

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

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ACTING DIRECTOR

TIMOTHY F. T. HIU
DEPUTY DIRECTOR

May 19, 2017

The Honorable Ron Menor
Chair and Presiding Officer
and Members
Honolulu City Council
530 South King Street, Room 202
Honolulu, Hawaii 96813

Dear Chair Menor and Councilmembers:

SUBJECT: Bill for an Ordinance to Establish Affordable Housing Incentives
and Department of Planning and Permitting (DPP) Director's Report

The DPP is pleased to submit to you for review and adoption, a Bill for an Ordinance to establish affordable housing incentives and the accompanying Director's Report. The Bill was initiated by the DPP at the Mayor's request, and developed in collaboration with the Mayor's Office of Housing, Department of Environmental Services, Department of Parks and Recreation, and the Department of Budget and Fiscal Services.

A companion Bill for an Ordinance to establish an Affordable Housing Requirement (AHR) is being introduced to the Council at the same time. That Bill establishes an islandwide AHR on most new private development and substantial rehabilitation of dwelling units to address the critical shortage of affordable housing on Oahu. The public purpose of the AHR is to develop and maintain a significant inventory of affordable housing over time.

The purpose of the affordable housing incentives is to help stimulate affordable housing production, especially rental housing, and to offset impacts of the AHR. The incentives bill includes the following provisions: waive wastewater facilities charges, park dedication requirements, and plan review and building permit fees for qualified affordable housing units; exempt any increase in property tax during construction of projects that include affordable dwelling units; and exempt real property taxes for rental projects for as long as the rental units remain affordable. The incentives will be provided to affordable units provided through the AHR, the Planned Development—Transit and Interim Planned Development—Transit permits, and projects developed per new State legislation that establishes qualifying affordable rental projects under HRS 201H-36(a)(5)). With those projects, all units are restricted to households

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earning at or below 140 percent of the area median income (AMI), with at least 20 percent of units at or below 80 percent of the AMI.

The DPP conducted extensive research and technical analysis in developing the incentives Bill, including numerous discussions and input from the development industry and affordable housing advocates. The General Plan recommends providing financial and other incentives to encourage the private sector to build homes for low- and moderate-income residents. The ultimate goal of this ordinance is to help Oahu address its housing crisis through incentives to build and maintain a more diverse and affordable housing stock over time.

Should you have any questions, please contact me at 768-8000 or Harrison Rue, at 768-8294.

Very truly yours,



Kathy K. Sokugawa
Acting Director

Attachments: Director's Report on AH Incentives
Affordable Housing Incentives Bill for an Ordinance

APPROVED:



Roy K. Amemiya, Jr.
Managing Director

Director's Report Relating to Affordable Housing Incentives

May 19, 2017

I. PROPOSAL SUMMARY

The purpose of this bill is to provide incentives to help stimulate affordable housing production, especially rental housing, and to offset impacts of the proposed Affordable Housing Requirement (AHR; see companion AHR bill). Mayor Caldwell and the Affordable Housing Workgroup recommended these incentives as part of the overall Affordable Housing Strategy. The proposed incentives will provide exemptions to real property taxes and waivers for wastewater system facility charges, plan review and building permit fees, and park dedication requirements for projects providing affordable dwelling units, as described in the bill summary below.

Title	Affordable Housing Incentives Bill
Summary	<p>Amends the Revised Ordinances of Honolulu (ROH) to provide incentives to support the creation of affordable housing provided through:</p> <ol style="list-style-type: none">1) The City's proposed Affordable Housing Requirement (AHR);2) The Planned Development-Transit (PD-T) permit (Bill 74 (2015)) and the Interim Planned Development-Transit (IPD-T) permit (ROH 21-9.100) (prior to the adoption of the AHR bill); and3) Qualifying affordable rental housing projects (per Hawaii Revised Statutes 201H-36(a)(5)).
Scope	<p><u>Adds new</u> ROH sections (number to be designated after adoption):</p> <ul style="list-style-type: none">• Section 8-10.___, dealing with annual real property tax exemptions for affordable rental dwelling units• Section 8-10.___, dealing with real property tax exemptions during the project's construction period for a maximum of three years• Section 14-10.___, dealing with waivers for wastewater system facility charges (connection fees) for affordable dwelling units <p><u>Amends existing</u> ROH sections:</p> <ul style="list-style-type: none">• Section 18-6.5, dealing with waivers for plan review and building permit fees for affordable dwelling units• Section 22-7.4, dealing with waivers for park dedication requirements for affordable dwelling units
Effective Date	Upon adoption
Expiration Date	Ten years after the ordinance's adoption, except for the real property exemption provisions for affordable rental units which will continue for the entire required period of affordability.

