served basis, as determined by the Housing Agency's date and time stamp imprinted on a copy of the individual's home-ownership education certificate.

(3) Each individual that qualifies for the Home-Buyer List shall be assigned a Home-Buyer Number. For married couples where each spouse qualifies for the Home-Buyer List, the same Home-Buyer Number is assigned to each individual spouse.

(4) For individuals that have previously registered with the Housing Agency under the Home-Buyer Priority List program and have provided evidence of their home ownership education and counseling, a public lottery will be held to establish the numerical sequence of these first names for the Home-Buyer List. The lottery number pulled for each individual shall be their Home-Buyer Number.

(5) Once a Home-Buyer Number is given to an individual, the number is permanent and shall not change.

(g) Removal from the Home-Buyer List. The eligible individual's name and assigned Home-Buyer Number shall remain on the Home-Buyer List until one of the following three (3) events occur. If one of these events does occur, the individual's name and Home-Buyer Number are retired from the list:

(1) the individual becomes the majority owner, either by oneself or together with one's spouse, of real property suitable for residential purposes, or

(2) the individual no longer resides or is no longer domiciled on the Island of Kaua'i, or

(3) the individual is deceased.

BILL NO. 2202

(h) Reinstatement. For an individual that was formerly on the Home-Buyer List and was removed because the individual became a majority owner of residential property, or no longer resided on the Island of Kaua'i, that individual may become eligible for the Home-Buyer List program upon once again qualifying for eligibility pursuant to the criteria listed above under Eligibility. Upon re-qualification, the individual shall be assigned the next available Home-Buyer Number on the Home-Buyer List. The individual shall not be entitled for their former Home-Buyer Number.

(i) Compliance to Project Requirements. The status of being an individual on the Home-Buyer List does not supersede buyer eligibility criteria for housing units or properties made available by the County or privately developed that require specific criteria for buyer eligibility. However, the order of purchase opportunity for individuals who are otherwise buyer qualified and on the Mortgage-Ready Home-Buyer List may have the first opportunity to buy applicable housing units or properties before individuals who are not on the Mortgage Ready Home-Buyer List.

(j) Mortgage-Ready Eligibility. To be offered the opportunity to be the first potential buyers under the Home-Buyer List program, the eligible individual must be designated "Mortgage-Ready". To be designated Mortgage-Ready, the individual or the individual's household shall be able to purchase a fee simple residential property selling for a minimum of two hundred fifty thousand dollars (\$250,000.00) or a leasehold residential property selling for a minimum of one hundred seventy-five thousand dollars (\$175,000/00), as determined by the Housing Agency, utilizing underwriting criteria for loans typically available for affordable housing, favorable credit history, and necessary cash requirements. The fee simple and leasehold qualifying amounts are subject to change as income and real property values change. All individuals added to the Home-Buyer List shall provide documentation of their finances and credit to enable the Housing Agency to determine an individual or an individual's household ability to purchase a home before being placed on the Mortgage-Ready Home-Buyer List and periodically, thereafter, to remain on the Mortgage-Ready Home-Buyer List.

(k) Mortgage-Ready Home-Buyer List. An individual or individual's household deemed Mortgage-Ready shall be placed on the Mortgage-Ready Home-Buyer List in the order of their Home-Buyer Number.

(l) Not Mortgage-Ready Individuals. An individual deemed by the Housing Agency not Mortgage-Ready shall be encouraged by the Housing Agency to continue to obtain ongoing counseling by their home-ownership education provider to become Mortgage-Ready. An individual may request that their name be moved to the Mortgage-Ready Home-Buyer List by the Housing Agency's reevaluation of their ability to purchase a home at any time, but not more often than every 90 days. An individual may formally make written appeal for reevaluation of their ability to purchase to the County of Kaua'i Director of Finance, in a form and manner as determined by the Director of Finance.

(m) Sales Selection. For any housing units or properties subject to this policy, the seller shall first make the offer to sell any dwelling units or land parcels then available for purchase to the individual on the Mortgage-Ready Home-Buyer List with the lowest Home-Buyer Number. Next, the seller must make the offer to the individual with the next to the lowest Mortgage-Ready Home-Buyer Number, then to the individual with the third lowest Mortgage-Ready Home-Buyer Number and continue this sequence until all

BILL NO. 2202

dwelling units or land parcels are sold. If the seller has any properties available after offering them to all individuals on the Mortgage-Ready Home-Buyer List, then the seller shall make the properties available to eligible buyers not on the Home-Buyer List. This first opportunity to purchase shall conform to the above Compliance to Project Requirements provision.

