

NOTICE OF PUBLICATION AND NOTICE OF PUBLIC HEARING

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Notice is hereby given that the Kaua'i County Council will hold a public hearing on Wednesday, October 9, 2024, at 8:30 a.m., or soon thereafter, at the Council Chambers, 4396 Rice Street, Room 201, Historic County Building, Lihu'e, on the following:

Bill No. 2933

A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUA'I COUNTY CODE 1987, AS AMENDED, RELATING TO THE COMPREHENSIVE ZONING ORDINANCE, INCLUDING MATTERS PERTAINING TO GUEST HOUSES (*Kaua'i County Council, Applicant*) (ZA-2024-3 - *Planning Commission Recommendation*)

This Bill proposes to expand the permissiveness of guest houses in zoning districts Residential R-1 to R-6 and R-10 to R-20, CN (Neighborhood Commercial), CG (General Commercial), AG (Agriculture), O (Open), and UNV (University), and make other technical edits. Specifically, when requirements detailed in the Bill are satisfied: "The development of one (1) guest house per one (1) dwelling unit is authorized in zoning districts R-1 to R-6, R-10 to R-20, CN, CG, AG, O, and UNV." Requirements include, but are not limited to, that every guest house shall: "Be provided with one (1) off-street parking space per guest house in addition to the required off-street parking for all dwelling unit(s)"; "Never be separated in ownership from the ownership of its primary dwelling by any owner or any heir, successor, or assign of any owner, including but not limited to submitting the lot or any portion thereof to a condominium property regime (CPR)"; and "not be used for a transient vacation rental (TVR) or homestay operation within or outside of the visitor destination area (VDA)." Additionally: "A parcel situated within the Special Management Area (SMA) shall be limited to a maximum of one guest house per lot of record." Addition to or modification of these requirements and other amendments to this Bill are possible at future meetings.

Any person may testify at the public hearing, and at any Council and Committee Meeting (at which time any Bill may be amended). Meeting notices and full-text Bills are available at least six (6) days in advance at the Office of the County Clerk, Council Services Division and kauai.gov/Government/Council/Webcast-Meetings. Written testimony may be submitted via counciltestimony@kauai.gov, mail, or fax. For further information, please call (808) 241-4188.

CERTIFICATE OF THE COUNTY CLERK

I hereby certify that the Kaua'i County Council passed on first reading and ordered to print Bill No. 2933 during the September 11, 2024 Council Meeting, by the following vote:

AYES:	Bulosan, Carvalho, Cowden, DeCosta, Kagawa, Kualii,	TOTAL - 7,
	Rapozo	
NOES:	None	TOTAL - 0,
EXCUSED & NOT VOTING:	None	TOTAL - 0,
RECUSED & NOT VOTING:	None	TOTAL - 0.

Lihu'e, Hawai'i
September 11, 2024

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

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

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

(One publication – The Garden Island – September 19, 2024)

**A BILL FOR AN ORDINANCE AMENDING CHAPTER 8,
KAUA‘I COUNTY CODE 1987, AS AMENDED, RELATING TO THE
COMPREHENSIVE ZONING ORDINANCE, INCLUDING MATTERS
PERTAINING TO GUEST HOUSES**

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

SECTION 1. Findings and Purpose. The Council of the County of Kaua‘i finds that housing supply remains limited and that even residents with means of payment or who are approved for housing assistance struggle to locate available homes for rental or purchase. Therefore, the purpose of this Ordinance is to expand the permissiveness of guest houses in zoning districts Residential R-1 to R-6 and R-10 to R-20, CN (Neighborhood Commercial), CG (General Commercial), AG (Agriculture), O (Open), and UNV (University), and make other technical edits.

SECTION 2. Chapter 8, Section 8-1.4 (Application of Regulations), Kaua‘i County Code 1987, as amended, is amended by adding a new Subsection (i) to be appropriately inserted and read as follows:

“(i) The development of one (1) guest house per one (1) dwelling unit is authorized in zoning districts R-1 to R-6, R-10 to R-20, CN, CG, AG, O, and UNV, provided that every guest house shall:

(1) Meet all applicable development standards and other requirements for the particular Use District;

(2) Meet all other applicable governmental rules, regulations, ordinances, statutes, and laws;

(3) Be provided with one (1) off-street parking space per guest house in addition to the required off-street parking for all dwelling unit(s);

(4) Never be separated in ownership from the ownership of its primary dwelling by any owner or any heir, successor, or assign of any owner, including but not limited to submitting the lot or any portion thereof to a condominium property regime (CPR); and

(5) A guest house shall not be used for a transient vacation rental (TVR) or homestay operation within or outside of the visitor destination area (VDA).

