

City and County of Honolulu



AH Requirements Bill 58 and AH Incentives Bill 59

Zoning and Housing Committee

June 29, 2017

Submitted by the Department of Planning and Permitting

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What we'll talk about today

Affordable Housing Requirement (Bill 58)

Affordable Housing Incentives (Bill 59)

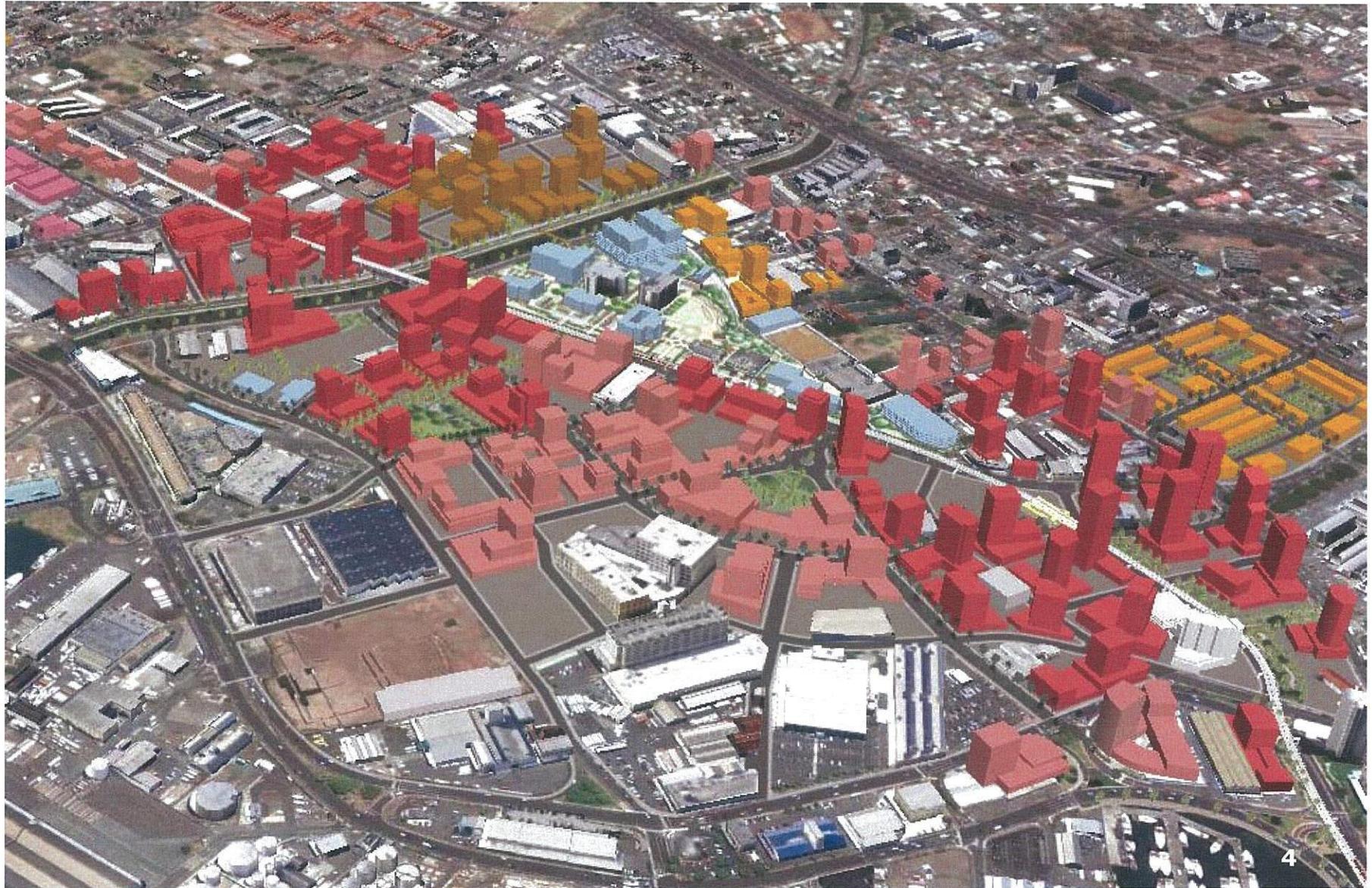
- Who
- What
- Why
- When
- Where
- How

Affordable Housing Strategy

Mayor's implementation priorities

- **Affordable Housing Requirement** (phased in)
- **Financial Incentives** – fee waivers for sewer, park dedication, building permits, real property taxes
- **Leverage City Lands** – nine properties identified; will be RFP'd to private developers and nonprofits
- **Rental housing finance:** \$100M/year in private activity bonds to leverage 4% low income tax credits
- **TOD Zoning and Infrastructure Investments**
- **Accessory Dwelling Units and Incentives**
- **Housing First and Shelter Initiatives**

Infrastructure Finance District – Iwilei to Kalihi



Latent Demand by Income Group (2012-2016)

Oahu needs more than 24,000 additional housing units to meet demand.

- Over 18,000 or 75% of demand is for households earning less than 80% of AMI.
- Just 10% of demand is for households earning 140% AMI and up.

	< 30% AMI plus HPIT	< 50% AMI	< 80% AMI	< 120% AMI	< 140% AMI	140+% AMI	Total Units
Maximum AMI (family of 4)	\$28,750	\$47,900	\$76,650	\$114,980	\$134,140	>\$134,140	
Ownership Units							
Single-family	887	277	1,499	643	752	1,143	5,201
Multi-family	963	392	539	286	294	565	3,039
Rental Units							
Single-family	134	69	183	0	0	287	673
Multi-family	4,022	2,811	2,047	1,047	515	502	10,944
Homeless	4,712	---	---	---	---	---	4,712
TOTAL	10,718	3,549	4,268	1,976	1,561	2,497	24,569

* Hawaii Housing Planning Study, 2011, prepared by SMS Research and Marketing Services, Inc.

* City & County of Honolulu, Homeless Point-in-Time Count 2014, assumes all earn less than 30% AMI.

Unilateral Agreements (UA)

Affordable Housing Requirements (AHR)

Applicability/Process

- | | |
|--|---|
| <ul style="list-style-type: none"> • Often required when rezoning. • Agreements approved by City Council as part of zone change. | <ul style="list-style-type: none"> • Applies to projects of 10 or more dwelling units, including subdivisions (exemptions: hotels, timeshares, and several project types that already include affordable units). • “Ministerial” , more predictability. |
|--|---|

Project Location

Islandwide

Different requirements for TOD areas and islandwide (outside TOD areas).

Period of affordability

- | | |
|--|--|
| <ul style="list-style-type: none"> • Generally 10 years, or less for all areas and project types. Rules allow for longer periods, as part of an incentives program. • Optional re-set clause for for-sale units. | <ul style="list-style-type: none"> • 30 years for all areas and project types. • The period of affordability resets to 30 years on transfer of for-sale units. |
|--|--|

Requirements

Options for compliance:

- For-sale or for-rental dwelling units
- Production on-site or off-site
- In-lieu fees
- Land dedication

Options for compliance:

- For-sale or for-rental dwelling units
- Production on-site or off-site
- In-lieu fees
- Conveyance of improved land

Unilateral Agreements (UA)

Affordable Housing Requirements (AHR)

Requirements (continued)

Equal requirement for rental or for-sale.

30% of the units at **up to 140%** of AMI

Example:

If 10 affordable units are provided



10 % of the units
up to 80% AMI



20 % of the units
up to 120% AMI



30 % of the units
up to 140% AMI

The compliance options vary depending on project location and the phase-in period.

FOR SALE (on-site or off-site)

10% to 25% of the units at **up to 120%**
(1/2 at up to 100% AMI)

RENTAL (on-site or off-site)

5% to 15% of the units **up to 80%** of AMI

or

FEE IN LIEU OF CONSTRUCTION

(or LAND DEDICATION)

Proposed cash contribution of

\$45 or \$27 per finished SF or improved
land in lieu of building affordable units

Affordable Housing Requirement (Bill 58(2017))

	TOD Areas	Islandwide (Outside TOD Areas)
On-Site Construction	<ul style="list-style-type: none"> • Rental: 15% of units up to 80% of AMI • For-Sale: 20% of units up to 120% of AMI (1/2 up to 100%) 	<ul style="list-style-type: none"> • Rental: 5% of units up to 80% of AMI • For-Sale: 10% of units up to 120% of AMI (1/2 up to 100%)
Off-Site Construction	<ul style="list-style-type: none"> • Rental: 15% of units up to 80% of AMI • For-Sale: 25% of units up to 120% of AMI (1/2 up to 100%) 	<ul style="list-style-type: none"> • Rental: 5% of units up to 80% of AMI • For-Sale: 15% of units up to 120% of AMI (1/2 up to 100%)
In-lieu or Land Dedication	<ul style="list-style-type: none"> • Cash contribution or improved land • Proposed fee: \$45 per finished sq. ft. 	<ul style="list-style-type: none"> • Cash contribution or improved land • Proposed fee of \$27 per finished sq. ft.

Phasing: The requirement will be phased-in over 3 years. See AHR handout for more information on phasing. Note: AMI = Area Median Income

AHR Three-Year Phase-In

Phased in per housing market variations:

- **Effective immediately.** Only Ala Moana, Downtown, and Chinatown rail station areas.
- **2nd Year.** The rest of the island, including the other rail transit station areas, will be subject to the requirement, although at lower percentages.
- **4th Year.** All rail transit station areas become one category, while the rest of the island will be subject to the lower required percentages.