(n) Multiple Opportunities to Buy. Any individual on the Home-Buyer List that declines an offer to buy an offered housing unit or property, or fails to complete the purchase after accepting an offer to buy, shall remain on the Mortgage-Ready Home-Buyer List and retain their Home-Buyer Number without penalty or restriction and be eligible for the next property or project subject to this policy.

(o) Dormant Home-Buyer List Individuals. It is the responsibility of each individual on the Home-Buyer List to keep the Kaua'i County Housing Agency informed of the individual's current mailing address and telephone numbers. If mail from the Housing Agency is returned undeliverable and the individual's phone numbers are no longer in service, the Housing Agency will deem that individual "dormant" until such time that the individual re-establishes contact with the Housing Agency. When re-establishing contact with the Housing Agency, the individual shall be required to document that they continued to be a Kaua'i resident during the dormant period.

Sec. ~~5.1~~ Sec. ~~5.2~~ For-Sale Housing.

(a) General Provisions.

(1) Qualified Buyers. All County housing programs, including workforce housing requirements, which assist residents to become fee simple or leasehold homeowners, are restricted to qualified buyers, as defined herein, except where sales may become market sales pursuant to Section 6.1(f).

(2) Application. Each program or project shall establish interested households for that program or project by requiring the interested household to submit a written application provided or approved by the Housing Agency and any other documents required by the Housing Agency to establish eligibility.

(3) Eligibility. The Housing Agency shall review all purchase applications to determine eligibility pursuant to the specific program or project eligibility criteria established for that program or project.

(A) Income qualification shall be determined on gross annual income and based on documentation provided by the housing applicant, including the three (3) most current pay stubs and the two (2) most current year's federal income tax returns from all employed adults in the applicant's household.

(B) Kaua'i residency shall be determined on documentation provided by the applicant that indicates the applicant has a resident address on the Island of Kaua'i.

(C) Not owning real estate suitable for residential purposes shall be determined primarily from documentation provided by the housing applicant.

(4) Selection. The selection list or lists shall be utilized by the developer to determine the numerical order to offer to sell workforce housing units to qualified buyers. Selection lists shall be established as follows:

BILL NO. 2202

(A) All applicable housing units shall first be offered to individuals on the Mortgage-Ready Kaua'i Resident Home-Buyer List, in the order of their Home-Buyer Number and who otherwise qualify pursuant to any project specific qualifying criteria, before any housing units are offered for sale to qualified buyers not on the Mortgage-Ready Home-Buyer List.

~~(A)~~ (B) After all individuals on the Mortgage-Ready Home-Buyer List have had an opportunity to purchase, a public lottery shall be conducted for any project that ~~has~~ anticipates more other applicants than the number of housing units that remain available ~~through that project~~ to establish a selection list. If the number of housing units available is equal to or greater than the number of anticipated applicants, selection may be established by a first-come, first-served basis.

~~(B)~~ (C) The decision to utilize either the lottery or the first-come, first-served process shall be determined by the developer prior to the sales notice date.

~~(C)~~ (D) A lottery that has multiple preferences shall include all applicants in a single lottery. The selection list will be produced by applying applicant preferences and lottery numbers to sort all applicants into a selection list that has:

(i) The qualified buyer applicant with the lowest selection number (first) being a household that has the highest and the most preferences available and has the lowest lottery number, and

(ii) The qualified buyer applicant with the highest selection number (last) being a household that has no preferences and the highest lottery number.

~~(D)~~ (E) In a project that utilizes the first-come, first-served method, the developer shall utilize sorting method as utilized with a lottery, but substitute the date and time of receipt of a completed application in place of a lottery number to establish the numerical order.

~~(E)~~ (F) Projects that are developed in phases shall phase their respective restricted marketing periods and phase their respective application and selection processes.