II. BACKGROUND

As described in the Mayor's Affordable Housing Strategy (September 2015), the need for affordable housing on Oahu is high and continues to increase. This bill provides incentives to support the creation of affordable housing units provided through 1) The City's proposed AHR; 2) PD-T and IPD-T permits; and 3) qualifying rental housing projects pre recent state legislation.

- 1. Affordable Housing Requirement.** One of the key actions identified in the Affordable Housing Strategy is to increase affordable and workforce housing inventory by adopting an AHR. While current regulations applied to rezoning require affordability to be maintained for 10 years or less, the AHR will prioritize more affordable rental housing for lower income households, require affordability for three times longer, and have sufficient flexibility to meet developers' needs. The AHR bill is being introduced to Council for adoption along with this incentives bill. The AHR bill establishes an islandwide affordable housing requirement (e.g., for housing below market rates) for most new private development and substantial rehabilitation of dwelling units. The AHR will apply to projects of 10 or more dwelling units. Affordability is targeted towards household renters earning at or below 80 percent of the AMI and homeowners earning at or below 100 percent and 120 percent of the AMI. The AHR varies by location and will be phased in over three years to account for the different housing market conditions on Oahu. Due to different development types and circumstances, the AHR includes flexibility so that it can be met through a variety of ways: for sale or rental dwelling units, production on-site or off-site, a \$45 per square foot in-lieu fee in rail station areas (\$27 per square foot islandwide), and/or conveyance of improved land. The proposed in-lieu fee is set at an amount to encourage actually building units. The affordable units are required to stay affordable for at least 30 years to build up and maintain the quantity of affordable units over time. The objective of the AHR is to develop and maintain a stable, growing affordable housing stock for residents. More information about the AHR is provided in the Director's Report of the companion AHR bill.
- 2. Planned Development–Transit and Interim Planned Development–Transit Permits.** The areas near the future rail transit stations will undergo zone changes and be included in a new transit-oriented development (TOD) special district that includes TOD-specific development regulations. In the meantime, landowners may apply for an IPD-T permit to seek additional height and/or density, and development flexibility in use and other regulations in exchange for community benefits, such as affordable housing, open space, and circulation improvements. This bill provides incentives to support affordable dwelling units provided through IPD-T permits. Once a station area is adopted into the TOD special district, landowners may still apply for a PD-T permit to seek similar flexibility on eligible lots. This ordinance would provide the same incentives for any affordable housing units provided through PD-T permits. Once the AHR bill is adopted, it will regulate the minimum affordable housing required under the IPD-T or PD-T permits, except for additional housing provided in return for bonus density and/or height (more than double the existing density).
- 3. Qualifying Rental Housing Projects.** There is a strong demand for affordable rental units, which is exacerbated by the difficulty the private sector has in producing unsubsidized rental housing because of the challenging economics of building and operating rental housing in Hawaii. In an effort to address the high demand for rental units, the State legislature recently

passed House Bill 1179 (bill not yet signed), which amends HRS Section 104-2 to establish a special prevailing wage rate for construction of qualifying projects, and HRS Section 201H-36 to provide exemptions from the general excise tax for qualifying rental housing projects. For projects under HRS 201H-36(a)(5), all rental housing units must be offered to households at or below 140 percent of the AMI, and 20 percent of the units must be offered to households earning at or below 80 percent of the AMI. While 140 percent of the AMI range is higher than the City's AHR affordability range, the incentives should conform to the State legislation under this program. State agencies regulate the period of affordability and penalties for those projects that fail to comply with their requirements. The City's incentives bill is intended to complement the State's incentives, by providing additional incentives for qualifying rental housing projects in an effort to support the production of affordable rental housing.

III. ANALYSIS

Many local jurisdictions have adopted AHRs. In many cases, cities and counties offer fee waivers, streamlined review processes, additional height or density, or other incentives to encourage affordable housing. Providing financial incentives results in an AHR that is workable for both the community and developers. Some analysis have shown that providing significant incentives can, in some markets, substantially reduce or even eliminate any loss of profit to the developer. While that is less likely in expensive housing markets like Oahu, reduction or elimination of fees and regulatory conditions can significantly decrease the financing gap between market rate units and affordable units, which will help get the affordable housing supply built. The General Plan recommends incentives in Objective A, Policy 7: Provide financial and other incentives to encourage the private sector to build homes for low- and moderate-income residents.