Extended affordability period

- Current UA rules limited to 10 years (frequently allowed to resell sooner, often at market rates)
- 30 year minimum is most critical element; for-sale units re-set to 30 years on resale/transfer.
- Some say that buyers need to be able to sell at market rate after 10 years to build capital and ‘move up the housing ladder’.
- Public purpose of the AHR is to help grow—and maintain—a stable supply of affordable housing.

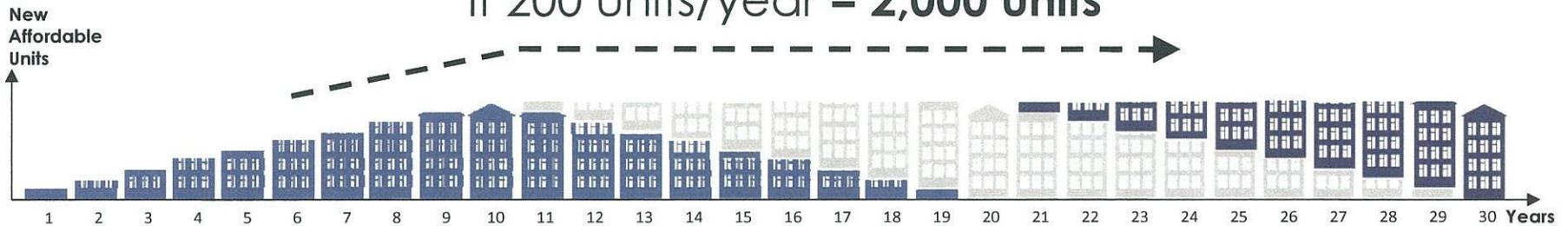
30-Year Affordability Period

30-Year Affordability
If 200 units/year = **6,000 units**



Reset (on resale) to a new 30-year period continues to increase supply

10-Year Affordability
If 200 units/year = **2,000 units**



Moving up the Housing Ladder

AHR can create and maintain a significant supply while providing a fair return to home buyers.

Assuming \$300,000 unit, 10% down, average 1% annual increase tied to CPI-U:

- \$30,000 down payment increases 10%/year; could grow to over \$77,000 in 10 years.
- Principal payments could add an additional \$40,000 to \$60,000 in equity over 10 years.
- **Potential \$117,000 to \$137,000 down payment** on a future market rate home purchase.

Moving up the Housing Ladder

National studies have shown that this equity-building and stepping-up works in practice:

- 2009 Urban Institute study included San Francisco; for the 10-year period ending in 2010, the typical affordable home seller made \$70,000 on resale, for an **average return of 11.3 percent interest** on the down payment.
- Grounded Solutions Network uses HomeKeeper data to track how many affordable home sellers are able to buy market rate homes; for 80 programs, the **national average is 59.1 percent.**

How do in-lieu fees work?

\$45/SF applied to all floor area (non-commercial) in a building; paid before building permit issued.

- Hypothetical 100 unit building, 800 SF units.
- $100 \times 800 \text{ SF} \times \$45 = \$3,600,000$ in in-lieu fees
- Using affordability gap estimates (rounded):
 - \$70,000 for 80 to 120% AMI units
 - \$170,000 for 50 to 80% AMI units
- $3.6 \text{ M} / 70,000 = \mathbf{51}$ 120% AMI units
- $3.6 \text{ M} / 170,000 = \mathbf{21}$ 80% AMI units

Versus **20** units at 100 and 120% AMI if onsite

Affordable Housing Incentives Bill 59 (2017)

Description of Incentives

City Fee or Requirement	Current Fee or Requirement on Market Rate Units	Incentive Fee or Requirement on AHR Units
Wastewater System Facility Charges	\$6,616 per ESDU (FY 2016/17 and 2017/18) ¹	No charge
Park Dedication	Multi-family: 110 sq. ft. per dwelling unit Single Family: 350 sq. ft. per dwelling unit OR Fee = fair market thereof	No requirement
Building Permit and Plan Review Fee²	\$3,915 + \$4 per \$1000 Construction Cost + 20% Plan Review Fee	No fee
Real Property Tax³	\$3.50 per \$1000 of assessed value (deed-restricted)	100% tax exemption (rental units only)

1. ESDU = "Equivalent single-family dwelling unit". Rates are assumed to increase by 3% per year in FY 2018/2019 and thereafter.

2. All housing units are assumed to use the building permit fee structure for projects with construction costs of \$2 million and above.

3. This incentive has been updated to allow property tax exemptions on affordable rentals only. Analysis assumes for-sale units continue to be subject to real property tax.

201H projects

Affordable Housing Incentives (AHI)

Comparison of incentives available

Varies by whether application processed by State or City.

Incentives vary based on project; process allows developer to request any incentives (fee waivers, height, density, etc.) but must be approved by City Council. Wastewater fees are reduced but not waived.

201H requires 50% + 1 unit at 140% AMI and below. Min 10 year period plus equity sharing.

State GET exemption for rentals requires 30 year period; loan funds require longer period.

Wastewater System Facility Charges Park Dedication Building Permit and Plan Review Fees

All waived for affordable units

Real Property Tax

100% RP tax exemption (affordable rental units only)

RP tax increase waived during construction for entire projects that include affordable units

Waivers are automatically available for affordable projects that file affordable housing agreements and covenants



Mahalo!

Department of Planning and Permitting

Mayor's Office of Housing

Department of Community Services

Office of Strategic Development/DLM

Department of Budget and Fiscal Services

Download Housing Strategy at www.honoluluudpp.org/

Director's Report
Establishing an Islandwide Affordable Housing Requirement
May 19, 2017

I. PROPOSAL SUMMARY

This proposal establishes an islandwide affordable housing requirement (to provide housing at below market rates) on most new private development and substantial rehabilitation of dwelling units to address the critical shortage of affordable housing on Oahu. The objective is to develop and maintain a significant inventory of affordable housing. This affordable housing requirement (AHR) is an exercise of the police power of the City to protect the health, safety, and welfare of the people of Oahu.

The AHR applies to projects of 10 or more dwelling units, including subdivisions of land and conversions of non-residential uses into dwelling units. The AHR is applied at the time of a building permit or subdivision submission. Units are required to stay affordable for at least 30 years to build up and maintain the affordable housing supply over time. This period of affordability would reset when a for-sale unit transfers ownership before the initial 30-year period ends. The required affordability levels are tailored towards home buyers earning at or below 120 percent of the area median income (AMI), and household renters earning at or below 80 percent of the AMI.¹

The AHR is flexible so developers have several options to address different development types and circumstances: for-sale or for-rental dwelling units, production on site or off site, payment of a fee in lieu of construction (set at an amount to encourage developers to actually build the affordable units), and/or conveyance of improved land. The required percentage of affordable units varies: lower for rental projects and higher for for-sale units. The for-sale unit requirement is also higher if they are provided off site. Both for-sale and rental unit requirements are higher in transit-oriented development (TOD) districts—where developers are eligible for increased height and density—and lower throughout the rest of the island.

Several types of projects are exempted: projects already required to provide affordable housing (such as unilateral agreements [UA] or 201-H projects); projects or applications in process before the AHR is adopted; projects that are affordable by design, such as micro-units and accessory dwelling units (ADU); and projects for groups with limited incomes or special needs.

Based on housing market variations, the AHR is designed to be implemented over three years by geographic areas, with the strongest market areas first:

1. **Effective immediately, year 1.** Only the Ala Moana, Downtown, and Chinatown rail transit station areas are subject to the AHR.
2. **Years 2 and 3.** The rest of the island, including the remaining rail transit station areas, will be subject to the AHR, although at lower percentages.
3. **Year 4 and permanent.** All rail transit station areas will become one category, while the rest of the island will be subject to the lower required percentages.

¹ Housing at or below 60 percent of the AMI will be primarily provided through use of public lands and public funding.

II. NEED AND POLICY BACKGROUND

Data from the Mayor's Affordable Housing Strategy (see table below) showed that only 16 percent of the documented housing need on Oahu is for households earning more than 120 percent of the AMI, which includes market rate housing. These numbers indicate an extreme affordable housing need for the remaining 84 percent of the population. Of the affordable housing needs, over 75 percent of total projected demand is for households earning less than 80 percent of the AMI, and largely for rental units, while most homes are being built for sale and for higher income households. As the population continues to grow, the already constrained supply of affordable housing units will be exacerbated by the growing need for additional units. The free market, on its own, has clearly not been able to produce the necessary quantity of affordable housing on Oahu, or to target housing at the income levels needed to serve the vast majority of Oahu's population.

Figure 1: Projected Demand for Housing Units (2012-2016), City and County of Honolulu
(Based on the U. S. Department of Housing and Urban Development's AMI, prepared by the Department of Community Services)

	<30% AMI plus HPIT ³	<50% AMI	<80% AMI	<120% AMI	<140% AMI	140% + AMI	Total Units
Maximum AMI¹	\$28,750	\$47,900	\$76,650	\$114,980	\$134,140	>\$134,140	
Ownership Units²							
Single-family	887	277	1,499	643	752	1,143	5,201
Multi-family	963	392	539	286	294	565	3,039
Rental Units²							
Single-family	134	69	183	0	0	287	673
Multi-family	4,022	2,811	2,047	1,047	515	502	10,944
Homeless: Family & individuals ³	4,712	---	---	---	---	---	4,712
TOTAL	10,718	3,549	4,268	1,976	1,561	2,497	24,569
Percent of Total Units	44%	15%	17%	8%	6%	10%	100%

¹ Honolulu County Affordable Rent Guidelines 2014 for 4-person family size.