(b) Priorities & Preferences for Sales by Lottery. After all applicable housing units in a project have first been first offered for sale to all residents on Mortgage-Ready Home-Buyer List, a development using a lottery to determine sales sequence for other buyers shall sort the lottery list by giving applicants priority as follows:

(1) First Priority - Homeownership Education. The first opportunity to purchase a workforce for-sale housing unit after Home-Buyer List residents have had the opportunity to purchase shall be given to income qualified buyers that have completed a qualified homeownership education course, as determined by the Housing Agency, consisting of at least eight (8) hours of classroom education, plus credit and mortgage ready counseling. To receive the homeownership education priority, a qualified buyer shall register with the Housing Agency and provide the Housing Agency with a copy of their homeownership education class graduation certificate. The Housing Agency shall determine which providers of

BILL NO. 2202

homeownership education have the curriculum that qualifies graduates for the homeownership priority.

(2) Second Priority - Project Employee Preferences. Fifty percent (50%) of the total workforce housing units built by the developer required for projects that generate workforce housing requirements of twenty (20) housing units or more shall be sold with a preference to employees of the developer and employees within the development area of the project as determined by the Housing Agency.

(3) Third Priority – Geographical Preferences. At the discretion of the County Council, one or more geographical preference may be imposed on the required workforce housing units giving preference to qualified residents that live in a specified geographical area surrounding or adjacent to the project or that are employed within a specific geographical area surrounding or adjacent to the project.

(4) A project that is assisted with government financing may disregard any priority or preference provided by this ordinance that violates federal fair housing law.

~~(e) Immediate Family Member of Developer. A developer is exempt from the workforce housing requirements where the intent of the development is to transfer family held land to immediate family members, provided:~~

~~(1) The land has been continuously owned by a Kaua'i resident, or an immediate family member of the owner, for at least twenty five (25) years,~~

~~(2) The project is twelve (12) units or less, and~~

~~(3) Title to the new units shall be transferred only to the developer's immediate family members.~~

Sec. ~~5.2-5.3~~ Rental Housing.

(a) General Provisions.

(1) Qualified Renter. All County or workforce rental projects are restricted to qualified renters, as defined herein.

(2) Application. Each project shall establish interested households for that project by requiring the interested household to submit a written application provided by the project's management entity and any other documents required to establish eligibility.

(3) Eligibility. The project's management entity shall review all applications to determine eligibility pursuant to the specific project eligibility criteria established for that project. Eligibility records shall be maintained on-site for at least three (3) years and made available on-site to the County, or its representatives, to monitor upon request.

(4) Initial Occupancy Selection.

(A) A public lottery shall be conducted for any project that has more applicants than the number of housing units available in that project to establish the initial occupancy selection list. If the number of housing units available is equal to or greater than the number of applicants, selection may be established by a first-come, first-served basis.

BILL NO. 2202

(B) The decision to utilize either the lottery or the first-come, first-served process shall be determined by the developer prior to the sales notice date.

(C) A lottery that has multiple preferences shall include all applicants in a single lottery. The selection list will be produced by applying applicant preferences and lottery numbers to sort all applicants into a selection list that has:

(i) The qualified buyer applicant with the lowest selection number (first) being a household that has the highest and the most preferences available and has the lowest lottery number, and

(ii) The qualified buyer applicant with the highest selection number (last) being a household that has no preferences and the highest lottery number.

(D) In a project that utilizes the first-come, first-served method, the developer shall utilize the date and time of receipt of a completed application to establish the chronological order and establish a separate list for each preference available to produce multiple selection lists by preference type.

(E) Projects that are developed in phases shall phase their respective restricted marketing periods and phase their respective application and selection processes.

(5) **Waiting List.** All County and workforce rental projects shall maintain a waiting list or lists of interested tenants, ~~by~~ for each bedroom size. The only preference applied after the initial occupancy of the project is the project employee preference. The project may decline to accept additional names to its bedroom size waiting list when the waiting list ~~is in~~ has an excess of twenty-five (25) prospective tenants, ~~by bedroom size.~~

(b) **Priorities & Preferences.**

(1) **First Priority - Project Employee Preferences.** Fifty percent (50%) of the total workforce housing units built by the developer ~~required~~ for projects that generate workforce housing requirements of twenty (20) housing units or more shall be rented with a preference to employees of the developer and employees within the development area of the project as determined by the Housing Agency.

