

OFFICE OF  
THE COUNTY CLERK  
COUNTY OF KAUAI

NOTICE OF PUBLICATION AND NOTICE OF PUBLIC HEARING

Notice is hereby given that the Council of the County of Kaua'i will hold a public hearing on Wednesday, February 19, 2020, at 1:30 p.m., or soon thereafter, at the Council Chambers, 4396 Rice Street, Room 201, Historic County Building, Lihu'e, on the following:

Bill No. 2774

A BILL FOR AN ORDINANCE AMENDING CHAPTER 7A, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE HOUSING POLICY FOR THE COUNTY OF KAUAI

This Bill proposes to amend Chapter 7A, Kaua'i County Code 1987, as amended, relating to the Housing Policy for the County of Kaua'i.

The purpose of Bill No. 2774 is to incorporate the findings and recommendations contained in the June 2019 Workforce Housing Nexus and Financial Feasibility Analysis ("Nexus Analysis"), which was contracted by the Housing Agency, while giving consideration to the goals and strategies outlined in the 2018 Kaua'i County General Plan. The Nexus Analysis documents and quantifies the relationship between new residential and resort development and the need or demand for workforce housing arising from various types of new development. Bill No. 2774 a) lowers the definition of workforce housing opportunities to one hundred twenty percent (120%) and below of the Kaua'i median household income, b) amends certain definitions as shown in the bill, c) establishes exemptions for certain special planning areas and design districts, d) increases the period of affordability for income restricted homes from 20 years to 50 years, e) removes the requirement for county council approval for imposing geographical preferences, and f) makes other grammatical and formatting changes for purpose of clarity and substance.

All interested persons who wish to present their comments may do so at the public hearing. Written testimony prior to the hearing would be appreciated. Written testimony can be submitted to the Office of the County Clerk, Council Services Division by mail, facsimile, or via E-mail to counciltestimony@kauai.gov. Copies of the Bill are available at the Office of the County Clerk, Council Services Division.

(The Council Committee or Council may amend this Bill at their subsequent meetings. Meeting notices are posted at least six (6) days in advance at the County Clerk's Office and the public may also testify at any of these meetings.)

CERTIFICATE OF THE COUNTY CLERK

I hereby certify that the foregoing Bill No. 2774 was passed on first reading and ordered to print by the Council of the County of Kaua'i at its meeting held on January 29, 2020, by the following vote:

AYES: Chock, Cowden, Evslin, Kagawa, Kualii, Kaneshiro	TOTAL - 6,
NOES: None	TOTAL - 0,
EXCUSED & NOT VOTING: Brun	TOTAL - 1,
RECUSED & NOT VOTING: None	TOTAL - 0.

Lihu'e, Hawai'i  
January 30, 2020

/s/ Jade K. Fountain-Tanigawa  
County Clerk, County of Kaua'i

NOTE: IF YOU NEED AN AUXILIARY AID/SERVICE, OTHER ACCOMMODATION DUE TO A DISABILITY, OR AN INTERPRETER FOR NON-ENGLISH SPEAKING PERSONS, PLEASE CONTACT THE OFFICE OF THE COUNTY CLERK, COUNCIL SERVICES DIVISION AT (808) 241-4188 OR COKCOUNCIL@KAUAI.GOV AS SOON AS POSSIBLE. REQUESTS MADE AS EARLY AS POSSIBLE WILL ALLOW ADEQUATE TIME TO FULFILL YOUR REQUEST.

UPON REQUEST, THIS NOTICE IS AVAILABLE IN ALTERNATE FORMATS SUCH AS LARGE PRINT, BRAILLE, OR ELECTRONIC COPY.

(One publication – The Garden Island – February 5, 2020)

**A BILL FOR AN ORDINANCE AMENDING CHAPTER 7A,  
KAUA‘I COUNTY CODE 1987, AS AMENDED, RELATING TO THE  
HOUSING POLICY FOR THE COUNTY OF KAUA‘I**

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BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF KAUA‘I, STATE OF HAWAII:

**SECTION 1.** Findings and Purpose. In June of 2019, the Kaua‘i County Housing Agency concluded a Workforce Housing Nexus and Financial Feasibility Analysis (“Nexus Analysis”). The purpose of the Nexus Analysis is to support updates to the Housing Policy for the County of Kaua‘i by providing information regarding the ability of new residential and resort development projects to sustain existing and potential updated workforce housing requirements and by documenting and quantifying the relationship between new residential and resort development and the need or demand for workforce housing arising from various types of new development.

The proposed amendments that follow were developed following detailed review of the Nexus Analysis along with consideration of the goals and strategies expressed in the 2018 Kaua‘i County General Plan.