(6) A parcel situated within the Special Management Area (SMA) shall be limited to a maximum of one guest house per lot of record.

(7) Prior to building permit review for a guest house, the following public facilities shall be found adequate to service the guest house:

(A) For sewerred areas, the availability and capability of a public sewer system shall be confirmed in writing by the Department of Public Works. The availability of a private sewer system or an individual wastewater system shall be confirmed in writing by the State of Hawai'i Department of Health.

(B) The availability of water (including but not limited to source, transmission, and storage lines/facilities) shall be confirmed in writing by the Department of Water.

(C) Approval in writing for a guest house from the Kaua'i Fire Department shall be required.

(8) The Guest House Clearance Form as prescribed by the Planning Director shall be completed prior to application for a building permit and shall be submitted with the building permit application. All requirements and conditions on the completed Guest House Clearance Form shall be met prior to issuance of a building permit based on legal requirements at the time of building permit issuance. The Planning Director shall certify the Guest House Clearance Form as complete only if every signature blank on the form has been signed by the respective department or agency, and the applicant has signed an affidavit prescribed by the Planning Director."

SECTION 3. Chapter 8, Section 8-2.1 (Districts), Kaua'i County Code 1987, as amended, is amended by clarifying that the Agriculture District can read as either "A" or "AG," and by adding reference to the Special Treatment—ST:Coastal Edge—ST-CE (created in 2020) and the University District (created in 2017), to read as follows:

"To carry out the purposes of this Chapter, the major and minor districts into which the County of Kaua'i may be divided and their official abbreviated designations are as follows:

- (a) Residential—R:
 - (1) R-1
 - (2) R-2
 - (3) R-4
 - (4) R-6
 - (5) R-10
 - (6) R-20
 - (7) R-40
- (b) Resort—RR:
 - (1) RR-10
 - (2) RR-20
- (c) Commercial—C:
 - (1) Neighborhood Commercial—CN
 - (2) General Commercial—CG
- (d) Industrial—I:
 - (1) Limited Industrial—IL
 - (2) General Industrial—IG
- (e) Agriculture—A or AG

- (f) Open—O
- (g) Special Treatment—ST:
 - (1) Public Facilities—ST-P
 - (2) Cultural/Historic—ST-C
 - (3) Scenic/Ecological—ST-R
 - (4) Open Space—ST-O
 - (5) Coastal Edge—ST-CE
- (h) Constraint—S:
 - (1) Drainage—S-DR
 - (2) Flood—S-FL
 - (3) Shore—S-SH
 - (4) Slope—S-SL
 - (5) Soils—S-SO
 - (6) Tsunami—S-TS
- (i) University—UNV

SECTION 4. Chapter 8, Section 8-2.4 (Uses in Districts), Kaua‘i County Code 1987, as amended, is amended by amending its Table 8-2.4 (Table of Uses) by deleting the entire row Sec. 8-2.4(a)(2) (“Accessory structures and uses, including one guest house”) and renumbering the remaining row Sec. 8-2.4(a)(1), at column “Sec.” only, to read as: “8-2.4(a)”.

SECTION 5. Chapter 8, Section 8-15.1 (Additional Dwelling Unit on Other Than Residentially Zoned Lots), Kaua‘i County Code 1987, as amended, is amended by amending its Subsection (d) to read as follows:

“(d) Notwithstanding the expiration of Subsection (a), and subject to compliance with all applicable legal requirements and conditions, a Building Permit for an additional dwelling unit shall be granted for a lot in existence as of December 31, 2006 which, up to December 31, 2006, was eligible to apply for an additional dwelling unit under Subsection (a) and for which an ADU Facilities Clearance Form is certified as complete by the Planning Director as of June 15, 2007, or for which an ADU Facilities Clearance form was signed by the authorized employees of all agencies or departments listed in the ADU Facilities Clearance Form and submitted with a Building Permit application prior to November 22, 2006, provided that:

(1) The term “lot in existence as of December 31, 2006,” as used in Subsection (d) shall not apply to any lot created by the relocation of a kuleana lot by consolidation and resubdivision pursuant to the provisions of Chapter 9, Kaua‘i County Code 1987, as amended (“Subdivision Ordinance”), where such consolidation and resubdivision occurs after December 31, 2006.