(2) **Second Priority – Geographical Preferences.** At the discretion of the County Council, one or more geographical preference may be imposed on the required workforce housing units giving preference to qualified residents that live in a specified geographical area surrounding or adjacent to the project or that are employed within a specific geographical area surrounding or adjacent to the project.

(3) A project that is assisted with government financing may disregard any priority or preference provided by this ordinance that violates federal fair housing law.

ARTICLE 6. RESTRICTED MARKETING PERIODS

BILL NO. 2202

Sec. ___ -6.1 Restricted Sales Marketing Period. The restricted sales marketing period begins approximately ten (10) months before the construction of the workforce housing units are complete to one hundred eighty days after construction is complete.

(a) Approximately ten (10) months before the construction of the workforce housing units is complete, but no earlier than thirty (30) days before the start of vertical building construction, the developer shall notify by mail all residents on the County's Mortgage-Ready Home-Buyer List of the intent to sell the workforce housing units, a description of all workforce housing units to be offered for sale, and the specific income qualifying criteria and sales prices for each workforce housing unit in the project being offered.

(b) Approximately nine (9) months before construction of the workforce housing units is complete, but no earlier than the start of vertical building construction, the developer shall offer the workforce housing units exclusively for sale to income-qualified residents on the County's Mortgage-Ready Home-Buyer List in the sequential order of their Home-Buyer Number.

(c) Approximately seven (7) months before completion of the workforce housing units, The the sales notice of the intent to sell the workforce housing units shall be published by the developer in a newspaper of general circulation in the County. The notice of intent to sell shall be published no earlier than six (6) months prior to the estimated completion date of the units being sold invite prospective buyers who are not on the County's Mortgage-Ready Home-Buyer List the opportunity to purchase units after those residents on the County's List have first had an opportunity to purchase.

(d) For the first ninety (90) days following the sales notice date, the workforce housing units shall be offered Approximately six (6) month before construction of the workforce housing units is complete, the developer shall establish the selection sequence for sales to applicants not on the County's List, by either the public lottery or first-come, first served methods, adjusted by preferences applicable to the project, notify prospective buyers of their selection number, and initiate sales exclusively to income-qualified buyers in order of the selection list.

(e) For the period of time from ninety one (91) to one hundred eighty (180) days after the sales notice date, Approximately three (3) months before construction of the workforce housing units is complete, the developer shall be offered offer remaining unsold units to income-qualified buyers whose incomes are up to the next higher workforce housing income group, first, to residents on the County's Mortgage-Ready Home-Buyer List and, second, to residents on the developer's selection list.

(f) For the period of time from one hundred eighty one (181) to two hundred seventy (270) days after the sales notice date, the At completion of construction of the workforce housing units, as evidenced by the issuance of final building inspection for single family dwellings or certificate of occupancy for multifamily dwelling, the developer shall be offered offer remaining unsold units without income restrictions not only to the income-qualified buyers, but also to qualified buyers without income restriction, first, to residents on the County's Mortgage-Ready Home-Buyer List and, second, to residents on the developer's selection list.

(g) For the period of time from two hundred seventy one (271) to three hundred sixty (360) days after the sales notice date, the Ninety (90) days after the completion of construction of the workforce housing units, the developer shall be offered

BILL NO. 2202

~~offer remaining unsold units without income restrictions or other residential property ownership not only to the income-qualified buyers, qualified buyers, but also to qualified residents without income restrictions and without other residential property ownership restriction, first, to residents on the County's Mortgage-Ready Home-Buyer List and, second, to residents on the developer's selection list.~~

~~(f) (h) Three hundred sixty one (361) days after the sales notice date, At completion of construction of the workforce housing units, the developer shall provide in writing a final notice to the County to purchase Housing Agency the number and prices of any unsold units. The County shall have sixty (60) days to present the final offer to the County Council for the County's response. If the County agrees may elect to purchase any unsold units, an additional ninety (90) days shall be provided to and enact appropriation legislation for the purchase funds.~~