² Hawaii Housing Planning Study, 2011, prepared by SMS Research and Marketing Services, Inc., November 2011.

³ City and County of Honolulu, Homeless Point-in-Time Count (HPIT) 2014, assumes all earn less than 30% AMI.

The Affordable Housing Strategy is consistent with policy statements in the Hawaii State Plan and the Oahu General Plan. These earlier plans do not fully consider the enormous potential for housing in transit-oriented neighborhoods along the rail line. However, many of the goals in the housing strategy were voiced in these prior policy documents and helped guide development of the AHR Bill.

The Hawaii State Plan has two chapters that guide housing policy from the State's perspective. Chapter 226-19 outlines three priority objectives for housing:

- Provide greater opportunities for Hawaii's people to secure reasonably priced, safe, sanitary, and livable homes, located in suitable environments that satisfactorily accommodate the needs and desires of families and individuals,

through collaboration and cooperation between government, nonprofit, and for-profit developers to ensure that more affordable housing is made available to very low-, low-, and moderate-income segments of Hawaii's population;

- Promote the orderly development of residential areas sensitive to community needs and other land uses; and
- Develop and provide affordable rental housing by the State to meet the housing needs of Hawaii's people.

The Oahu General Plan includes three housing-related objectives consistent with the new affordable housing vision:

- Objective A: To provide decent housing for all the people of Oahu at prices they can afford.
- Objective B: To reduce speculation in land and housing.
- Objective C: To provide the people of Oahu with a choice of living environments which are reasonably close to employment, recreation, and commercial centers and which are adequately served by public utilities.

The Oahu General Plan includes policies, such as streamlining approval and permit procedures, providing financial and other incentives to encourage the private sector to build homes for low- and moderate-income residents, and expanding local funding mechanisms. Residential development is encouraged in areas where existing roads, utilities, and community facilities are not being used to capacity, and discouraged where infrastructure cannot be provided at a reasonable cost. Preservation of existing affordable housing is recommended through self-help, housing rehabilitation, improvement districts, and other programs. The Oahu General Plan was last amended in 2002 and is currently being updated to better highlight TOD, sustainable communities, and neighborhood revitalization.

The documented housing needs continue to grow and are being felt by households at all income levels. The effects are both hidden (e.g., overcrowding and family stress or money drained from other family needs) and very visible (even working households forced into living on the streets, in parks, or in cars). The City has responded to some of those more visible needs with investments of \$30 to \$40 million annually in recent years for permanent "Housing First" projects, temporary shelters, and homeless services. However, it has become clear that more is needed to address the long-term supply of affordable and workforce housing, in addition to more investments, use of City lands, financial incentives, and new zoning. These growing needs require the City to exercise its police power to protect the health, safety, and welfare of the people of Oahu by adopting the AHR.

III. EXISTING POLICIES, STRATEGIES, AND REGULATIONS

Before adopting a new policy or regulation it is important to understand the existing policy and regulatory framework. This section helps identify what works and what needs improvement to address the housing needs and broad policy goals described in the previous section.

Housing Oahu: Affordable Housing Strategy. The Mayor's Affordable Housing Strategy (September 2015) outlines a vision that "all people will have access to shelter on Oahu." The strategy was developed from 2013 to 2014 by a staff working group from the Department of Planning and Permitting (DPP), Department of Community Services, Department of Budget and Fiscal Services, Office of Housing, and Office of Strategic Development, with expertise in housing, planning, development, and finance. The working group researched prior affordable housing efforts in Hawaii, as well as national best practices, spoke with local housing industry experts and advocates, identified the housing needs, and then developed a focused action plan to address those needs.

The strategy responds to multiple City Council (Council) resolutions: to develop an affordable housing policy for TOD districts (13-274); to amend the UA policy (13-168, CD1); to establish an affordable housing strategy (14-28); and to regulate ADUs (14-200). The strategy addresses affordable housing needs through new policies, incentives, regulations, and investments in partnership with developers and other stakeholders. Implementing these strategic actions will facilitate the production, preservation, and maintenance of well-located affordable and workforce housing, such as in TOD areas, to reduce household transportation costs and improve access to jobs and services.

Adopting an islandwide affordable housing requirement is just one of the strategy's key initiatives to increase the housing inventory for residents of low to moderate incomes. This requirement will complement other strategic initiatives that are being implemented to increase the affordable housing supply, as outlined in the Mayor's 2017 State of the City address:

- **Financial Incentives.** A companion affordable housing incentives bill being introduced to the Council proposes the following: waive wastewater facilities charges, park dedication fees, and DPP building permit and plan review fees for qualified affordable housing; exempt real property taxes for rental projects for as long as the units remain affordable; exempt any increase in property tax attributed to the construction work of projects that include affordable dwelling units until built; and waive fees and property taxes for rental projects developed per new State legislation that establishes qualifying affordable rental projects under Hawaii Revised Statutes (HRS) 201H-36(a)(5). In those projects, all units are restricted to households 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.

Water fees are set under a separate rate-making process by the Board of Water Supply (BWS), and the Mayor has requested consideration for similar waivers for water hook-up fees.

- **TOD Zoning.** The Council is in the process of reviewing for adoption a TOD special district, as well as mixed-use zoning, for each rail transit station area. These items are intended to incentivize improvements and infill development, including new opportunities for housing, in existing neighborhoods around the rail stations. The AHR will essentially take the place of the requirement for affordable housing through UAs, which would normally be tied to these zone changes if they were developer initiated. Developers may also have to provide more affordable housing than the AHR, plus other community benefits, in return for significant additional/bonus height and density.
- **Use of City Lands.** The City will expedite use of its lands and assets for affordable housing projects in partnership with private developers. Examples are Halewaiolu, an elderly housing project on River Street with over 150 affordable units; and, development offers are being reviewed for Varona Village as a mixed-income and affordable housing project. Nine additional City-owned properties are being evaluated for release to developers of affordable housing development through a request for proposals (RFP), and several other properties are being reviewed for similar potential.
- **Accessory Dwelling Units.** The ADU Ordinance allows most homeowners to build a small cottage or addition, or renovate part of their house to rent, which supplies affordable housing and brings in income to pay their mortgages or other household expenses. The Council waived all fees for two years as an added incentive. Bill 47 (2017) could extend the waiver to 2020. Over 1,400 people have checked to see if their lot qualifies, and over 136 permits have been granted. The City is working with contractors to provide an expedited permitting process through preapproved master permits, with six unit designs already approved.
- **Rental Housing Finance.** The City is developing a program to provide over \$100 million per year of Private Activity Bonds, which rental housing developers can use to match the available 4 percent low-income housing tax credits. This financing could produce hundreds of affordable rental units each year.
- **TOD Infrastructure.** The City is working with state agencies and landowners to create an Iwilei-Kapalama infrastructure master plan and finance district. The first phase will enable projects to hookup when housing starts to come online in the next few years. The overall planned infrastructure improvements throughout the TOD corridor total \$1.2 billion.

Existing Affordable Housing Delivery Mechanisms. In addition to the new policies, incentives, use of City lands, and financial support already outlined in this section of the report, the City currently has some tools in place to deliver affordable housing. The primary regulatory and permitting mechanisms are listed below.

- **Unilateral Agreements.** This is one of the primary mechanisms to provide affordable housing, but it is only applied to zone changes that allow residential uses. Council Resolution 09-241, CD1, established that UA conditions requiring the provision of affordable housing require at least 30 percent of the total dwelling units to be affordable. The housing is required to remain affordable for 10 years. This requirement is broken into the following categories:
 - At least 10 percent are affordable to households earning no more than 80 percent of the AMI;
 - At least 20 percent are affordable to households earning no more than 120 percent of the AMI (equals 10 percent if 10 percent is already provided at no more than 80 percent of AMI); and
 - At least 30 percent are affordable to households earning no more than 140 percent of the AMI (equals 10 percent if 20 percent is already provided at no more than 80 percent and 120 percent of AMI).
- **Development Agreements.** These agreements can be applied to any project and allow for negotiation of affordable housing, but this option has only been used once since its inception in 1996. The Live, Work, Play Aiea rezoning and development agreement was approved in 2014 and included an affordable housing requirement pursuant to the provisions specified for UAs.
- **Interim Planned Development-Transit (IPD-T) Permits.** This type of permit is an option for certain TOD projects near a planned rail transit station. To catalyze initial TOD projects, the permit allows for significant flexibility and increased development potential in exchange for community benefits, including an option for affordable housing to households earning no more than 120 percent of the AMI. Bill 15 (2017), currently under review by the Council, includes amendments to the IPD-T that require the provision of a minimum level of affordable housing just to qualify for any height or density bonuses. These proposed affordable requirements align with the AHR.
- **Transit-Oriented Development Special District Permits.** This type of permit being considered under Bill 74 (2015), CD1, would apply to many types of development within TOD areas. The permit allows additional height and/or density bonuses commensurate with community benefits, including affordable housing. Affordable housing provisions are to be in compliance

with (and exceed for the maximum bonus) any affordable housing strategy or policy adopted by the Council.

