Planning

ORDINANCE NO. 1002 COUNTY OF KAUAI BILL NO. **2619, Draft 2**

16 JUN -6 P4:24

A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUA'I COUNTY CODE 1987, AS AMENDED, RELATING TO HOMESTAYS

PLANNING DEPT.

(County of Kaua'i, Applicant)

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF KAUA'I, STATE OF HAWAI'I:

SECTION 1. Findings and Purpose: The Council finds the 2000 Kaua'i General Plan recognized the need "to develop a clear policy regarding B&Bs and vacation rentals." The General Plan recommended an implementing action to amend the CZO to facilitate the permitting of existing, nonconforming alternative visitor accommodations. The Council complied with the policy of the General Plan and grandfathered existing single-family transient vacation rentals (SFTVRs) that registered and met the prior use requirements established in Article 17 of the CZO.

In Ordinance No. 864, the Council further found that:

> This bill does not apply to a bed and breakfast unit ("Homestay"). It is the intention of the Council to address these units as a separate matter after establishing a regulatory framework for single-family transient vacation rentals. Homestays are presently regulated through the use permit process.

Although the Council bifurcated the issues of homestays and SFTVRs, it is now appropriate to adopt a clear and specific standard and review parameters under which homestay applications can be processed.

The purpose of this bill is to restrict homestay operations to the Visitor Destination Areas (VDAs) and to establish additional standards under which homestays operate.

SECTION 2. Chapter 8, Article 2, Section 8-2.4 of the Kaua'i County Code 1987, as amended, is hereby amended by adding two uses to the "Table of Uses" to read as follows:

"ARTICLE 2. DESIGNATION OF DISTRICTS, METHOD AND EFFECT OF ESTABLISHMENT OF DISTRICTS, AND ZONING MAPS

Table 8-2.4 TABLE OF USES

Sec.	USE	ZONING DISTRICT								
		Residential			Commercial		Industrial			
		R-1 to R-6	R-10 to R-20	RR	CN	CG	IL	IG	AG	O
8-2.4(u)(1)	Homestay									
8-2.4(u)(2)	Homestay located in the Visitor Destination Area (VDA), pursuant to Article 18 of this Chapter	P	P	P	P	P"				

SECTION 3. Chapter 8, Article 18, Section 8-18.1 of the Kaua'i County Code 1987, as amended, is hereby amended to read as follows:

"Sec. 8-18.1 General Provisions for Homestays

[On a first-come-first-serve basis of applications deemed complete by the Planning Department, no more than ten (10) new applications for homestay operations shall be accepted for review by the Planning Commission in each of the calendar years 2015 and 2016. The limitation on the number of applications shall expire on December 31, 2016, or upon passage of an amendment to this section, whichever occurs first. No homestay may be operated on land located in the State Land Use Agricultural District unless the owner obtains a special permit pursuant to Section 205-6 of the Hawai'i Revised Statutes.]

(a) A homestay operation shall operate under the following regulations:

(1) Transient accommodations are provided for visitors for twenty-nine (29) days or less;

(2) Homestays shall be limited to no more than three (3) guest rooms per homestay operation;

(3) During homestay operations, the owner(s) benefiting under Sec. 5A-11 of this Code for a homeowner's exemption for the homestay site must be physically within the County of Kaua'i, residing at the homestay operation site, and physically available for the needs and concerns of their respective homestay guests; and

(4) No other individual or designated representative may act on the owner(s) behalf to meet the requirements of Sec 8-18.1(a)(3).

(b) Homestay operations are prohibited outside of the Visitor Destination Area (VDA)."

SECTION 4. Chapter 8, Article 18, of the Kaua'i County Code 1987, as amended, is hereby amended by adding a new Section 8-18.2 to read as follows:

"**Sec 8-18.2 Development Standards for Homestays**

Development standards for homestay operations shall be the same as those for residential dwellings in Section 8-4.5 through 8-4.8 of this Code, inclusive, with the following additions:

(a) Each bedroom used for homestay purposes shall require one (1) additional paved and designated off-street parking stall;

(b) At a minimum, the residential structure(s) used for the homestay operation shall be serviced by a septic system approved by the State Department of Health;