Affordable Housing Incentives Proposal. This proposal will provide temporary financial incentives by waiving certain City fees for affordable housing units. The intent is to stimulate affordable housing production by offsetting the AHR that is being introduced by the City. Several agencies worked together to provide these incentives, including the Department of Planning and Permitting (DPP), the Mayor's Office of Housing, the Department of Environmental Services (ENV), the Department of Parks and Recreation, and the Department of Budget and Fiscal Services (BFS). The City received significant input about the need for financial incentives from housing organizations that were participated in the Affordable Housing Working Group. The group included developers, finance experts, industry representatives, affordable housing advocates, and key City staff. Both developers and housing advocates were in favor of providing these affordable housing incentives.

Current fee requirements and proposed waivers include:

- The DPP currently charges a plan review and building permit fee to all new development based on a project's construction cost (building permit fee schedule is established in Chapter 18, Table No. 18-A). Plan review fees are 20 percent of a tentative building permit fee. The proposed incentive is to waive the plan review and building permit fees for the affordable dwelling units.
- The ENV currently requires newly built residential units receiving wastewater facility service to pay a one-time, per-unit charge. The wastewater system facility charge is established in Chapter 14, Appendix 14-D. The current wastewater system facility charge per equivalent single family dwelling unit is \$6,616 for fiscal year 2016/2017 (for qualifying low-income housing units the fee is \$1,368 per equivalent single family dwelling unit).

Under the proposed incentive, the wastewater system facility charge would be waived for the affordable dwelling units.

- The DPP currently requires developers of most new residential projects to dedicate a portion of land for use as a park or playground, or to pay a fee equivalent to the fair market value of the land that would be dedicated. Under the proposed incentive, the park dedication requirement would be waived for the affordable portion of the project.
- The BFS currently levies real property tax on most properties. Under the proposed incentive:
 - There would be a tax holiday (during construction) for those projects with affordable dwelling units. Real property taxes would be kept at the current assessment during the project's construction period for up to three years or until construction is completed.
 - An ongoing annual exemption would be provided exclusively for rental dwelling units. The real property tax exemption for rental units will continue during the required period of affordability, as established in an affordable housing agreement.

The proposal stipulates that the financial incentives will be repealed after 10 years, although the real property tax exemption provisions for rental units will continue for the entire required affordability period as stipulated in an affordable housing agreement.

Affordable Housing Requirement Financial Analysis. The City's consultant, Strategic Economics, evaluated the ability of residential real estate development to support the proposed AHR. The analysis concluded that the AHR represents a modest cost burden on development compared to total development costs—the net costs of the required affordable units would comprise 1 to 5 percent of a condominium project's total development costs and 3 to 6 percent for a rental apartment project. The financial incentives through fee waivers could reduce costs by 1 to 3 percent, helping to offset the costs associated with providing the affordable units.

Affordable Housing Incentives Fiscal Impact Analysis. Strategic Economics also conducted a fiscal impact analysis of the proposed incentives for units constructed under the AHR over a 10-year period. The analysis examined the impacts of waiving wastewater facility charges, plan review and building permit fees, and park dedication requirements for all affordable units, and exempting the real property tax for affordable rental units. The fiscal impact of the real property tax exemption during construction was not included in the analysis, because during the construction period, real property tax will be based on the preceding tax year's assessment. Such analysis would require estimating the current property tax assessments of potential future projects, which is not feasible. The exemption will defer property tax increases until construction is completed.

The analysis assumed that over 10 years, 1,500 units would be provided through the AHR, of which 10 percent are single family, 15 percent multi-family rental, and 75 percent multi-family for-sale condos. Assumptions for the annual growth in wastewater facility charges, home values, construction costs, assessed value of affordable rental units, and land value were also included in the analysis. The financial impact for the park dedication requirements waiver is presented separately. Calculating a dollar figure for the park dedication requirement waiver requires estimating the value of land. However, it is difficult to know what land values will be for new development, because it depends on where development would take place over the next 10 years. Land value assumptions in the Affordable Housing Requirement Financial Analysis ranged from \$45 per square foot in Kapolei for a single family unit to \$375 per square foot in Ala Moana for a multi-family unit. For these reasons, the park dedication dollar figure is presented in a range that considers lower and higher land values.

Since the qualifying affordable rental housing project under HRS 201H-36(a)(5) is a new project type not currently being produced, no projections were created for the number of units that these projects could provide per year, over the next 10 years. The fiscal impact analysis was based on a model with 100 units. The fiscal impact analysis provides a scenario of the projected costs of the proposed incentives. These costs are balanced by the multiple direct and indirect benefits to the community that result from increasing the supply of affordable housing.