- **Accessory Dwelling Units.** Ordinance 15-41 established ADUs as a permitted use in all residential zoning districts. ADUs are limited to rental units only, and are relatively affordable by design due to their small square footage. (Note that Ohana dwelling units are similar to ADUs, but occupants are limited to family members.) ADUs will add to the rental housing supply since they cannot be sold separately from the principal dwelling unit on the same lot. Ordinance 16-19 provided financial incentives to construct ADUs through a park dedication exemption and temporary fee waivers. The DPP is working with manufacturers and contractors to pre-approve ADU designs through master permits to simplify and expedite approvals.
- **Chapter 201H, Hawaii Revised Statutes.** A process whereby the Council, per State legislation, may grant exemptions to statutes, ordinances, charter provisions, and rules of any government agency relating to planning, zoning, and construction standards in return for affordable housing. Under the City's requirements, the provision of affordable dwelling units (projects must normally contain at least 50 units) is broken into the following categories:
 - At least 10 percent are affordable to households earning no more than 80 percent of the AMI;
 - At least 20 percent are affordable to households earning between 81 and 120 percent of the AMI; and
 - At least 20 percent may be affordable to households earning between 121 and 140 percent of the AMI.

The proposed TOD zoning (and current IPD-T permit process) eliminates the need for project-specific rezoning in the TOD areas in order to build a mixed-use project or get additional height and density. This zoning is intended to incentivize developers to build "infill" projects in the harder-to-develop existing neighborhoods and commercial areas around the rail transit stations. With the City offering new TOD zoning to save developers significant time and money, it also eliminates the need for a UA and its affordable housing requirements. Consequently, this undertaking highlighted the need to develop a new policy that would require affordable housing in the rezoned TOD areas, and possibly islandwide. A staff working group set out to research how other communities have addressed this issue with a goal of making any requirement fair, predictable, and easier to use than existing rezoning or 201-H processes.

IV. RESEARCH AND ANALYSIS

An assortment of in-depth research was undertaken as part of the due diligence to create the proposed AHR. This section provides the findings and rationale for the framework used to establish the AHR.

Preliminary Research. A staff working group conducted initial research into similar inclusionary programs across the country, as well as applicable examples in Hawaii (see Attachment 2 to the Affordable Housing Strategy, which compares 18 programs). For instance, requiring too high of a percentage can slow or stop development, as Maui learned when they set a 50 percent inclusionary requirement for affordable housing several years ago. However, a carefully planned and calibrated requirement can produce and maintain a growing, stable supply of affordable housing without unduly burdening development. Almost 500 municipalities have similar requirements, including those in “hot” markets with high development costs like Honolulu. Staff research found that, compared with Honolulu’s current UA requirements, most programs had the following characteristics:

- Much longer affordability periods. Longer periods build and maintain the affordable housing inventory. Denver, San Francisco, Sacramento, and San Diego require that units remain affordable for up to 55 years or more. Some programs require perpetuity (compared to 10 years imposed with UA requirements).
- Lower AMI ranges. Even in hot housing markets such as San Francisco, Boston, Sacramento, and San Diego, the affordable rental units are dedicated to households with AMIs in the 65 to 80 percent range, while affordable home ownership opportunities target households with AMIs at or below 100 percent (compared to a range of 80 to 140 percent AMI imposed through UA requirements).
- Lower percentage of units required. Most programs required from 10 to 20 percent affordable housing (compared to 30 percent imposed through UA requirements).
- Applied to all building permits (above a certain size), not just rezoning (like UAs).

The working group spoke with staff and experts from some of these other cities and found that, in effect, their regulations may actually create fewer units per project but apply to more projects, help more households with greater needs, and maintain affordable units for a much longer term. The working group also followed best practices identified by recent national studies on inclusionary housing, which recommended the DPP’s approach to conduct the nexus analysis and financial analysis (see “Research Reports” in Section VI of this report).

Residential Nexus Analysis. The City's consultant, Keyser Marston Associates, Inc., conducted an impact analysis in September 2015 on the need for an affordable housing requirement. The analysis quantified the affordable housing needs as a result of new market rate housing development on Oahu (i.e., the nexus to establish an affordable/inclusionary housing program).

The analysis examined the underlying nexus concept that newly constructed market rate units and the new households that occupy them represent new income for consuming local goods and services. This new consumption translates to jobs, and a portion of the jobs will be at lower compensation levels, which consequently results in lower income households that cannot afford market rate units and, therefore, need affordable housing. Factors considered in the analysis included the average unit size and sales price/rent of five residential prototypes, disposable household income, new employment tied to the new households, employment compensation, and number of employees per household.

The findings of the analysis represent the affordable amounts—the percentage of units or square footage costs—that would fully offset the increased affordable housing need from the services and service workers that support new residential development. By illustrating the scale of this relationship, the findings provide a rough framework to establish an affordable housing requirement, although many other policy considerations need to be considered to select appropriate levels (see the AHR Financial Analysis).

The analysis determined that new for-sale market rate residential construction creates a need for approximately 17 to 21 percent of units to be affordable to households earning up to 120 percent of the AMI (the range reflects the four for-sale prototypes tested). New rental market rate residential construction creates a need for approximately 14 percent of units to be affordable to households earning up to 80 percent of the AMI. Note that for-sale units can be rented, and rentals can be converted to for-sale, so the percentages listed by AMI are more important to consider than occupancy.

Affordable housing units typically require subsidies to make them financially feasible due to the income-restricted unit prices/rents being set at lower-than-market rates. This “affordability gap”—the difference between the cost to construct the unit minus the affordable sale or rental price—comprises the amount required for the city or its partner to deliver the units not provided by the developer. The nexus cost to fully mitigate the affordable housing impact associated with new development ranges from \$32 to \$58 per square foot for the for-sale units (the range reflects the four for-sale prototypes tested) and \$48 per square foot for rental units.

In order to incentivize developers to build units rather than pay an in-lieu fee, the fee should be set somewhat higher than the “compliance cost”—the difference between market rate and affordable housing unit prices—of the AHR. The compliance cost increases with a deeper level of affordability (e.g., units restricted up to 80 percent versus up to 120 percent of the AMI) and depends on the unit type. Since households

that are buying or renting affordable units can pay a large part of the purchase or rent (depending on their AMI level), the in-lieu fee just has to cover the affordability gap to produce a unit. The analysis estimated the affordability gap to range from around \$69,850 (for units designated up to 120 percent of the AMI) to \$169,300 (for units designated up to 80 percent of the AMI). Depending on the target AMI level for the unit, in-lieu fees can be used to produce a substantial number of affordable units.

Affordable Housing Requirement Financial Analysis. The City's consultant, Strategic Economics, evaluated the ability of Honolulu's residential real estate development to support the AHR under normal conditions (i.e., no free/discounted land or other subsidies). In the June 2016 report, the analysis considered a range of building prototypes in different locations across Oahu. The analysis also considered the potential value that developers could achieve through certain financial incentives (e.g., development fee reductions and waivers) and increased density, which could accompany the AHR through other City actions.

Cost and revenue assumptions used in the pro forma, as well as the feasibility threshold, were developed with market data, a local construction cost consultant, and ongoing input from members of the local real estate and development community. Developers were encouraged to talk directly with the consultant to share any proprietary financial information or opinions. Some development organizations criticized hiring a 'mainland' consultant; however, the City's selection process required prior experience doing similar analysis. The local development groups provided ongoing input into the analysis over several meetings, phone calls, and review of the draft analysis.

The feasibility analysis is intended to be generally representative of multifamily development on Oahu. However, a range of factors influence individual development projects, including market conditions that change over time and vary by geographies (such as more localized neighborhoods than the analyzed regions). The analysis points out that the AHR's effect will likely be reflected, at least in part, in lower land values over time since buyers will need to factor in the cost to construct the affordable units—this effect has been demonstrated elsewhere in some of the national research cited above. That reduction (or lower rate of increase), paired with enhanced sales prices and rents in TOD areas (improving the feasibility to subsidize a project's affordable units), could improve the financial prospects of many development projects over time.

The results indicated that high-rise condominium projects (40-story buildings) in Ala Moana—whether providing on- or off-site affordable units—can currently support the AHR as proposed. These projects exceed the feasibility threshold with the density and height bonuses allowed under the IPD-T permit, as well as the TOD Special District regulations under consideration in Bill 74 (2015). The analysis also acknowledges that market conditions in Downtown, Chinatown, and Kakaako (under Hawaii Community Development Authority [HCDA] jurisdiction) are so similar that, while not specifically tested, it can be assumed they can also support the AHR.

The analysis determined that most remaining prototypes and areas on Oahu are currently infeasible, even without the proposed AHR, although many are close to meeting the feasibility threshold. This determination considered the currently higher land and construction costs without subsidy or free land. Developers have noted that there are no “typical” projects in Honolulu, and that many projects require special circumstances, such as reduced land or construction costs, or economies of scale from development of large, master-planned communities in order to achieve feasibility. For instance, developments are actually proceeding in some of these “infeasible” areas, but in most cases the developers are already in possession of the land, thereby eliminating or reducing a major project cost.

The proposed in-lieu fee of \$45 (\$27 outside of TOD areas) per square foot was set high enough that paying it would be less desirable than directly providing affordable units on or off site. The working group reviewed the “nexus cost” estimates for five development types studied in the Residential Nexus Analysis. This cost ranged from \$32 for single family homes to \$58 for high-rise condos, with low-rise, mid-rise, and rental projects in the \$41 to \$48 range. Since most jurisdictions that allow in-lieu fees use just one rate across all projects, the \$45 per square foot fee was selected as the “middle of the middle” number. This amount was then tested for feasibility in the pro forma analysis. As the fee would be assessed on all residential floor area in the project—not just the equivalent percent required for on- or off-site construction of units—it can produce a substantial amount of funds to be used to fill the affordability gap in other affordable projects.