~~(1) Any limited equity leasehold estate workforce housing units priced to be affordable to households earning from eighty percent (80%) to one hundred twenty percent (120%) of the Kaua'i median household income that remain unsold, shall be purchased by the County for its community housing land trust, subject to the approval of the County Council and appropriation of funds.~~

~~(2) Any fee simple workforce housing units priced to be affordable to households earning from one hundred forty percent (140%) to one hundred eighty percent (180%) of the Kaua'i median household income that remain may be purchased by the County for its community housing land trust, subject to the approval of the County Council and appropriation of funds.~~

~~(g) (i) Any workforce housing units that remain unsold after the expiration of the restricted sales period and after the County has had its final opportunity to purchase any unsold units may be sold by one hundred eighty (180) days after completion of construction of the workforce housing units, the developer may sell as market units at market prices without regard to the workforce housing unit restrictions (including price restrictions, income restrictions, and resale restrictions, mortgage debt restrictions, and owner-occupancy restrictions) contained herein, and in such case the developer shall receive credit for such units sold, provided that the net proceeds calculated as the difference between the restricted workforce housing price and the market price shall be paid to the County for deposit in the County's Housing Revolving Fund all units built to satisfy its workforce housing requirements.~~

~~(h) (j) The developer shall receive the workforce housing credit at the time of recordation of a sale during the restricted sales period or recordation of a sale to the County. For any The developer shall receive workforce housing credit for any workforce housing units that remain unsold after at end of the restricted sales period, the developer shall receive the workforce housing credit at the time the developer pays the County the net proceeds received from the market sale one (10 day after the end of the restricted marketing period.~~

Sec. ___ -6.2 Restricted Rental Marketing Period.

(a) The rental notice of the intent to rent the workforce housing units shall be published in a newspaper of general circulation in the County.

(b) For the sixty (60) days following the rental notice date, the workforce housing units shall be offered exclusively to income-qualified renters.

BILL NO. 2202

(c) Any workforce housing units that have not been rented after the sixty (60) day restricted rental period may be rented to qualified renters.

(d) The property manager of the workforce housing units shall maintain a list of potentially income-eligible rental applicants and shall fill any workforce housing unit upon its vacancy with the next income-qualified renter on the property manager's waiting list.

(e) The developer and the Housing Agency shall enter into a regulatory agreement for each project containing workforce housing unit rentals to establish which units are subject to restricted income qualified occupancy and workforce rental rates.

(f) The developer shall receive credit for each workforce housing unit upon initial occupancy during the restricted rental period. For any workforce housing unit that is not rented during the restricted rental period, the developer shall receive the workforce housing unit credit at the time the restricted rental period expires.

ARTICLE 7. RESTRICTION ON SALE OR TRANSFER, DEBT, AND USE

Sec. ___-7.1 Applicability.

The County shall implement a buy-back, mortgage debt, and occupancy provision that shall be known as the "Restrictions on Sale or Transfer, Debt, and Use." These restrictions shall apply to the sale or transfer of any real property, apply to amount of mortgage indebtedness of any real property, and apply to the use of any real property acquired, financed, developed, constructed, or sold by the County pursuant to this Section and Section 2-1.16, Kaua'i County Code 1987, or to privately developed real property that is sold to satisfy a housing requirement and which are sold on the condition that the purchaser accepts the restrictions on the sale or transfer, debt, and use in the real property purchased.

Sec. ___-7.2 Duration of Restrictions.

The restrictions on sale or transfer, and use shall apply for a period of time and the period of time shall not be increased beyond the date of closing (date of recordation by the State of the title transfer) of the purchase without the mutual consent of the owner and the Housing Agency. The subsequent sale of any real property repurchased by the County pursuant to the restrictions on sale or transfer, debt, and use shall incorporate the restrictions on sale or transfer, debt, and use and the restriction shall apply for the same period of time consistent with the income groups listed below and to the income group that the resale price is affordable. The periods of time that the restrictions on sale or transfer, debt, and use shall apply are as follows:

<u>Income Group</u>	<u>Buyback Term</u>
<u>60%</u>	<u>30 years</u>
<u>80%</u>	<u>25 years</u>
<u>100%</u>	<u>20 years</u>
<u>120%</u>	<u>15 years</u>
<u>140%</u>	<u>10 years</u>
<u>160%</u>	<u>7 years</u>
<u>180%</u>	<u>5 years</u>

BILL NO. 2202

~~200%~~ ~~3 years~~

(a) 20 years for all units sold during all sales periods that are restricted by the buyer's income, or

(b) 10 years for units sold during the sales period that is not restricted by the buyer's income, or

(c) Not applicable for units sold after the restricted sales period as open market sales.