AHR, IPD-T, and PD-T	
<u>One-Time Fee Fiscal Impacts to City Revenues</u>	
The 10-year average for the one-time fees waived per year would be:	
<ul style="list-style-type: none"> • Plan review and building permit fee waivers • Wastewater system facility charges waiver • Park dedication requirement waiver 	<ul style="list-style-type: none"> \$220,000 \$820,000 from \$3,650,000 to \$8,500,000*
Per unit the average one-time fees waived per year would be:	
<ul style="list-style-type: none"> • Plan review and building permit fees and wastewater system facility charges • Park dedication requirement only • Total one-time fees waived 	<ul style="list-style-type: none"> \$7,800 from \$24,000 to \$57,000 from \$32,000 to \$64,000
* Assuming land values of \$150 and \$350 per square foot for multi-family, and \$25 and \$50 per square foot for single family.	
<u>Real Property Tax Exemptions for Affordable Rental Units**</u>	
The 10-year average for real property tax exemptions per year would be: \$130,000	
For the first 3 years the exemptions for real property taxes for rental units are below \$100,000; by year 10 the foregone revenues increase to \$270,000 per year.	
**Ongoing Annual Impacts: Rental property tax exemptions will be ongoing, with both repeating waivers per unit and new units produced each year. This yields an increasing and cumulative effect each year.	

Qualifying Rental Housing Projects (HRS 201H-36(a)(5))	
<u>One-Time Fee Fiscal Impacts</u>	
The one-time exemption for a 100-unit qualifying affordable rental housing project would be:	
<ul style="list-style-type: none"> • Wastewater system facility charges • Plan review and building permit fees • Park dedication requirement 	<ul style="list-style-type: none"> \$390,000 \$150,000 \$1,750,000 to \$2,900,000**
Per unit, the total one-time fees waived would be:	from \$23,000 to \$35,000
**Assuming land values of \$150 and \$250 per square foot and that rental projects will not be located in areas with higher land values.	

Real Property Tax Exemptions for Affordable Rental Units***

For the qualifying affordable rental housing projects under HRS 201H-36(a)(5), assuming the 100-unit model described above, the average real property tax exemption per year would be \$230,000 or \$2,300 per unit (assuming an affordability period of 30 years).

Per unit, the real property tax exemptions over 30 years would total \$69,000.

***Ongoing Annual Impacts: Rental property tax exemptions will be ongoing, with both repeating waivers per unit and new units produced each year. This yields an increasing and cumulative effect each year.

IV. CONCLUSION

Based on the stakeholder discussions, extended research by City staff, and the financial and fiscal impact analysis, the DPP Director recommends adopting the incentives outlined above. The Directors of the affected departments support these recommendations. The proposed incentives will help spur affordable housing production to meet identified needs.

At the Mayor's request, the Board of Water Supply (BWS) is exploring how to provide similar incentives for affordable housing. As a semi-autonomous city agency, the Board of Directors for the BWS determines any rate changes. Therefore, no waiver for water hook-up charges has been included in this bill.

The ultimate purpose of providing these affordable housing incentives is to enhance public welfare, by adopting policies that increase the housing inventory in the city in a manner consistent with State and local housing policies and needs, and by making housing available to households at all income levels.



A BILL FOR AN ORDINANCE

TO AMEND CHAPTER 8, CHAPTER 14, CHAPTER 18, and CHAPTER 22, REVISED ORDINANCES OF HONOLULU 1990, AS AMENDED, RELATING TO AFFORDABLE HOUSING INCENTIVES.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Purpose and Intent. The purpose of this ordinance is to provide financial support for the creation and maintenance of affordable dwelling units that are provided through compliance with the Bill establishing an Affordable Housing Requirement (AHR) (Bill __ (2017)), the Planned Development-Transit (PD-T) bill (Bill 74 (2015)), and Interim Planned Development-Transit (IPD-T) (Chapter 21, Section 9) permits, and for qualifying rental housing projects pursuant to HRS Section 201H-36(a)(5).

This ordinance provides real property tax exemptions only for affordable rental dwelling units during the period in which the project is subject to an affordable housing agreement (Section 2), provides real property tax exemption during construction for projects that contain affordable dwelling units (Section 3), waives the wastewater system facility charges for affordable dwelling units (Section 4), waives building permit and plan review fees for affordable dwelling units (Section 5), and waives park dedication requirements for affordable dwelling units (Section 6). The financial incentives will expire after 10 years, although the real property exemption provisions for affordable rental units will continue for the entire required period of affordability.