**SECTION 2.** Sec. 7A-1.2, Purpose, Kaua‘i County Code 1987, as amended, is hereby amended as follows:

**“Sec. 7A-1.2 Purpose.**

(a) To establish that a portion of residential and resort 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 percent (140%)] one hundred twenty percent (120%) 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,” and “employee” housing formerly used to describe income groups related to housing requirements and housing programs established for residential and resort developments.

(b) To encourage that a range and variety of workforce housing types and occupancy are made available and to establish procedures for qualified residents to benefit from the sale or rental 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.”

**SECTION 3.** Section 7A-1.3, Definitions, Kaua‘i County Code 1987, as amended, is hereby amended by amending the definition of “Limited appreciation leasehold estate” as follows:

“Limited appreciation leasehold estate” means a leasehold estate administered through the Housing Agency or a Kaua‘i community housing land trust where the lease term is ninety-nine (99) years, the sales price to the lessee is the appraised value of the buildings, appreciation is limited to fifty percent (50%) of the difference between the appraised value of the buildings at the time of sale to the lessee and at the time of sale back to the County or a Kaua‘i community housing land trust, 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 or its designated land trust.”

SECTION 4. Section 7A-1.3, Definitions, Kaua‘i County Code 1987, as amended, is hereby amended by amending the definition of “Limited equity housing cooperative” as follows:

“Limited equity housing cooperative” means a cooperative owned by a non-profit corporation or non-profit housing sponsor, in which 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, in order to separate from the cooperative, the resident-owner must be bought out of their ownership [to separate from] in the limited equity housing cooperative by the cooperative or an approved subsequent owner pursuant to the cooperative's governing provisions.”

SECTION 5. Section 7A-1.3, Definitions, Kaua‘i County Code 1987, as amended, is hereby amended by amending the definition of “Qualified renter” as follows:

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

SECTION 6. Section 7A-1.3, Definitions, Kaua‘i County Code 1987, as amended, is hereby amended by amending the definition of “Resort project” as follows:

“Resort project” means a project that primarily provides [accommodations for] transient [vacation rentals] accommodation, including, but not limited to, hotel rooms, multiple-family dwellings, time share units or single-family dwellings, which [project area also contains] may also contain tourist-oriented commercial or recreational facilities, support services or amenities, including, but not limited to, restaurants, bars, shops, spas, golf courses, or other attractions or services, that [may] generate a need for workforce housing for employees.”

SECTION 7. Section 7A-1.3, Definitions, Kaua‘i County Code 1987, as amended, is hereby amended by amending the definition of “Restriction on sale or transfer, debt, and use” as follows:

“Restriction on sale or transfer, debt, and use” means the restriction document recorded on all fee-simple housing units sales to qualified buyers that (1) 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, (2) limits mortgage debt, and (3) requires owner occupancy for a term of [twenty (20)] fifty (50) years for sales to residents where income limits are imposed on the buyer, or for a term of ten (10) years for sales to residents without regard to buyer’s income. See restriction on sale or transfer, debt, and use under Article 7 of this Chapter.”

SECTION 8. Section 7A-1.3, Definitions, Kaua‘i County Code 1987, as amended, is hereby amended by deleting the definitions for “State government entity” and “State government lands” as follows:

[“State government entity” means the State Department of Hawaiian Home Lands (DHHL).

“State government lands” means lands owned or leased by the State Department of Hawaiian Home Lands (DHHL).]

SECTION 9. Section 7A-1.3, Definitions, Kaua‘i County Code 1987, as amended, is hereby amended by adding a definition for “Transient Accommodation” as follows:

“Transient Accommodation” means a dwelling unit offered for transient or temporary occupancy of one hundred and eighty (180) days or less, for compensation of fees, including club fees, or as part of an interval ownership involving persons unrelated by blood.”

SECTION 10. Section 7A-1.3, Definitions, Kaua‘i County Code 1987, as amended, is hereby amended by amending the definition of “Workforce housing” as follows:

“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 price levels that are affordable to households that earn from eighty percent (80%) and below of the Kaua‘i median household income to [one hundred forty percent (140%)] one hundred twenty percent (120%) of the Kaua‘i median household income.”

SECTION 11. Section 7A-1.3, Definitions, Kaua'i County Code 1987, as amended, is hereby amended by amending the definition of "Workforce housing income groups" as follows:

"Workforce housing income groups" means the [four (4)] three (3) income groups earning from eighty percent (80%) and below of the Kaua'i median household income to [one hundred forty percent (140%)] one hundred twenty percent (120%) of the Kaua'i median household income, as follows:

(1) "80% and below" of the Kaua'i median household income with for-sale price and rent limits at 80% of the Kaua'i median household income;

(2) "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;

(3) "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[;].