Sec. -7.3 Restrictions Constitute A Lien.

The County's interest created by the provisions of the restrictions on sale or transfer, debt, and use shall ~~constitute~~ be recorded as a lien on the real property and shall be superior to any mortgage created after the purchase ~~with of~~ a workforce unit without the prior written consent of the County and the subordination of the County's lien by the Director of Finance.

Sec. -7.4 County Repurchase Right.

For the term of the restrictions beginning from the purchase of a dwelling unit, or from the date of occupancy of a dwelling unit built on a vacant lot purchased as a vacant lot, whether ownership of the dwelling unit or vacant lot is from an original or subsequent purchase, and whether by lease, assignment of lease, deed, or agreement of sale, if the owner wishes to sell or to transfer title to the real property or the lease, the County shall have the first option to purchase the real property or lease at a price which shall not exceed the sum of:

(a) The original cost to the owner;

(b) The cost of any capital improvements added by the owner, provided that for a vacant lot owner, the cost of a dwelling unit constructed by an owner-builder, including a participant in a County sponsored self-help housing project, shall be the initial building assessment value determined by the County's Real Property Tax Division, Department of Finance, or the total documented cost of construction, whichever is greater; and

(c) Simple interest on the original cost to the owner and the cost of capital improvements added to the property by the owner at the rate of one percent (1%) a year.

Sec. -7.5 Restriction on Additional Debt.

For the term of the restrictions beginning from the purchase of a dwelling unit, or from the date of occupancy of a dwelling unit built on a vacant lot purchased as a vacant lot, whether ownership of the dwelling unit or vacant lot is from an original or subsequent purchase, and whether by lease, assignment of lease, deed, or agreement of sale, if the owner wishes to make additional mortgage loans on the property during the term of the restrictions without the written authorization of the Executive on Housing. The only additional mortgage loans that may be approved during the restriction period are loans whose proceeds will be used for capital improvements to the dwelling unit, to build a dwelling unit, or catastrophic medical expenses incurred by a member of the owner's household. Additional mortgage loans shall only be authorized when the total of all mortgage debt to market value is a ratio that does not exceed eighty percent (80%).

BILL NO. 2202

Sec. 7.5 -7.6 Occupancy Requirement.

Real property purchased from the County through the Housing Agency or real property privately developed and sold to satisfy a housing requirement shall be occupied by the owner at all times during the applicable restriction period, except in a hardship circumstance where a temporary occupancy waiver of no more than one (1) year may be provided by the Housing Agency, or occupancy is temporarily suspended as a result of a natural disaster that renders the dwelling unit non-habitable.

Sec. 7.6 -7.7 Workforce Housing.

The restrictions on sale or transfer, debt, and use shall apply to all workforce housing sold in fee simple to income-qualified buyers, qualified buyers, and qualified residents.

ARTICLE 8. KAUAI COUNTY HOUSING AGENCY

Sec. 8.1 Kaua'i County Housing Agency.

The County through its Kaua'i County Housing Agency may:

(a) Housing Developer. Develop workforce housing units, either alone, in partnership, as sponsor, or as required by this ordinance.

(b) Fee Simple Housing Sales. Sell workforce housing units to eligible residents at affordable prices, provided affordability is preserved through the County's "Restriction on Sale or Transfer, Debt, and Use."

(c) Rental Housing. Own workforce rental projects, through development, donation, or purchase.

(d) Limited Equity Cooperative Housing. Develop cooperative housing projects, provided the project limits equity accumulation and maintains the affordability of its housing units.

(e) Limited Appreciation Leasehold Estate Sales. Provide homeownership opportunities through the sale of limited appreciation leasehold estates with a term of ninety-nine (99) years. The sales price to the lessee shall be equal to the appraised market value of the property's building improvements. Appreciation is limited to one-half of the difference between the original sales price to the lessee and the appraised market value of the building improvements at the time of sale back to the County. The leasehold estate may be transferred to an immediate family member with the approval of the Kaua'i County Housing Agency. Sub-leasing is prohibited and sale of the leasehold estate shall only be to the County.