The ultimate goal of this ordinance is to help Oahu address its housing crisis by providing financial incentives that encourage building and maintaining a more diverse and affordable housing stock over time.

SECTION 2. Chapter 8 (Real Property Tax), Article 10, Revised Ordinances of Honolulu 1990, is amended by adding a new section to be designated by the revisor of ordinances and to read as follows:

“Sec. 8-10. Exemption--Qualifying affordable rental dwelling units.

(a) For the purposes of this section:

“Affordable housing agreement” means an affordable housing agreement as described in Chapter __ -1.8 (in reference to the affordable housing requirement bill introduced for adoption), or a “regulatory agreement” as defined in Section 8-10.20(a).



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"Regulated period" means the period during which a project is subject to an affordable housing agreement.

(b) The provisions of this section shall only apply to the following:

(1) Affordable rental dwelling units as defined and as provided on site or off site pursuant to Chapter _____ (in reference to the affordable housing requirement introduced for adoption). The exemption provided in this section shall only apply to the affordable rental dwelling units themselves;

(2) Affordable rental dwelling units provided pursuant to a planned development–transit permit, as set forth in Bill 74(2015), or an interim planned development–transit permit, as set forth in Section 21-9.100 and its subsections. The exemption provided in this section shall only apply to the affordable rental dwelling units themselves; or

(3) Affordable rental dwelling units located on real property used in connection with a housing project developed in compliance with HRS Section 201H-36(a)(5). The exemption shall not apply to any portion of the property that is used for commercial or other purposes and that is not for the exclusive use of the tenants of the affordable rental dwelling units.

(c) The real property specified in subsection (b) of this section, which is subject to an affordable housing agreement, will be exempt from property taxes for the duration of the regulated period.

(1) If the project fails to meet the requirements under this section at any time during the regulated period, the exemption shall be cancelled and the real property shall be subject to taxes and penalties as determined in this section.

(2) If the ownership of any portion of the real property that qualifies for an exemption under this section changes during the regulated period, the exemption shall be cancelled and the entire project, including the portion retained, if any, and the portion that changed ownership, shall be subject to taxes and penalties pursuant to subsection (h)(3) of this section. The taxes and penalties shall not apply to any portion of the real property for which a new claim is filed for an exemption within 30 days of the recordation or filing of the real property title change with the registrar of the bureau of conveyances or the assistant registrar of the land court, or



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both, whichever is applicable, and the exemption is granted by the director.

- (3) If the ownership of the real property changes during the regulated period, a new claim for exemption must be filed within 30 days of the recordation of filing of such change with the registrar of the bureau of conveyances or the assistant registrar of the land court, or both, whichever is applicable. Failure to file a new claim for exemption or to meet the qualifications under this section shall result in cancellation of the exemption, taxes, interest, and penalties pursuant to subsection (h)(3) of this section will be imposed.
- (d) Where a project is situated upon a single parcel of land, if any portion of the property is ineligible for the property tax exemption under this section:
- (1) The remaining eligible portion will not be deprived of the exemption; and
 - (2) The ineligibility of a portion of the property for exemption under this section will not disqualify that portion from exemption under any other law.
- (e) Exemptions claimed under this section shall disqualify the same property from receiving an exemption under HRS Section 53-38.
- (f) Notwithstanding any provision in this chapter to the contrary, any real property determined by the director to be exempt from property taxes under this section will be exempt from property taxes effective as of the date the application is filed with the director; provided that the initial application for exemption shall be filed with the director within 60 days of the qualification but in no event later than September 30th preceding the tax year for which the exemption is claimed. A copy of the affordable housing agreement that has been recorded with the registrar of the bureau of conveyances or the assistant registrar of the land court, or both, whichever is applicable, shall be filed with the application along with any additional documents determined by the director to be necessary to supplement the application. After the initial year for which the real property has qualified for an exemption, a claim for a continued exemption must be filed annually on or before September 30th, together with a document from the agency regulating the project certifying that the project continues to be in compliance with the initial affordable housing agreement and is in compliance with the applicable rental requirements.