(2) All applicable County requirements not inconsistent with Sec. 46-4(c), Hawai‘i Revised Statutes, and the County’s zoning provisions applicable to residential use are met, including, but not limited to, building height, setback, maximum lot coverage, parking, and floor area requirements.

(A) If the additional dwelling unit is to be built in a Special Treatment District or Constraint District, all requirements of such district shall be met.

(B) Notwithstanding any other provision to the contrary, for lots in the Urban and Rural State Land Use Districts which were rezoned from Residential to Open District after September 1, 1972, the maximum lot coverage shall be the same as the Residential District requirement.

(3) The provisions of this Subsection shall not apply to lots developed under a project development, or other multi-family development, or similar provisions where the aggregate number of dwelling units for such development exceeds the density otherwise allowed in the zoning district, or where additional dwelling units are specifically prohibited by zoning ordinance.

(4) For lots on which an additional dwelling unit is developed, [no] guest house [under Sec. 8-4.3(a)(2) shall be allowed.] allowances shall be governed by Section 8-1.4(i). [An existing guest house may be converted into an additional dwelling unit, but no additional guest house may be constructed.]

(5) The following public facilities are found adequate to service the additional dwelling unit:

(A) Public sanitary sewers, an individual wastewater system (or cesspool), or a private sanitary sewer system built to County standards and approved by the Department of Health.

(B) For sewerred areas, the availability and capability of a public sewer system shall be confirmed in writing by the Department of Public Works. The availability of a private sewer system shall be confirmed in writing by the Department of Health.

(C) The availability of water (including, but not limited to, source, transmission, and storage lines/facilities) shall be confirmed in writing by the Department of Water.

(D) Approval in writing from the Kaua'i Fire Department is required for all parcels.

(6) An ADU Facilities Clearance Form as prescribed by the Planning Director shall be completed prior to application for a Building Permit and shall be submitted with the Building Permit application. Completion of the ADU Facilities Clearance Form shall not guarantee the issuance of a Building Permit. All requirements and conditions on the completed ADU Facilities Clearance Form shall be met prior to issuance of a Building Permit based on legal requirements at the time of Building Permit issuance. The Planning Director shall certify the ADU Facilities Clearance Form as complete, only if every signature blank on the Form has been signed by the respective department or agency, and the applicant has signed an affidavit prescribed by the Planning Director verifying: (A) that there is no restriction or covenant applicable in any deed, lease, or other recorded document which prohibits the construction or placement of an additional dwelling unit on the applicable lot; and (B) that the applicant understands that completion of an ADU Facilities Clearance Form does not guarantee or vest any right to a Building Permit, and that all conditions and requirements in existence at the time of Building

Permit application shall be met before a Building Permit can be issued. The Planning Department shall keep a record of all ADU Facilities Clearance Forms that are issued and shall retain the original affidavits and the original ADU Facilities Clearance Forms that are certified as complete by the Department.

(7) The applicant shall obtain a re-certification from the Planning Department certifying that applicant has met the requirements set forth in Sec. 8-15.1(d)(6). A regulatory fee of Two hundred fifty dollars shall be charged upon registration for a re-certification. If the applicant fails to obtain a re-certification by June 30, 2017, the entitlement to the additional dwelling unit shall be deemed terminated and no building permit shall be issued for the additional dwelling unit. The Planning Director shall notify the applicant in writing that the entitlement to the additional dwelling unit has been terminated. The applicant may appeal the termination to the Planning Commission in accordance with the Rules of Practice and Procedure of the Planning Commission.

(8) Where a regulatory fee has been paid, the fee payment shall be deposited to the "ADU Re-certification Fund." There is hereby established and created a fund to be known as the "ADU Re-certification Fund." The fees collected pursuant to this subsection are hereby deemed appropriated upon receipt, and may be expended by the Department of Planning for the hiring of persons employed on a fee, contract, or piecework basis, or independent contractors to assist in conducting inspections. The maximum number of persons that may be hired with these fees shall be determined by the Budget Ordinance. The fees may also be expended for materials, supplies, and equipment that facilitate inspections, and for payment of overtime to conduct inspections.