[(4) "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.]"

SECTION 12. Section 7A-1.4, Applicability, Kaua'i County Code 1987, as amended, is hereby amended as follows:

**[Sec. 7A-1.4 Applicability.**

All State land use district boundary amendments, zoning district boundary amendments, amendments into the visitor destination area, subdivision, zoning permits, and building permits to which this policy is applicable shall be subject to the provisions of this Chapter as it applies to residential and hotel development within the project area. Time share units shall be considered as residential units.]

**Sec. 7A-1.4.1 Applicability.**

The workforce housing requirements of this Chapter shall apply to the following:

(a) [Ordinances] Projects authorized by ordinances enacted by the County Council pursuant to Chapters 7, 8, 10 and 11 of the Kaua'i County Code, as amended, where the resultant overall project density would allow at least ten (10) dwelling units, including:

(1) [New] Projects requesting new zoning district boundary amendments of lands from any zoning district into residential, resort or open districts, project district, or amendment into the visitor destination area,

(2) [New] Projects requesting new State land use district boundary amendments involving lands fifteen (15) acres or less in size from any State land use district, except the conservation district, to the State land use agricultural, rural, or urban districts;

(b) [Previously] Projects with previously approved zoning district boundary amendments and previously approved State land use district boundary amendments for lands fifteen (15) acres or less in size, the ordinance for which contains affordable housing conditions that have not been satisfied as of the effective date of the ordinance codified in this Chapter, or that the developer has not yet executed a housing agreement with the County specifying the means of satisfying the housing conditions, unless the existing ordinance would require the provision of more or a better mix of workforce housing than this Chapter, as determined by the Housing Agency; and

(c) [Other] Projects with other approvals granted by the County administration, including:

(1) Subdivision or consolidation of land, zoning, and building permits for residential development in any zoning district in which the overall project density would allow more than ten (10) residential dwelling units, and

(2) Zoning or building permits for the development or redevelopment of land or buildings on a lot of record in any residential, resort, or commercial district for the construction of or conversion into more than ten (10) residential dwelling units or time share units, or more than twenty (20) hotel rooms.”

SECTION 13. Chapter 7A, Kaua‘i County Code 1987, as amended, is hereby amended by adding a new Sec. 7A-1.4.2, Exemptions, as follows:

**“Sec. 7A-1.4.2 Exemptions.**

The workforce housing requirements of this Chapter shall not apply to the following:

(a) Projects within the following special planning areas and design districts, developed at or above the maximum density allowed:

(1) Līhu‘e Town Core Urban Design District as defined in Title IV, Chapter 10, Article 5A.

(2) Kōloa Town Walkable Mixed Use District as defined in Title IV, Chapter 10, Article 6.

(3) Kalāheo Town Walkable Mixed Use District as defined in Title IV, Chapter 10, Article 6.

(b) Projects outside of Visitor Destination Areas and Special Management Areas in residential or mixed use zoning districts with a density of R-10 or greater, consisting of multiple or single family attached dwellings, developed at or above the maximum density allowed.

(c) Any affordable or workforce housing development developed by or for the County, either by itself or in partnership with another housing development organization, is exempt from the requirements of this Chapter.

(d) The exemptions in subsection (a) for special planning areas and design districts and in subsection (b) relating to zoning density shall expire ten (10) years from the date of their adoption.”

SECTION 14. Sec. 7A-1.5, Determination of Workforce Housing Assessment, Kaua'i County Code 1987, as amended, is hereby amended as follows:

**"Sec. 7A-1.5 Determination of Workforce Housing Assessment.**

(a) The workforce housing assessment for any project subject to this Chapter shall be resolved with the Housing Agency prior to final subdivision approval or zoning permit approval, whichever occurs first, or if neither is applicable to the project, prior to building permit application.

(b) The workforce housing assessment for any project subject to this Chapter shall be assessed once per project, except that an additional workforce housing assessment may be applicable to a project, after initial assessment, when increased residential or resort density is subsequently granted by the County.

[(c) Land-in-lieu to satisfy the workforce housing assessment shall be resolved with the Housing Agency prior to or at time of zoning amendment approval, zoning permit approval, final subdivision approval, or building permit application, whichever occurs first.]"