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- (g) In the event property taxes have been paid to the county in advance for real property that subsequently qualifies for the exemption, the director shall refund to the owner that portion of the taxes attributable to, and paid for the period after the qualification.
- (h) Cancellation of Exemption—Penalties.
- (1) Notice by Director.
Following the initial year for which real property has qualified for an exemption, if an owner fails to file a claim for continued exemption by the September 30th deadline, the director shall promptly mail a notice to the owner at the owner's address of record stating that unless a claim for continued exemption and all the necessary documents are received by the director by November 15th of the same year, the exemption shall be cancelled.
- (2) Cancellation of Exemption.
An owner who has been sent a notice under paragraph (1) by the director and who fails to file for an exemption by the November 15th deadline shall have the exemption cancelled and the project shall be subject to taxes and penalties pursuant to paragraph (3). In the event the director finds that the initial or subsequent claim for exemption contains false or fraudulent information, the project fails to meet the requirements during the regulated period, or the owner fails to file annually during the regulated period as required under this section, the director shall cancel the exemption retroactive to the date the exemption was first granted pursuant to an initial filing under subsection (a), and the project shall be subject to the taxes and penalties determined in paragraph (3).
- (3) Back Taxes and Penalties.
In the event a project is subject to taxes and penalties, as provided in paragraph (2), the differences in the amount of taxes that were paid and those that would have been due but for the exemption allowed shall be payable, together with a penalty in the form of interest at 10 percent per annum, from the respective dates that these payments would have been due. The taxes and penalties due shall be a paramount lien upon the real property. In addition, in the event a claim for an exemption is submitted after the September 30th deadline but on or before the November 15th deadline, a late filing penalty of \$500.00 shall be imposed."



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SECTION 3. Chapter 8 (Real Property Tax), Article 10, Revised Ordinances of Honolulu 1990, is amended by adding a new section to be designated by the revisor of ordinances and to read as follows:

“Sec. 8-10. Exemption--During construction work for affordable dwelling units.

(a) As used in this section:

“Qualifying construction work” means work to construct new buildings or portions thereof, or to construct additions or substantial rehabilitations, as defined in Section -1.2 (in reference to the affordable housing requirement bill introduced for adoption), to existing buildings, located on land which is classified in accordance with Section 8-7.1 as residential, residential A, hotel and resort, or commercial.

(b) Any incremental increase in the valuation of the real property primarily attributable to qualifying construction work will be exempt from property taxes, provided that:

(1) The qualifying construction work creates affordable dwelling units pursuant to Chapter (in reference to the affordable housing requirement bill introduced for adoption);

(2) The qualifying construction work creates affordable dwelling units pursuant to a planned development–transit permit, as set forth in Bill 74 (2015), or an interim planned development–transit permit as set forth in Section 21-9.100 and its subsections; or

(3) The real property is developed in compliance with HRS Section 201H-36(a)(5).

(c) A claim for exemption must be filed with the department of budget and fiscal services on or before September 30th preceding the first tax year for which such exemption is claimed on such form to be prescribed by the department and must be supported by documentation establishing the date of the issuance of the building permit for demolition, if applicable, or the building permit for new buildings or portions thereof, additions, or substantial rehabilitations, and documenting the creation of affordable dwelling units pursuant to Chapter (in reference to the affordable housing requirement bill introduced for adoption), a



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planned development–transit permit as set forth in Bill 74 (2015), an interim planned development–transit permit as set forth in Section 21-9.100 and its subsections, or affordable rental dwelling units pursuant to HRS Section 201H-36(a)(5).

- (d) The real property tax will be based on the preceding tax year’s assessment, before a building permit for demolition, if applicable, or a building permit for new buildings or portions thereof, additions, or substantial rehabilitations for the qualifying construction work was issued.
- (e) The claim for exemption, once allowed, will expire three calendar years after issuance of a building permit for new buildings or portions thereof, additions, or substantial rehabilitations; or by issuance of the certificate of completion, or issuance of any certificate of occupancy, whichever occurs first. The director of the department of budget and fiscal services may extend this exemption for good cause.”

SECTION 4. Chapter 14 (Public Works Requirements Including Fees and Services), Article 10, Revised Ordinances of Honolulu 1990 is amended by adding a new section to be designated by the revisor of ordinances and to read as follows:

“Sec. 14-10. Waiver of wastewater system facility charges for affordable dwelling units.

- (a) The wastewater system facility charges, as set forth in Appendix 14-D of this chapter, will be waived for the following:
 - (1) Affordable dwelling units as defined and as provided on site or off site pursuant to Chapter _____ (in reference to the affordable housing requirement bill introduced for adoption);
 - (2) Affordable dwelling units provided pursuant to a planned development–transit permit, as set forth in Bill 74 (2015), or an interim planned development–transit permit, as set forth in Section 21-9.100 and its subsections; or
 - (3) Affordable rental dwelling units developed in compliance with HRS Section 201H-36(a)(5).