Rental projects may be more likely to choose the in-lieu fee option because their cost of providing affordable units is closer to the in-lieu fee amount due to their deeper level of required affordability (rentals must be priced for households earning up to 80 percent of the AMI, versus 100 to 120 percent of the AMI for for-sale housing), particularly if the developers do not have the capacity, interest, or experience to manage income-restricted apartments over the long term. An in-lieu fee option may also be important for developers of luxury condominium projects if no suitable off-site location is available. The high cost of association dues for maintenance and operations in projects with expensive amenities could also place a large and uncontrolled burden on owners of affordable units in luxury buildings. This situation is especially a concern over the long term after a developer has completed the project and decisions on fee increases are made by the association’s board.

The analysis concluded that the AHR represents a modest cost burden on development compared to total development costs—the required affordable units would comprise 1 to 5 percent of a condominium project’s total development costs and 3 to 6 percent for an apartment project. The analysis further explains that as more affordable housing projects come online, underwriters will become more familiar with the affordable product types and might require lower returns, helping boost project financial feasibility.

The findings indicated that allowing more density and height creates added value for mid- and high-rise building types. Financial incentives through fee waivers add further value because the discounts reduce costs by 1 to 3 percent, helping to offset the costs associated with providing the affordable units. These incentives, to waive wastewater facility charges, park dedication, building and inspection permits, and real property taxes, are being proposed to the Council in a separate bill and report.

The overall feasibility of residential development on Oahu was shown to vary widely by location and prototype. The analysis suggested strategies to reduce the impact of the AHR by phasing it in over time, or waiving it in the less feasible areas.

Policy Memo: Affordable Housing Requirement (Part 1 of 2). Inclusionary housing expert Rick Jacobus of Street Level Advisors was engaged in December 2016 to help refine the proposed AHR and to plan for implementation and administration of the program. He conducted a series of meetings with City and State staff, developers, and housing advocates, and then provided a memo with recommendations.

Balancing the AHR across Oahu's different housing market areas/neighborhoods is critical so that it does not prevent new development in weak market areas or, conversely, produce too little affordable housing in strong market areas. The memo points out that some areas where development is infeasible today are likely to reach a point where it becomes feasible in the near future, especially in the TOD areas where transit and other infrastructure investments will jump-start new real estate development. The risk, however, is that the AHR could delay the point when that transition occurs if it is not correctly calibrated.

Various options that have been tested in other cities implementing affordable housing programs were discussed in the meetings and summarized in the memo. Phasing in the requirement geographically over time was determined to best meet the City's current needs and administrative capacity. Nevertheless, all options, including a geographical phase-in, will require additional staff resources to administer.

The AHR was recommended to take effect immediately in the strongest market locations, comprised of the Ala Moana and Downtown/Chinatown TOD areas, at 20 percent of for-sale and 15 percent of rental housing. These requirements are in line with the affordable housing provisions required through IPD-T permits, which multiple projects are using already in Ala Moana. Developers submitting IPD-T applications have been advised to follow the Affordable Housing Strategy's recommendations, which have been formalized in proposed revisions to the IPD-T ordinance, currently under review by the Council.

Everywhere else on Oahu can be broken down by general market area into (1) the remaining TOD areas (i.e., not including Ala Moana and Downtown/Chinatown TOD areas) and (2) all land outside of TOD areas. Neither of these two areas outside of Ala Moana and Downtown/Chinatown can support multi-family development at current land and development costs, unless land is contributed or discounted, or other

subsidies are provided for the project. Consequently, a schedule with specific phase-in dates and corresponding percentages by market area was also recommended as part of the AHR. The memo recognized that the dates used will not likely result in exact market timing for each location, but having them in place—at lower percentages than the strong market locations—will give developers additional certainty and clarity as they consider doing projects in those areas. Although the memo recommended a five-year phase-in schedule, it was simplified to three years in the AHR bill.

Policy Memo: Administration and Compliance Issues (Part 2 of 2). The administrative side of the AHR was also discussed in Jacobus' meetings with City staff and State agency partners, and is summarized in the memo. Currently, four staff from the DPP administer the affordable housing required from UAs. The staff have other significant responsibilities in addition to that program, which relies heavily on project developers to perform most functions, including all marketing and resident selection, and most monitoring and enforcement. The examination determined that the current program is understaffed in comparison with similar programs in other cities. Key administrative functions of the AHR are outlined in the memo and include supporting the development process, monitoring rental units, stewarding homeownership units, and tracking results. A division of this labor could be accomplished through partnerships with industry, nonprofits, and State agencies (see more detailed recommendations in Section V of this report).

Affordable Housing Stakeholder Discussions. Over two dozen significant meetings were held from 2014 through 2016 to discuss the Affordable Housing Strategy and proposed AHR components. Outreach included town hall meetings, small group meetings with developers and advocates, industry conference sessions, one-on-one discussions with housing experts and advocates, and meetings with development industry organizations, banking and real estate groups, housing advocacy organizations, and the City's consultants. Several industry groups provided written comments, which were discussed in the meetings and incorporated into the DPP's analysis.

In fall 2015, development industry organizations asked the Mayor to organize a working group of developers and housing advocates to refine the Affordable Housing Strategy. The Mayor convened an affordable housing working group that included developers, finance experts, industry representatives, affordable housing advocates, and key City staff. The working group met several times in 2016 that included discussions with the City's consultant, Strategic Economics, to help review and refine the financial analysis. The discussions included details of the AHR, such as the required affordable percentages and in-lieu fee, the extended period of affordability, administration and compliance issues, as well as needed infrastructure investments and finance tools.

The development industry's main concerns were to reduce or eliminate the AHR and to increase infrastructure investment and incentives for housing production. These concerns were addressed in the AHR by reducing the required percentages and

phasing them in over time. Concerns were also addressed through the following related measures: a proposed affordable housing incentives bill, which provides a significant package of incentives for affordable housing production; planned TOD infrastructure investments and an infrastructure finance district; a \$100 million Private Activity Bonds program; and releasing City lands for affordable housing production.

One key remaining difference of opinion is that most developers are primarily focused on producing housing in general, typically at higher income ranges. Realistically, this unregulated approach would only continue to produce market rate housing, which they believe will then open up affordably priced units after households move up the housing ladder, allowing new households to fill the lower rungs. However, there is a low probability this effect will actually occur, considering the current situation and Oahu's limited supply of available land. Another developer concern is that the cost of providing the affordable units might add too much to the cost of the market rate units. National research has shown that these costs tend to be partially accommodated through lower land costs (or lower rate of land value escalation), while the AHR Financial Analysis shows they will be further offset by the financial incentives and fee waivers proposed under a separate bill.

Housing advocates, on the other hand, want to see stronger requirements at lower AMI levels, and incentives to build affordable housing that will stay affordable over the long term to ensure it adequately addresses Oahu's critical housing needs. The AHR attempts to balance both developer and housing advocate concerns by lowering the percentage of affordable housing required from the existing 30 percent through UAs to 20 percent or less, which should offset any added costs to developers. The AHR also triples the minimum period of affordability and resets it at each sale or transfer of ownership during the period of affordability, lowers the AMI ranges, and prioritizes rental production. The phase-in period would also allow time for the market to adapt to the new requirement, while encouraging production in the initially exempted areas.

The working group continues to work with Rick Jacobus to discuss refining administration and monitoring issues.

V. RECOMMENDATION

The Director of the DPP recommends establishing an islandwide affordable housing requirement (i.e., housing to be offered at below market rates) on most new private development and substantial rehabilitation of dwelling units in order 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 on Oahu.

The affordability levels of the AHR are tailored towards homeowners earning at or below 120 percent of the AMI, with half of those units at or below 100 percent of the

AMI, and household renters earning at or below 80 percent of the AMI.² The AHR applies to projects of 10 or more dwelling units, including subdivisions of land and conversions of non-residential uses into dwelling units. Certain exemptions to the AHR will apply to projects already legally required to provide affordable housing through other mechanisms (such as UAs or 201-H); projects or applications in process before this requirement is effective; hotels, timeshares, and transient vacation units; projects that are considered affordable by design, such as micro-units and ADUs, which are relatively affordable due to their small square footage; and dwelling units already tailored to groups with limited incomes or special needs, such as the elderly.

Due to different development types and circumstances, the AHR has built-in flexibility so it can be satisfied through a variety of means: for-sale or for-rental dwelling units, production of on-site or off-site units, payment of a fee in lieu of construction (set at an amount to encourage developers to actually build the affordable units), and/or conveyance of improved land. Units are required to stay affordable for at least 30 years to build up and maintain the quantity of the affordable supply over time. The period of affordability resets to another 30-year period if a for-sale unit transfers ownership before the initial 30-year period ends, which results in an effective perpetuity of affordability for most units (without imposing a perpetuity requirement that could affect homeowner mortgages and project financial viability).

Based on housing market variations, the AHR will be implemented over three successive years by geographic areas:

1. **Effective immediately, year 1.** Only the Ala Moana, Downtown, and Chinatown rail transit station areas are subject to the AHR.
2. **Years 2 and 3.** The rest of the island, including the remaining rail transit station areas, will be subject to the AHR, although at lower percentages.
3. **Year 4 and permanent.** In the final and permanent stage of the AHR, all rail transit station areas will become one category, while the rest of the island outside of the rail transit station areas will be another category subject to the lower required percentages.