(f) Purchase.

(1) Market Real Estate. Purchase unimproved land or existing dwelling units in the open market upon documentation to the seller that the proposed purchase is not the action of eminent domain. Unimproved land may developed immediately as workforce housing or held for future workforce housing development.

(2) Workforce For-Sale Housing. Purchase any or all workforce housing units before, during, or at the end of the restricted marketing period at the same price as offered to income-qualified buyers and re-sell the housing units to

BILL NO. 2202

income-qualified buyers as limited appreciation leasehold estates or rent to eligible tenants.

Sec. -8.6 Buybacks.

All dwelling units repurchased by the County through its buyback rights pursuant to the restrictions on sale or transfer, debt, and use shall be resold as leasehold estates and become part of the community housing land trust.

~~ARTICLE 8.~~ ARTICLE 9. COMMUNITY HOUSING LAND TRUST

Sec. -8.1 -9.1 Kaua'i Community Housing Land Trust.

The County shall establish a Kaua'i community housing land trust that shall manage rental units and limited equity housing cooperatives, administer limited appreciation leasehold estate sales, and develop new rental, cooperative, and leasehold housing units. The community housing land trust shall be responsible to maintain the housing units under its control perpetually affordable for residents of Kaua'i. The fee simple title of County owned or required units that become part of the community housing land trust shall remain with the County with a lease in favor of the community housing land trust. Management of the community housing land trust shall be provided by the County government or a Hawai'i nonprofit corporation. Ownership or management of the community housing land trust shall not be transferred to a foundation or trust.

Sec. -8.2 -9.2 Purchase.

~~(a) Workforce For Sale Housing. The County may purchase any or all workforce housing units before, during, or at the end of the restricted marketing period at the same price as offered to income-qualified buyers and re-sell the housing units to income-qualified buyers as leasehold estates to become part of the community housing land trust.~~

~~(b) The County or the~~ The community housing land trust may purchase any land or dwelling units to become part of the community housing land trust.

Sec. -8.3 -9.3 Rental Units.

Existing County-owned rental projects ~~shall~~ may become part of the community housing land trust. Additional rental projects may become part of the community housing land trust through donation or purchase.

Sec. -8.4 -9.4 Limited Equity Cooperative Housing.

Any cooperative housing project that limits equity accumulation and maintains the affordability of its housing units may become part of the community housing land trust.

Sec. -8.5 -9.5 Limited Appreciation Leasehold Estate Sales.

Homeownership opportunities shall be provided by ~~the County and the~~ community housing land trust through the sale of limited appreciation leasehold estates ~~with a term of ninety nine (99) years. Appreciation is limited to one percent (1%) per~~

BILL NO. 2202

~~year for the first ten (10) years of the lease and three percent (3%) per year for all remaining years on the sales price of the leasehold estate, plus any capital improvements added by the lessee. The leasehold estate may be transferred to an immediate family member with the approval of the Housing Agency. Sub-leasing is prohibited and sale of the leasehold estate shall only be to the County.~~

~~Sec. _____ 8.6 Buybacks.~~

~~All dwelling units repurchased by the County through its buyback rights pursuant to the restrictions on sale or transfer, and use shall be resold as leasehold estates and become part of the community housing land trust.~~

~~Sec. _____ 8.7 -9.6 Administration.~~

~~(a) Housing Agency. The initial administration of the community housing land trust shall be performed by the Housing Agency.~~

~~(b) County Board. On or before the community housing land trust is responsible for two-hundred fifty (250) rental units and/or fifty (50) cooperative and leaseholds sales, the administration of the community housing land trust shall become the responsibility of a seven (7) member board of directors composed of the following:~~

- ~~(1) Administrative head of the Housing Agency,~~
- ~~(2) County Planning Director or Deputy Planning Director,~~
- ~~(3) An appointed department head selected by the Mayor,~~
- ~~(4) A lending institution official selected by the Mayor,~~
- ~~(5) A real estate broker or escrow officer selected by the Mayor,~~
- ~~(6) A representative of a homeownership education organization or a representative of a nonprofit housing developer selected by the Mayor, and~~
- ~~(7) A community housing land trust resident selected by the Mayor. A community housing land trust resident shall be a renter, shareholder, or lessee residing in any community housing land trust rental project, limited equity cooperative, or leasehold estate.~~