(9) Nothing contained in this Section shall affect private covenants or deed restrictions that prohibit the construction of a [second dwelling unit] specified number of dwelling units on any lot.

(10) Notwithstanding any law to the contrary:

(A) it is the applicant's responsibility to resolve any outstanding conditions with the respective governmental agencies; and

(B) new assessments may be applicable to the property that is the subject of the ADU Facilities Clearance Form."

SECTION 6. Chapter 8, Section 8-15.2 (Additional Dwelling Unit on Residentially Zoned Lots), Kaua'i County Code 1987, as amended, is amended to read as follows:

"(a) Notwithstanding other provisions to the contrary, for any residentially zoned lot where only [one] one (1) [single family] single-family residential dwelling is permitted, [one] one (1) additional [single family] single-family residential dwelling unit (attached or detached) may be developed, provided:

(1) All applicable County requirements, not inconsistent with [Sec.] Section 46-4(c), Hawai'i Revised Statutes and the County's zoning

provisions applicable to residential use are met, including, but not limited to, building height, setback, maximum lot coverage, parking, and floor area requirements.

(2) The provisions of this Subsection shall not apply to lots developed under a project development, or other multi-family development, or similar provisions where the aggregate number of dwelling units for such development exceeds the density otherwise allowed in the zoning district.

(3) For residentially zoned lots on which an additional dwelling unit is developed, [no] guest house [under Sec. 8-4.3(a)(2) shall be allowed.] allowances shall be governed by Section 8-1.4(i). [An existing guest house may be converted into a dwelling unit but no additional guest house may be constructed.]

(4) The following public facilities are found adequate to service the additional dwelling unit:

(A) Public sanitary sewers, an individual wastewater system (or cesspool), or a private sanitary sewer system built to County standards and approved by the Department of Health.

(B) For sewered areas, the availability and capability of a public sewer system shall be confirmed in writing by the Department of Public Works. The availability of a private sewer system shall be confirmed in writing by the Department of Health.

(C) The availability of water shall be confirmed in writing by the Department of Water.

(D) Approval in writing from the Kaua'i Fire Department is required for all parcels.

(5) Facilities clearance may be obtained prior to application for Building Permit. Forms for facilities clearance will be available from the Building Division, Department of Public Works. The form, approved by all agencies, shall be submitted with the Building Permit application. Where complete plans and specifications are submitted for Building Permit application processing, the submission of the Facilities Clearance Form will be attached with the Building Permit and processed concurrently.

(6) Nothing contained in this Section shall affect private covenants or deed restrictions that prohibit the construction of a [second dwelling unit] specified number of dwelling units on any residential lot. The provisions of this Section shall be subject to the provisions of Chapter 22, Kaua'i County Code 1987, as amended, Section 22-28. Limiting or Prohibiting Long-Term Rentals, Additional Dwelling Units, Additional Rental Units, and Guest Houses.”

SECTION 7. If any provision of this Ordinance or application thereof to any person or circumstance is held invalid, the invalidity does not affect the other provisions or applications of this Ordinance that can be given effect without the

invalid provision or application, and to this end, the provisions of this Ordinance are severable.

SECTION 8. Ordinance material to be repealed is bracketed. New Ordinance material is underscored. When revising, compiling, or printing this Ordinance for inclusion in the Kaua'i County Code 1987, as amended, the brackets, bracketed material, and underscoring shall not be included.

SECTION 9. This Ordinance shall take effect upon its approval.

Introduced by:



MEL RAPOZO



BILL DECOSTA

DATE OF INTRODUCTION:

September 11, 2024

Līhu'e, Kaua'i, Hawai'i

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CERTIFICATE OF THE COUNTY CLERK

I hereby certify that heretofore attached is a true and correct copy of Bill No. 2933, which was passed on first reading and ordered to print by the Council of the County of Kaua'i at its meeting held on September 11, 2024, by the following vote:

FOR PASSAGE:	Bulosan, Carvalho, Cowden, DeCosta, Kagawa, Kualii, Rapozo	TOTAL – 7,
AGAINST PASSAGE:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Lihu'e, Hawai'i
September 11, 2024



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