The required number of affordable dwelling units—expressed by percentage of total dwelling units in the project—is provided in the master table below, according to the project's location, type of units, and start year. The table also includes the existing affordable housing required through UAs for comparison with the AHR.

² Housing for lower income levels at or below 60 percent of the AMI will be primarily provided through use of City lands and public funding.

Proposed Affordable Housing Requirement				
Principal Project Location	For Sale¹ or For Rental²	On-Site Production³	Off-Site Production⁴	In-Lieu Fee⁵
Effective Immediately (Year 1)				
Ala Moana, Downtown, or Chinatown rail transit station area	For Sale	20 percent	25 percent	\$45 per square foot
	For Rental	15 percent		
Effective Years Two and Three				
Ala Moana, Downtown, or Chinatown rail transit station area	For Sale	20 percent	25 percent	\$45 per square foot
	For Rental	15 percent		
All areas outside of Ala Moana, Downtown, or Chinatown rail transit station areas	For Sale	10 percent	15 percent	\$27 per square foot
	For Rental	5 percent		
Effective Year Four and Permanent				
Within a rail transit station area	For Sale	20 percent	25 percent	\$45 per square foot
	For Rental	15 percent		
All areas outside of a rail transit station area	For Sale	10 percent	15 percent	\$27 per square foot
	For Rental	5 percent		
Period of Affordability				
<ul style="list-style-type: none"> The minimum required period of affordability is 30 years for all areas and project types. The affordability period resets to 30 years on transfer of for-sale units. 				
<ol style="list-style-type: none"> For-sale affordable dwelling units shall be sold to households earning 120 percent and below of the AMI. At least one-half of those units shall be sold to households earning 100 percent and below of the AMI. For-rental affordable dwelling units shall be rented to households earning 80 percent and below of the AMI. When the principal project is substantial rehabilitation, the on-site affordable dwelling units will count as whole units. When the principal project is new construction, any on-site affordable dwelling unit provided through substantial rehabilitation will count as one half of a unit. When the principal project is new construction, any off-site affordable dwelling unit provided through substantial rehabilitation will count as one half of a unit. A cash contribution may be provided in lieu of building affordable units, or dedication of improved land (at equal value). Effective January 1 of each year, the in-lieu fee shall increase by a factor equal to the most recently published Consumer Price Index for All Urban Consumers (CPI-U), with the base year established as of the effective date of the ordinance. <ul style="list-style-type: none"> Percentages may be adjusted for varying unit sizes and lower income ranges. 				
Comparison With Existing Unilateral Agreements (Required for Rezoning)				
Principal Project Location	For Sale or For Rental	On-Site Production	Off-Site Production	In-Lieu Fee
No difference by location	30 percent required at up to 140 percent of AMI			None
<ul style="list-style-type: none"> Required period of affordability is 10 years or less. No differentiation between for-sale and for-rental. At least 10 percent are affordable to households earning no more than 80 percent of the AMI. At least 20 percent are affordable to households earning no more than 120 percent of the AMI (equals 10 percent if 10 percent is already provided at no more than 80 percent of the AMI). At least 30 percent are affordable to households earning no more than 140 percent of the AMI (equals 10 percent if 20 percent is already provided at no more than 80 percent and 120 percent of the AMI). 				

Much of the AHR's implementation structure will be further detailed in the DPP administrative rules, similar to its existing affordable housing rules for UAs, which are used to administer rezoned lands and subsequent projects. The AHR will not replace existing mechanisms that deliver affordable housing, such as UAs (these mechanisms will offer additional flexibility to obtain affordable housing under special circumstances). The AHR is also expected to be continually refined over time, and coordinated with other agencies' affordable housing requirements, such as the HCDA and Hawaii Housing Finance and Development Corporation (HHFDC), so that the rules and administration requirements are similar.

The key elements of the AHR are discussed in more detail below.

Applicability. The AHR applies only to new private residential development (new construction, substantial rehabilitation, or subdivision of lots), which was shown to create a need for affordable housing in the Residential Nexus Analysis. Most programs focus on residential development, although some communities apply affordability requirements to commercial projects. For example, Maui County decided to apply their requirement to lodging units in addition to dwelling units. The City's proposed AHR applies only to dwelling units (units that include a kitchen), whether they are for sale or rental.

The AHR applies to residential projects of 10 units or more, including subdivisions of land and conversions of non-residential uses into dwelling units. This number is the current threshold for UA housing requirements. The number is commonly used in affordable housing programs because it starts allowing for economies of scale, whereas smaller projects have less ability to absorb the affordable housing costs.

Affordability levels and percentages. The required percentage of units varies: lower for rental projects and higher for for-sale units. The for-sale unit requirement is also higher if they are provided off-site. Both for-sale and rental unit requirements are higher in TOD districts (where developers are eligible for increased height and density) and lower throughout the rest of the island.

The majority of affordable housing is needed for households earning 80 percent or less of the AMI, as detailed in the Affordable Housing Strategy. Rental housing production to accommodate households in this income group is minimal, except for subsidized projects. The AHR includes a reduced requirement for rental projects (5 to 10 percent less), whether on or off site, to incentivize production. Developers of for-sale housing projects can also choose to provide the rental option to satisfy the AHR. Requiring for-sale affordable units to be produced for households earning no more than 120 percent of the AMI, with half of those units at or below 100 percent of the AMI, mostly addresses the gap group. This group is comprised of households close to being able to purchase a market rate home. As a result, they are able to purchase a home they can afford, while receiving a boost towards greater economic prosperity through their investment in real estate.

Differentiating between TOD areas and the rest of the island helps to accommodate the different housing markets and equitably distribute the affordable housing burden, based on situational factors and policies such as rail construction and associated rezoning of properties in TOD areas. Requiring a higher AHR percentage in the rezoned TOD areas recognizes the increased value of these properties due to transit and infrastructure investments and the potential for increased height and density. The higher requirement also addresses City policies that focus growth near rail, based on the General Plan, development plans, and TOD plans.

Distribution/Delivery. The AHR applies islandwide and flexibly accommodates each community's needs by allowing affordable housing to either be mixed in with the new market rate housing or be built in the same general area. The AHR allows developers the flexibility to make complex deals work by either building the affordable housing on site or off site (but requiring less units if for rent), paying a substantial in-lieu fee (set at an amount intended to incentivize developers to actually construct the affordable units), and/or conveyance of land at least equal to the in-lieu fee. The AHR allows smaller projects (25 units or less) to use the in-lieu fee with approval of the Director of the DPP; however, larger projects would require approval by the Council. As proposed, any off-site projects in the TOD areas would have to be located in the same rail transit station area as the principal project. For the rest of the island, projects would have to be located in the same development plan area. These restrictions prevent concentrations of all the affordable housing in certain areas.

In-Lieu Fee. An in-lieu fee option provides additional flexibility to comply with the AHR, particularly for developers of luxury condominium projects if no suitable off-site location is available or if their financial partners limit their participation in off-site projects. The high costs of association dues for maintenance and operations in projects with expensive amenities can also place a large and uncontrolled burden on owners of affordable units in luxury buildings. This situation is especially a concern over the long term after a developer has completed the project and decisions on fee increases are made by the association's board.

Recent analyses of condominium and townhouse projects in Maryland counties near Washington, DC, have shown a spiraling cycle where owners of affordable units defaulted on their mortgages after the 2008 housing crisis. These defaults resulted in the homeowners stopping payment on their association dues, causing the association boards to raise fees significantly, which many affordable unit owners could not pay, leading to additional defaults and deferred maintenance.

Building units on site or off site are the preferred options, but in-lieu fees can be used to create even more units, although the RFP process to award City funding to projects can take longer and require staff resources. Some housing advocates have said that the proposed \$45 per square foot fee is insufficient; however, this thought appears to assume, incorrectly, that the fees produced have to pay for the entire cost of the affordable units. In fact, households that are buying or renting affordable units can pay a large part of the purchase price or rent, depending on their AMI level, so the in-

lieu fee just has to cover the affordability gap (the difference between what a unit costs to produce and how much a buyer or renter can pay) to produce a unit. That gap will vary widely depending on project type, location, AMI range, and other variables.

- The Residential Nexus Analysis estimated the affordability gap could range from approximately \$70,000 (for units designated up to 120 percent of the AMI) to \$170,000 (for units up to 80 percent of the AMI).
- The more refined AHR Financial Analysis estimated the net cost to the developer to provide affordable units on site, assuming fee waivers and other incentives.
 - For condos, the net cost ranged from \$23,000 to \$110,000 per affordable unit (equaling 1 to 5 percent of development costs).
 - For apartments, the net costs ranged from \$91,000 to \$216,000 (or 3 to 6 percent of development costs). Rental apartments have a higher cost burden due to their deeper level of subsidy needed.

As an example, assuming a developer chooses the in-lieu fee option rather than building on site (requiring Council approval for projects over 25 units), a simplified calculation and process is outlined below for a hypothetical 100-unit building with 800-square-foot units.

- The \$45 square foot in-lieu fee is applied to all residential floor area (not commercial) and paid before the building permit is issued. Early collection allows the fees to be used to help build another affordable project during construction of the principal project.
- $100 \text{ units} \times 800 \text{ square feet} \times \$45 \text{ per square foot} = \$3,600,000$ in in-lieu fees (actual floor area might yield higher fees).
- Using the rounded affordability gap estimates from the Residential Nexus Analysis:
 - \$70,000 for units at 80 to 120 percent of the AMI.
 - \$170,000 for units at 50 to 80 percent of the AMI.
- \$3.6 million divided by \$70,000 could yield up to 51 units provided at 120 percent and below of the AMI.
- \$3.6 million divided by \$170,000 could yield up to 21 units provided at 80 percent and below of the AMI.