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- (b) An applicant for a waiver of wastewater system facility charges shall provide the city with information, as prescribed by the director, to demonstrate that the applicant qualifies for a waiver of the city's wastewater system facility charges under this section."

SECTION 5. Chapter 18 (Fees and Permits for Building, Electrical, Plumbing and Sidewalk Codes), Section 18-6.5, Revised Ordinances of Honolulu 1990, is amended by adding a subsection to read as follows:

"Sec.18-6.5 Exemptions.

- (a) The city, all agencies thereof and contractors therewith will be exempt from the requirement of paying plan review and permit fees.
- (b) The building official may grant an exemption from the requirement of paying plan review and permit fees for any person seeking to restore or reconstruct a structure damaged or destroyed as a result of a major disaster. For the purposes of this section:
- (1) "Major Disaster" means any hurricane, tornado, storm, flood, high water, tsunami, earthquake, volcanic eruption, landslide, mud slide, fire, explosion or other catastrophe occurring in any part of the city that causes damage, suffering and loss to such a degree that:
- (A) The President of the United States has declared, pursuant to the Disaster Relief Act of 1974, P.L. 93- 288, that a major disaster exists such that the city or any part thereof is eligible for federal disaster assistance programs;
- (B) The governor of the State of Hawaii has declared pursuant to HRS Chapter 209 that a major disaster has occurred;
- (C) The mayor has issued a proclamation declaring the existence of a major disaster; or
- (D) The council has adopted a resolution declaring the existence of a major disaster.
- (2) "Restore and reconstruct" means any repair or other work performed to return a structure to its former condition that does not increase the floor



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area of the structure beyond that of the structure prior to the major disaster, is in conformance with the building code, flood hazard regulations, land use ordinance, and other applicable laws, and is started within two years of the major disaster.

- (3) The burden of proof that work to be performed qualifies for an exemption from the payment of building permit fees due to a major disaster will be on the owner of the structure. An applicant filing for such exemption will certify in writing that the work to be performed will be in conformance with the requirements of this section.
- (c) All owners and their contractors will be exempt from paying that portion of any building permit fee for permits issued after September 15, 1994 attributable to the installation of ultra-low flush toilets that they install on their properties to replace existing nonultra-low flush toilets.
- (d) The building official shall waive the collection of any building permit fee for a period of three years where the business has been certified to be a qualified business pursuant to Section 35-1.3.
- (e) The building official shall waive the collection of any building permit fee for any person seeking to replace a dilapidated dwelling unit located on homestead land leased under the Hawaiian Homes Commission Act of 1920. For the purposes of this section:
- (1) "Dilapidated dwelling unit" means any residential home that has significantly deteriorated because of age, termites or other causes, which make the home unsafe, uninhabitable or unhealthy.
 - (2) The burden of proof that a dwelling unit is dilapidated which qualifies for an exemption from the payment of building permit fees shall be on the owner of the unit. An applicant filing for such exemption shall attach acceptable proof that the dwelling unit is dilapidated to the building permit application.
 - (3) The replacement home may increase the floor area of the originally demolished or removed structure.
- (f) The building official shall waive the collection of any plan review and building permit fees exclusively for the creation of an "accessory dwelling unit," as defined



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in Section 21-10.1. The plan review and building permit fees that were collected for the creation of "accessory dwelling unit" from the effective date of Ordinance 15-41 (September 14, 2015), will be reimbursed if requested by the permittee. Building permit fees and plan review fees will not be waived where a permit was required and work started or proceeded without obtaining a permit. In these cases, fees will be required pursuant to Section 18-6.2(d).

(g) The building official shall waive the collection of the plan review and building permit fees for the residential portion of the project equal to:

(1) The percentage of affordable dwelling units as defined and as provided within the project pursuant to Chapter _____ (in reference to the affordable housing requirement bill introduced for adoption); or

(2) The percentage of affordable dwelling units provided pursuant to a planned development–transit permit, as set forth in Bill 74 (15), or an interim planned development–transit permit, as set forth in Section 21-9.100 and its subsections.

(h) The building official shall waive the collection of the plan review and building permit fees for the residential portion of a project that is in compliance with HRS Section 201H-36(a)(5)."

SECTION 6. Chapter 22 (Subdivision of Land), Section 22-7.3, Revised Ordinances of Honolulu 1990, is amended to add a subsection (j) to read as follows:

"Sec.22-7.3 Scope.