SECTION 15. Sec. 7A-1.6, Delivery, Kaua'i County Code 1987, as amended, is hereby amended as follows:

**"Sec. 7A-1.6 Delivery.**

(a) The delivery of workforce housing units, as for sale units, for rent units, or as lots for sale shall be completed before or concurrent with the sale or rental of market units, or the sale lots.

(b) The dedication of land-in-lieu or the payment of an in-lieu fee to satisfy the workforce housing assessment shall be resolved with the Housing Agency prior to or at time of zoning amendment approval, zoning permit approval, final subdivision approval, or building permit application, whichever occurs first."

SECTION 16. Sec. 7A-1.7, Administration, Kaua'i County Code 1987, as amended, is hereby amended as follows:

**"Sec. 7A-1.7 Administration.**

(a) The [Kaua'i County] Housing Agency [of the County of Kaua'i] shall administer this Chapter. The [Kaua'i County] Housing Agency shall use a workforce housing agreement to incorporate the requirements for workforce housing pursuant to this Chapter, which shall be recorded on the deed for the project concurrent with final subdivision approval or prior to building permit approval, whichever occurs first.

(b) Any credits earned under this Chapter shall be applied only upon approval by the Housing Agency. Such approval shall further be incorporated into the workforce housing agreement."

SECTION 17. Sec. 7A-2.1, General Requirements, Kaua'i County Code 1987, as amended, is hereby amended as follows:



**“Sec. 7A-2.1 General Requirements.**

(a) Residential Developments. A thirty percent (30%) workforce housing requirement shall be assessed to any residential project subject to the Workforce Housing Policy. The housing assessment shall be satisfied by fee-simple sale of workforce housing units at affordable housing prices, which shall be determined by the Housing Agency pursuant to Article 4 of this Chapter.

(1) For a residential development consisting of ten (10) to twenty-five (25) units, a developer shall be required to satisfy a workforce housing requirement based on project’s total number of residential units. Workforce housing units shall be sold to households earning from eighty percent (80%) to one hundred forty percent (140%) of Kaua’i median household income, with the average sales price being affordable to households earning one hundred percent (100%) of Kaua’i median household income.

(2) For a residential development consisting of twenty-six (26) units or more, a developer shall be required to satisfy a workforce housing requirement based on project’s total number of residential units. Workforce housing units shall be sold to households earning from eighty percent (80%) to one hundred forty percent (140%) of Kaua’i median household income, in accordance with the following income group assessment:

(A) [Twenty percent (20%)] Forty percent (40%) of total units priced to be affordable to households earning up to eighty percent (80%) of the Kaua’i median household income.

(B) Thirty percent (30%) of total units priced to be affordable to households earning up to one hundred percent (100%) of the Kaua’i median household income.

(C) Thirty percent (30%) of total units priced to be affordable to households earning up to one hundred twenty percent (120%) of the Kaua’i median household income.

[D) Twenty percent (20%) 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) Resort Developments. For resort projects in visitor destination areas, for amendments into the visitor destination area, and for resort district zoning amendments which [will generate a need for new employees to fill one hundred (100) or more full-time equivalent jobs, or] have density for more than ten (10) [residential] dwelling units or twenty (20) hotel rooms, a fifty percent (50%) workforce housing requirement shall be assessed. [The number, type, size, income target groups to benefit, and the sales or rental prices of workforce housing units required shall be based on an analysis of the number of jobs to be generated, the availability of workers to fill those jobs, the resultant number and incomes of workers to be supported by those jobs, the estimated number of workers requiring housing assistance, and the amount of housing inventory available to those workers. Such analysis shall be conducted by an economist retained by, but independent of, the developer. The analysis shall be subject to approval by the County Council for all petitions for visitor destination area or zoning district boundary amendments, or approval by the

Housing Agency for subdivision, zoning, or building permit applications. The developer shall complete construction of the required workforce housing units before final building inspections or certificate of occupancy is issued for any facility or accommodation of the resort development, except for temporary buildings for real estate sales offices.]”

SECTION 18. Sec. 7A-3.1, Satisfaction Alternatives, Kaua‘i County Code 1987, as amended, is hereby amended by amending Subsection 7A-3.1(a) and the “In-Lieu Fee Schedule” as follows:

“(a) Payment of In-Lieu Fees. Subject to Housing Agency approval, in-lieu fees may be paid for all or a portion of the required number of workforce units per the in-lieu fee schedule. In-Lieu fees shall be allocated pursuant to Section 7A-2.1[(b)].