This outcome compares to only 20 units (10 units at 100 percent and 10 units at 120 percent AMI levels) if they were provided on site in the principal project. Of course, the actual affordability gap and funds needed on specific projects would vary widely (the financial analysis estimated a range of \$23,000 to \$216,000), but the potential for providing more units is clear. Given the proposed cuts in federal funds for affordable housing, the potential in-lieu fee revenues could yield a critical funding source for affordable housing developers. Additionally, the funds will be safeguarded in the City's existing Affordable Housing Development account so they can only be used for that purpose.

The \$45 per square foot in-lieu fee is discounted by 40 percent, to \$27 per square foot, outside of TOD areas to conform to the same discount rate on the off-site for-sale option. Aligning the in-lieu fee discount to this option (the lowest discount/most expensive option), ensures it will remain the least desirable option both inside and outside of TOD areas. (All delivery options are discounted outside of the TOD areas to acknowledge, generally, the weaker markets and lower development entitlements than what is being provided through new TOD zoning.) The fees will increase annually by a factor equal to the Consumer Price Index for All Urban Consumers (CPI-U), which is used for its high stability (a result of its larger sample size over local indices).

Phasing. Only housing markets in the Ala Moana and Downtown/Chinatown TOD areas can currently support the AHR, as shown in the AHR Financial Analysis. Phasing in the requirements to the remaining areas allows future projects that have not purchased land more time to adjust and absorb the cost of complying with the AHR. New requirements generally place downward pressure on land costs once developers adjust what they are willing to pay. Similar means of pricing in the costs of complying with the AHR are achieved by exempting projects already in process, which have likely locked in their land costs. At the same time, the phase-in incentivizes development in the other TOD areas since they will be subject to a lower requirement for a couple of years.

Period of Affordability. Maintaining Oahu's affordable housing supply has proven difficult due to the limited periods of affordability under current rules, such as the 10-year restriction period imposed on affordable housing required through UAs. In practice, the restriction period is frequently less. For example, military personnel routinely request hardship exemptions for resale when they are transferred. The AHR will restrict affordable units for at least 30 years in order to build up the portfolio over time. When the unit is resold or otherwise transferred, the 30-year affordability period starts over, keeping the unit affordable for a longer period and not losing it from the affordable inventory. This extended period of affordability is the most critical element of the AHR and is aligned with industry practice in hundreds of localities across the country, although some have chosen to impose 60-years or even permanent restrictions on their affordable units.

Some people have argued that the extended period will limit a homeowners' ability to build equity and move up the housing ladder with a large profit after their

period of affordability ends. Nevertheless, the public purpose of the AHR is to help grow and maintain a stable supply of affordable and workforce housing. Fortunately, a carefully crafted policy can create and maintain a significant supply of affordable housing while also providing a fair return on investment to home buyers.

As an example, assuming appreciation is tied to the CPI-U, say there is an average 1 percent increase per year on overall value (a conservative assumption), then a \$300,000 home could appreciate by \$3,000 the first year, \$3,300 the next, and so forth. With a 10 percent down payment, that \$30,000 investment could appreciate by up to 10 percent per year. Compounded annually, that amount could grow to over \$77,000 in 10 years. Homeowners would also be building equity since payments include paying down the mortgage balance. Although the actual amount would vary depending on the interest rate and term of mortgage, the principal payments could add up to an additional \$40,000 to \$60,000 in equity over 10 years, providing a down payment of \$117,000 to \$137,000 on a seller's future home purchase.

Recent national data has shown that this equity-building works in practice. A 2009 Urban Institute study of seven programs included the City of San Francisco, which has similar affordability issues as Honolulu. For the 10-year period ending in 2010, the typical seller of an affordable home made \$70,000 on resale, for an average rate of return of 11 percent annual compounded interest on the down payment. Grounded Solutions Network uses HomeKeeper national data to track the number of affordable home sellers able to buy market rate homes. Of 80 programs, the national average comes out to 59 percent of affordable housing sellers able to buy market rate homes.

Some developers and bankers have expressed concern that an extended period of affordability will limit their ability to finance projects. They believe the extended period and shared, or limited, equity requirements will restrict the mortgages from being resold on the secondary market, such as through the Federal Housing Administration (FHA), Fannie Mae, and Freddie Mac. This is a common concern, but not a major issue in reality. For most inclusionary programs, buyers were able to obtain financing. According to Rick Jacobus, the FHA, Fannie Mae, and Freddie Mac all finance both shared appreciation and deed restricted units, although FHA has somewhat stricter requirements.³ Fannie Mae and Freddie Mac are about to announce plans to make financing these homes even easier because Congress has essentially required them to help expand lending to these programs (2008 Housing Economic and Recovery Act legislation).

Conclusion and implementation. Based on the forgoing, and as an exercise of the police power of the City, the Director of the DPP recommends approval of the attached AHR, including a three-year phase-in by geography. The Director further recommends that the AHR be located in a separate chapter of the Revised Ordinances of Honolulu (ROH) for ease of use and to improve its effectiveness as a stand-alone regulation, although it is functionally tied to the Land Use Ordinance (Chapter 21, ROH).

³ Fannie Mae guidelines are relatively easy to follow: https://www.fanniemae.com/content/fact_sheet/resale-restrictions.pdf.

At this time, the Director is not recommending that the AHR replace existing affordable housing mechanisms, such as UAs. Since some developers have asked that the AHR, along with development incentives and fee waivers, be an opt-in program for existing and future UAs (assuming the affordable units and period of affordability that are provided equal or exceed the AHR), the Director recommends that this option be explored, separately, after adoption of the AHR.

Other cities depend on a department of housing to administer this type of program, but the administrative functions can be accommodated, initially, through existing City departments. In addition, the Director recommends exploring a formal partnership with a nonprofit, such as a community land trust, or other governmental agency that has its own affordable housing program to share in the administrative responsibilities. The Director further recommends continuing coordination with other jurisdictions that have affordable housing programs, such as the HCDA and HHFDC, to align requirements, where possible, and coordinate similar administration, compliance, data management, and monitoring responsibilities.

It is further recommended to establish financing for the administration of the affordable housing program at the same time as adopting the AHR to ensure its successful implementation. A transfer-of-ownership fee and two monitoring fees are recommended for both financial and educational purposes (i.e., to continually remind owners of their restricted property over the long period of affordability). The recommended fees are estimates of what it will cost to administer the AHR program, based on the DPP's experience of administering the affordable housing provided through UAs (mostly limited to for-sale units). Staff have found that applicants in the 80 percent and below AMI groups require more time to process because of the diversity and complexities of their income—this could apply to applicants closer to 100 percent of the AMI as well, but the current requirements are limited to 80 percent, 120 percent, and 140 percent of the AMI.

The for-sale transfer-of-ownership fee is set to cover the required staff time to process the transaction—the fee also flags transactions of affordable housing to prevent their resale at market rates, mostly as a safeguard in case title companies overlook the restrictive covenant. The for-sale monitoring fee is minimal because it only needs to cover maintenance of the affordable housing database, investigations for compliance issues, and responses to inquiries that do not lead to sales or transfers of title—the broader purpose of this fee is to remind owners that they own an affordable dwelling unit. While for-sale units are only verified at time of sale or transfer, rental units require more frequent verification of income (which is also more complex), in addition to the same items under for-sale monitoring. Therefore, the monitoring fee for affordable rental units is recommended to be higher than the affordable for-sale units because of the additional staff time.

Additional fee recommendations will be provided to councilmembers by the City's consultant, Rick Jacobus, who has already been tasked to work with City staff and its partners to update and simplify the administrative fees. This work includes a refined

analysis of the program's staff requirements as it grows over time, and it will identify the associated costs. The effort will address administrative and regulatory issues identified by developers and recommend new technologies to make it easier to qualify buyers, monitor compliance, administer the system, and make resales of affordable homes easier for individual homeowners.

Overall, the AHR is expected to involve a higher volume of activity than the current program due to a greater number of projects being required to provide affordable housing, with compliance required for the longer restriction period. (The current requirement through UAs restricts affordability to 10 years, so an increase to 30 years under the AHR will multiply the number of affordable units in the portfolio over the years.) The longer restriction period will also create additional administrative responsibilities, including more direct support for the affordable for-sale unit resales. For instance, project developers, who currently identify new eligible buyers for affordable unit resales, will no longer have a "stake" in a completed project and the City will have to rely on realtors and escrow officers to help enforce the affordability requirements on resales or transfers. Therefore, the successful implementation of the AHR will require a gradual expansion of administrative capacity to grow and maintain the affordable housing supply.

This expanded administrative capacity needs to include dedicated staff with the sole responsibility and specialized training to oversee the AHR and current UA affordable housing programs. Staff could be located in existing departments, a newly created housing department, or through partnerships with a nonprofit or State agency that have similar administrative responsibilities for their affordable housing programs. City staff will also be needed to effectively support the development of new projects and affordable housing agreements, as well as to manage any partnership contracts. The burden on staff resources, developers, and individual homeowners (for resales) can be minimized by investing in data systems to manage the portfolio of affordable housing units. This management system could include support for qualifying purchasers and renters, tracking and monitoring compliance, and many other tasks.