(a) Every subdivider, as a condition precedent to (1) the approval of a subdivision by the director or (2) issuance of a building permit for multiple-family development by the building department, shall provide land in perpetuity or dedicate land for park and playground purposes, for the joint use by the occupants of lots or units in subdivisions as well as by the public. The dedication of land for a park shall be subject to the maximum ceiling in land or money in lieu thereof, calculated in accordance with the formula designated in Sections 22-7.5 and 22-7.6. In lieu of providing land in perpetuity or dedicating land, the director may permit a subdivider to pay a fee equal to the value of land which would otherwise have had to be provided in perpetuity or dedicated, or combine the payment of fee with land to be provided or dedicated, the total value of such combination being not



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less than the total value of the land which would otherwise have had to be provided in perpetuity or dedicated.

- (b) The provisions of this article shall apply to all subdivision of land into two or more lots for residential purposes including developments under Section 21-8.30 and to construction of multiple-family developments. When a new building or group of buildings containing dwelling or lodging units is added to an existing multiple-family development, approved prior to the effective date of this article, the provisions of this article shall apply only to such new additions, and not to the previously approved multiple-family development.
- (c) When an existing building in a multiple-family development, approved prior to the effective date of this article, is enlarged or altered to increase the number of dwelling or lodging units, the provisions of this article apply to the number of dwelling or lodging units added to the enlarged or altered building.
- (d) When an existing building in a multiple-family development, approved prior to the effective date of this article, is enlarged or altered without increasing the total number of dwelling or lodging units and the cost of such work exceeds 50-percent of the total replacement cost of the building at the time of the building permit application, the provisions of this article shall apply to the total number of dwelling or lodging units contained in the enlarged or altered building. The 50-percent replacement cost is calculated on each individual building, and not on the total replacement cost of the multiple-family development. The percentage shall be cumulative for each building from the effective date of this article. The provisions of this article shall apply to all new or existing units in an enlarged or altered building whenever the cumulative 50-percent replacement cost is exceeded.
- (e) Upon acceptance of the land by the city, the city shall thereafter assume the cost of improvements and their maintenance. Fees received shall be disbursed for the acquisition or development of parks and playgrounds, including physical facilities.
- (f) The provisions of this article shall also apply to any change in use of buildings to multiple-family dwelling use subsequent to the effective date of this article.
- (g) In any zoning district or special design districts where mixed uses of business, commercial, office and dwelling units are permitted, the provisions of this article shall apply to all units where kitchen and bathroom facilities are provided, or electrical and plumbing systems are so located and designed, by which these



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units may be readily converted to dwelling units without securing a new building permit or without undertaking any major alterations or renovation work.

- (h) This article shall not apply to those units where legal documents are drawn up by the applicant to assure that the units will not be converted to dwelling units. The legal documents shall be recorded covenants running with the land and subject to the review and approval of the director of land utilization and the corporation counsel. The legal documents shall be fully executed and recorded with the appropriate state agency, and proof of such recordation shall be submitted to the director of land utilization prior to issuance of building permits.
- (i) The provisions of this article shall apply to any conversion in use of any existing non-dwelling unit to dwelling units, and such conversion shall not be undertaken unless the provisions of this article have been met
- (j) This article shall not apply to dwelling units constructed pursuant to the following:
 - (1) Affordable dwelling units as defined and as provided on site or off site pursuant to Chapter _____ (in reference to the affordable housing requirement bill introduced for adoption); or
 - (2) Affordable dwelling units provided as a community benefit pursuant to a planned development–transit permit, as set forth in Bill 74 (2015), or an interim planned development–transit permit, as set forth in Section 21-9.100 and its subsections.
 - (3) Affordable rental dwelling units provided in compliance with HRS Section 201H-36(a)(5)."

SECTION 7. New ordinance material is underscored. When revising, compiling or printing this ordinance for inclusion in the Revised Ordinances of Honolulu, the revisor of ordinances need not include the underscoring. The revisor shall include the section numbers once designated and delete the references in parenthesis that begin with "in reference to", and similar language preceding the references to Bill 74(2015).

SECTION 8. This ordinance shall take effect upon its adoption and shall be repealed on June 30, 2026. Notwithstanding the foregoing, any real property tax exemptions granted pursuant to Section 2 prior to the repeal on June 30, 2026, shall continue for the regulated period, together with the provisions in section 8-10.__(c),



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ORDINANCE _____

BILL _____

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section 8-10.__(f) and section 8-10.__(h) that mandate ongoing requirements and the consequences of failing to meet those requirements.

INTRODUCED BY:

DATE OF INTRODUCTION:

Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Deputy Corporation Counsel

APPROVED this _____ day of _____, 20 _____.

KIRK CALDWELL, Mayor
City and County of Honolulu