~~(c) Nonprofit Organization. On or before the community housing land trust is responsible for five-hundred (500) rental units and/or one-hundred (100) cooperative and leaseholds sales, or at such time that the community housing land trust becomes financially self-sustainable, a Kaua'i community housing land trust nonprofit corporation shall be created to administer and manage the community housing land trust.~~

~~ARTICLE 9. ARTICLE 10. GOVERNMENT ASSISTANCE FOR WORKFORCE HOUSING~~

~~Sec. _____ -9.1 -10.1 Waiver of County Fees.~~

~~To the extent permitted by law, the Housing Agency may recommend to the Wastewater Division to waive the payment of some or all fees related to the development and construction of the workforce housing units for wastewater capacity assessment fee, pursuant to Section 25-12.3(a)(b), Kaua'i County Code 1987, and may recommend to the Planning Department to waive the payment of the environmental impact assessment fee, pursuant Section 11A-2.1(4), Kaua'i County Code 1987.~~

BILL NO. 2202

Sec. ~~9.2~~ 10.2 ~~Fast Track Permitting.~~

Provided a project ~~contains~~ is one hundred percent (100%) workforce housing units in a number equal to or greater than fifty one percent (51%) of the total housing units within a project site and to the extent permitted by law, the County will expedite the review and issuance of all County permits necessary for the development of workforce and market housing units within the project site, including but not limited to: all subdivision applications, civil construction plan permits, building permits, and other plans and permits associated with the development of the project site. The County agrees to use its reasonable best efforts to avoid unnecessary processing delays for these developments, and to assist the developer in expediting such processing. The County shall use its best efforts to initiate a fast track process and expedite administrative review for all of the County permits by requiring each County office, agency, department, or authority responsible for the review and approval of the County permits to review such permits as a first priority. The County, through its Mayor, shall authorize the applicable department heads to expedite the County permits pursuant to the County's fast track process. Provided, however, that any request for discretionary approvals, including Planning Commission or County Council approvals, that may be necessary shall be determined pursuant to the established procedures for such approvals.

Sec. ~~9.3~~ 10.3 ~~Section 201G 201H Exemption Projects.~~

The County's exemption authority, ~~as contained in H.R.S. 201G-118,~~ may be utilized to expedite requests to amend zoning and for zoning permit application, subdivision applications, and building permit application, as well as, to consider reduced development standards for any project that is one-hundred percent (100%) workforce housing ~~with at least fifty one percent (51%) affordable housing.~~

Section ~~10.4~~ 10.4 ~~Density Bonus.~~

(a) Any residential project subject to workforce housing requirements under this ordinance that fulfills its workforce housing requirement on-site by the donation of land and construction of workforce dwelling units for sale or rent shall be entitled to a density bonus increasing the total number of residential units that may be constructed on the site by ten percent (10%) and decreasing the minimum lot size by ten percent (10%), as compared to the number of units otherwise allowable and the minimum lot size as established by the Comprehensive Zoning Ordinance.

(b) If a project fulfills its workforce housing requirement off-site, no density bonus shall be allowed.

(c) The density bonus may not be used in the State Land Use Agricultural District or Rural Districts to create lots less than the minimum lot sizes required in those districts.

ARTICLE 10. ~~ARTICLE 11,~~ EFFECT ON EXISTING REQUIREMENTS

Sec. ~~10.1~~ 11.1 ~~Effect on Unsatisfied Housing Conditions.~~

Any affordable housing condition or portion thereof in any ordinance for a prior zoning district boundary amendment, or for a State Land Use District Boundary Amendment involving lands fifteen acres or less in size, which has not been fully

BILL NO. 2202

satisfied as of the effective date of this ordinance shall be reassessed pursuant to this ordinance, unless the County has previously agreed as to the specific means of satisfying the requirements. If the County has not previously agreed to the specific means to satisfy all or any portion of an existing housing condition, then all unsatisfied housing requirements shall apply be subject to this ordinance.