Most ongoing administrative details can be developed or refined as the AHR program is implemented, but the Jacobus memo emphasized that financial aspects should be carefully planned before adopting an AHR. The program needs a scalable source of revenue if it is to successfully administer a portfolio of affordable housing that is likely to grow substantially over the decades. Best practice is to rely on fee revenue, which increases along with the administrative workload.

Financial Incentives. To help offset costs of complying with the AHR, a companion affordable housing incentives bill is being introduced to the Council. That bill proposes the following: waive wastewater facilities charges, park dedication fees, and DPP building permit and plan review fees for qualified affordable housing; exempt real property taxes for rental projects for as long as the units remain affordable; exempt any increase in property tax attributed to the construction work of projects that include affordable dwelling units until built; and waive fees and property taxes for rental projects

developed per new State legislation that establishes qualifying affordable rental projects under HRS 201H-36(a)(5). In those projects, all units are restricted to households 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. Water fees are set under a separate rate-making process by the BWS, and the Mayor has requested consideration for similar waivers for water hook-up fees.

The development incentives are intended to facilitate the production of the affordable housing supply, while the administrative fees, on the other hand, will provide a sustainable revenue source to effectively support the program once the affordable housing is built.

VI. RESEARCH REPORTS

The reports documented in this section, along with related affordable housing resources, are located on the Mayor's Office of Housing website at www.honolulu.gov/housing/resources-on-affordable-housing.

City-Sponsored Studies. The DPP commissioned two studies and a policy memo to analyze the AHR, tailored specifically for Honolulu development conditions:

- Residential Nexus Analysis. Keyser Marston Associates, Inc., 2015
- Affordable Housing Requirement Financial Analysis. Strategic Economics, 2016
- Policy Memo on Affordable Housing Requirement. Rick Jacobus, 2017

Background Research. The staff housing work group followed best practices identified by recent national studies on inclusionary housing:

- Delivering on the Promise of Inclusionary Housing: Best Practices in Administration and Monitoring. Jacobus, 2009
- Economics of Inclusionary Development. Urban Land Institute, 2016
- Inclusionary Housing, Jacobus. Lincoln Institute, 2015
- Making Inclusionary Housing More Flexible. Hickey, 2015
- Separating Fact from Fiction to Design Effective Inclusionary Housing Programs. Sturtevant, 2016

City Policies.

- Housing Oahu: Affordable Housing Strategy, 2015

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

One-Time Fee Fiscal Impacts to City Revenues

The 10-year average for the one-time fees waived per year would be:

- Plan review and building permit fee waivers \$220,000
- Wastewater system facility charges waiver \$820,000
- Park dedication requirement waiver from \$3,650,000 to \$8,500,000*

Per unit the average one-time fees waived per year would be:

- Plan review and building permit fees and wastewater system facility charges \$7,800
- Park dedication requirement only from \$24,000 to \$57,000
- Total one-time fees waived 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.

Real Property Tax Exemptions for Affordable Rental Units**

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))

One-Time Fee Fiscal Impacts

The one-time exemption for a 100-unit qualifying affordable rental housing project would be:

- Wastewater system facility charges \$390,000
- Plan review and building permit fees \$150,000
- Park dedication requirement \$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.



Harrison Rue
Community Building and TOD Administrator
City and County of Honolulu
650 South King Street, 7th Floor
Honolulu, HI 96813

May 5, 2017

Mr. Rue,

You asked me to summarize the current state of the secondary mortgage market with respect to financing products for buyers of homes with long-term or permanent resale price restrictions.

Affordable housing restrictions do create special lending needs and the programs need to be designed with appropriate care to ensure that the homes are easily financeable. It is not uncommon for new programs to struggle to support lenders in navigating unfamiliar program rules. However, I have worked with hundreds of local programs implementing these types of restrictions and I am not aware of any location where private lenders have ultimately been unable to finance eligible homebuyers because of the local affordable housing requirements.

Fannie Mae, Freddie Mac and FHA all finance deed restricted units with resale price restrictions.

Fannie Mae has the most clearly defined rules. I have attached a short summary of Fannie Mae's policy but the full details are contained in their Selling Guide section B5-5. In my experience, most communities have been able to find local lenders willing to originate to Fannie Mae's guidelines. In some cases, a community must make minor changes to their deed restrictions in order to meet the Fannie Mae guidelines. However, these changes generally don't require any change to important policy objectives or prevent the jurisdiction from ensuring long-term affordability. Fannie Mae, for example will allow restrictions that last any length of time (including permanent restrictions) and has no specific requirement regarding the amount of appreciation that sellers receive.

Freddie Mac does not currently have a formal set of rules that clearly identify the range of resale restrictions that they will accept but they have approved local programs on a case-by-case basis.

FHA's program is the hardest to work with and many commonly used deed restrictions don't work for FHA. FHA's rules, contained in Mortgagee Letter 94-2, require, among other things, that buyers receive at least 50% of any price appreciation and that any restrictions be terminated in the event of foreclosure. A number of cities have negotiated exceptions to the FHA rules so that their buyers can access FHA insured loans while the programs maintain long-term affordability. FHA has developed a draft mortgagee letter to allow more commonly used resale restrictions without requiring an exception but they have not issued it for reasons that are unclear to me. Most cities have been content to work with Fannie Mae and/or Freddie Mac and not found FHA worth pursuing.

Fannie Mae and Freddie Mac are both likely to announce plans to make financing for price-restricted homes even easier later this year. The 2008 HERA legislation created a 'duty to serve' underserved markets for both Enterprises. The final 'duty to serve' rule adopted by the Federal Housing Finance Agency (FHFA) identifies 'shared equity homeownership' as an underserved market. The Enterprises can receive 'duty to serve' credit for activities that they undertake that improve the availability of financing for buyers of homes with affordability restrictions that last 30 years or longer. Draft Duty-to-serve plans will be released later this month.

If you find that it would be helpful, I would be happy to introduce local lenders or developers to key staff at Fannie Mae, Freddie Mac or FHA with familiarity with these programs. I would also be happy to provide introductions to lenders active on the mainland who are successfully underwriting loans on homes with long-term price restrictions.

Sincerely,



Rick Jacobus
Principal
Street Level Advisors



Resale Restrictions

To help address the high cost of housing in some markets, many governmental and nonprofit entities support the development of properties subject to resale restrictions. Those strategies help to create and preserve affordable housing stock in communities over the long term. Resale restrictions are a right in perpetuity or for a certain number of years, stated in the form of a restriction, easement, covenant, or condition in any deed, mortgage, ground lease, agreement, or other instrument executed by or on behalf of the owner of the land.

Resale restrictions may limit the use of all or part of the land to occupancy by persons or families of low- or moderate-income or on the basis of age (senior communities must comply with applicable laws).

Resale restrictions may also restrict the resale price of the property to ensure it is available to future low- and moderate-income borrowers. The restricted resale price provides a subsidy to the homeowner in an amount equal to the difference between the sales price and the market value of the property without resale restrictions.

Resale restrictions are binding on current and subsequent property owners and remain in effect until they are formally removed or modified or terminate in accordance with their terms, such as at a foreclosure sale or upon acceptance of a deed-in-lieu of foreclosure.

Lender Responsibilities

Lenders must review the terms and conditions of the affordable housing program, including any documents that describe the resale restrictions, such as termination or survival upon foreclosure.

When resale restrictions are documented by a second mortgage or deed of trust, the lender must ensure that the second mortgage or deed of trust complies with Fannie Mae's [Community Seconds® guidelines](#). If the resale restrictions are included in a separate covenant or agreement instead of a second mortgage or deed of trust, they must comply, if applicable, with Fannie Mae's requirements related to shared appreciation in property value.

Underwriting Loans for Properties with Resale Restrictions

As detailed in the *Selling Guide*, Fannie Mae will purchase mortgages that are subject to one or more of the following types of resale restrictions (although some restrictions are likely to occur only in combination with others):

- income limits,
- age-related requirements (senior communities must comply with applicable laws),
- purchasers must be employed by the subsidy provider,
- principal residence requirements,
- first-time home buyer requirements as designated by the subsidy provider,
- properties that are group homes or that are principally used to serve disabled residents, and
- resale price limits.

For purchase transactions with resale restrictions that terminate upon foreclosure, the loan-to-value (LTV), combined LTV (CLTV), and home equity CLTV (HCLTV) ratio determination is based solely on the appraised value.

For purchase transactions with resale restrictions that survive foreclosure, the LTV, CLTV, and HCLTV ratios use the lesser of the sales price or the appraised value, which is the standard calculation method. Fannie Mae requires the standard calculation using the lower value because the presence of resale restrictions would limit the property's sale price in the event of foreclosure or acceptance of a deed-in-lieu of foreclosure.



NOTE: Desktop Underwriter® (DU®) has an “affordable LTV ratio determination” to make it easier for lenders to underwrite transactions for resale-restricted properties. Lenders can inform DU that the loan casefile will be underwritten using the resale-restricted feature by entering “Affordable LTV” in the Product Description field in the Additional Data section of the online loan application. When this indication is made, DU will determine the LTV, CLTV, and HCLTV ratios solely on the appraised value for purchase transactions, and not the lesser of the sales price or the appraised value. DU will then issue a message that specifies what lenders need to confirm when indicating the use of the resale-restricted feature.

Resources

For more information refer to the Fannie Mae *Selling Guide* Section [B5-5.3](#): Loans with resale restrictions or contact your Fannie Mae customer account team.

This summary is intended for reference only. All criteria are subject to the formal terms and conditions of the Fannie Mae Selling Guide and Servicing Guide. In the event of any conflict with this document, the Selling Guide and/or Servicing Guide will govern.