(1) Calculation of In-Lieu Fee. The calculation of in-lieu fees paid in-lieu of the required workforce units represents the developer subsidy to subsidize housing units at prices affordable to workforce income groups and shall be assessed according to the following in-lieu fee schedule:

**In-Lieu Fee Schedule**

<b>Income Group</b>	<b>Requirement</b>	<b>In-Lieu Fee</b>
80%	Unit Sales	\$176,000
100%	Unit Sales	\$122,000
120%	Unit Sales	\$ 67,000
[140%	Unit Sales	\$ 12,000]

(2) In-lieu fees shall be subject to annual adjustment, based on the consumer price index for Honolulu for all urban consumers.

(3) In-lieu fees paid pursuant to this Section shall be made directly to the Director of Finance and shall be deposited in the housing revolving fund established pursuant to Chapter 6, Article 9 of the Kaua‘i County Code. All moneys received shall be used for planning, administering, and constructing government workforce housing projects.”

SECTION 19. Section 7A-5.2, For-Sale Housing, Kaua‘i County Code 1987, as amended, is hereby amended by amending Subsection 7A-5.2(c)(3) as follows:

**“Sec. 7A-5.2 For-Sale Housing.**

(a) General Provisions.

(1) Qualified Buyers. All County housing programs, including workforce housing developments required by this Chapter, 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 7A-6.1(j).

(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 currently filed 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 residence 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 and may be verified by the Housing Agency.

(b) 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:

(1) 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.

(2) After all individuals on the mortgage-ready home-buyer list have had an opportunity to purchase, a public lottery shall be conducted to establish a selection list for any project that anticipates more applicants than the number of housing units available. 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 or by lottery.

(A) 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.

(B) 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.

(C) 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.

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

(c) **Priorities and Preferences for Sales by Lottery.** After all applicable housing units in a project have 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 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 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] One (1) 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 Chapter that violates Federal fair housing law.”

**SECTION 20.** Section 7A-5.3, Rental Housing, Kaua‘i County Code 1987, as amended, is hereby amended by amending Subsection 7A-5.3(b)(2) as follows:

**“Sec. 7A-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 or by lottery.

(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 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 has an excess of twenty-five (25) prospective tenants.

(b) Priorities and Preferences.

(1) First Priority—Project Employee Preferences. Fifty percent (50%) of the total workforce housing units built by the developer 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, at] At initial occupancy, one (1) 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 Chapter that violates Federal fair housing law.”

SECTION 21. Section 7A-7.2, Duration of Restrictions, Kaua‘i County Code 1987, as amended, is hereby amended as follows:

**“Sec. 7A-7.2 Duration of Restrictions.**

The restrictions on sale or transfer, debt, 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. The periods of time that the restrictions on sale or transfer, debt, and use shall apply are as follows:

- (a) [Twenty (20)] Fifty (50) years for all units sold during all sales periods that are restricted by the buyer’s income, or
- (b) Ten (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.”

SECTION 22. Chapter 7A, Kaua‘i County Code 1987, as amended, is hereby amended by repealing Sec. 7A-10.4 as follows:

**“[Sec. 7A-10.4 Affordable or Workforce Housing Developments.**

Any affordable or workforce housing development developed by or for the County, either by itself or in partnership with another housing development organization, is exempt from the requirements of this Chapter.]”

SECTION 23. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or application of the Ordinance which can be given effect without the invalid provisions or application, and to this end the provisions of this Ordinance are severable.

SECTION 24. Ordinance material to be repealed is bracketed. New material to be added is underscored. When revising, compiling, or printing this Ordinance for inclusion in the Kaua‘i County Code 1987, as amended, the brackets, bracketed material, and underscoring shall not be included.

SECTION 25.

This Ordinance shall take effect upon its approval.

Introduced by:



KIPUKAI KUALITI



ARRYL KANESHIRO

DATE OF INTRODUCTION:

**January 29, 2020**

Līhu'e, Kaua'i, Hawai'i

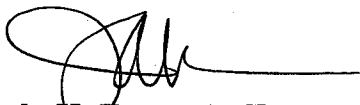
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CERTIFICATE OF THE COUNTY CLERK

I hereby certify that heretofore attached is a true and correct copy of Bill No. 2774, which was passed on first reading and ordered to print by the Council of the County of Kaua'i at its meeting held on January 29, 2020, by the following vote:

FOR PASSAGE:	Chock, Cowden, Evslin, Kagawa, Kualii, Kaneshiro	TOTAL - 6,
AGAINST PASSAGE:	None	TOTAL - 0,
EXCUSED & NOT VOTING:	Brun	TOTAL - 1,
RECUSED & NOT VOTING:	None	TOTAL - 0.

Lihu'e, Hawai'i  
January 30, 2020

  
Jade K. Fountain-Tanigawa  
County Clerk, County of Kaua'i