(c) The owner(s) benefitting under Sec. 5A-11 of this Code for a homeowner's exemption for the respective homestay site shall be available on a 24-hour, 7-days-per-week basis during homestay operations. The owner(s) shall provide the name and contact information to neighbors adjacent to and directly across the subject homestay, the Planning Department, the Kaua'i Police Department, the Kaua'i Civil Defense Agency, and the Kaua'i Visitors Bureau upon issuance of a homestay zoning permit;

(d) One (1) outdoor sign no larger than one (1) square foot shall be posted in a visible place on a wall, fence, or post immediately inside or on the front boundary of the property where it is easy to see, for the purpose of providing the current homestay zoning permit number and the 24-hour contact information. No other signs shall be allowed and there shall be no direct illumination of the required sign. The numbers on the sign shall be no smaller than two inches (2") in height;

(e) The homestay operator shall provide a list of requirements and information entitled "For the Safety and Comfort of You and Your Neighbors." This shall provide essential information to the visitor and shall seek to reduce negative impacts on the surrounding neighborhood. This information piece shall be provided to the Planning Department at time of application and shall be posted in a conspicuous place in the guest's sleeping quarters along with a copy of the zoning permit number. The list shall include, but not be limited to, suggested curfews, guidance with respect to the character of the neighborhood and gatherings and noise, and what to do in cases of emergency and natural disaster. For those homestays located in the tsunami evacuation zone, renters must be informed that the homestay is located in the tsunami evacuation zone and of the corresponding evacuation procedures;

(f) All print and internet advertising for homestay operations, including listings with a rental service or real estate firm, shall include the zoning permit number and give notice that the homestay operation is located in the tsunami evacuation zone where applicable;

(g) A copy of the zoning permit shall be displayed on the back of the front door of the sleeping quarters; and

(h) A site and floor plan shall be filed with the application."

SECTION 5. Chapter 8, Article 18, of the Kaua'i County Code 1987, as amended, is hereby amended by adding a new Section 8-18.3 to read as follows:

"**Sec. 8-18.3 Renewal of Homestay Zoning Permits**

A property owner that has obtained a homestay zoning permit shall apply to renew the zoning permit annually on the date of issuance of the homestay zoning permit in accordance with the following regulations:

(a) Each application to renew shall include proof that there is currently a valid State of Hawaii general excise tax license and transient accommodations tax license for the homestay operation. Failure to meet this condition will result in the automatic denial of the application for renewal of the homestay zoning permit(s). The applicant may reapply for renewal within the annual time allotment by presenting a currently valid State of Hawaii general excise tax license and transient accommodation tax license for the homestay operation;

(b) Each application to renew shall include proof that the primary residential structure(s) used for the homestay operation is the owner's primary residence, and the respective owner is benefiting under Sec. 5A-11 of this Code for a

homeowner's exemption for the homestay site in the year preceding the date of renewal;

(c) Upon renewal, the Planning Department may initiate re-inspection of properties for compliance with other provisions of this chapter or other pertinent land use laws, and may withhold approval of a renewal application and issue cease and desist notices to the applicant until all violations have been resolved;

(d) The applicant shall pay a renewal fee of seven hundred fifty dollars ($750.00) to the Director of Finance. All renewal fees shall be deposited to the Transient Accommodation Enforcement Account within Fund 251; and

(e) Enforcement of this section shall be subject to Section shall be 8-3.5 of the Kauai County Code 1987, as amended."

SECTION 6. Chapter 8, Article 18, of the Kaua'i County Code 1987, as amended, is hereby amended by adding a new Section 8-18.4 to read as follows:

"**Sec. 8-18.4 Transient Accommodation Enforcement Account**

There is hereby established and created an account to be known as the "Transient Accommodation Enforcement Account" within Fund 251. The fees collected pursuant to Section 8-18.3 are hereby deemed appropriated upon receipt and may be expended to retain independent contractors to assist in the enforcement of illegally operating transient accommodations. The fees may also be expended for materials, supplies, equipment, and training that facilitate inspection and enforcement of such violations. Council notification is required for any single expenditure from this account which exceeds $10,000. Any fines collected when the account has an excess of $250,000.00 in uncommitted funds shall be transferred and deposited into the General Fund at the close of the fiscal year. The Planning Department shall annually report to the Council, as part of the Mayor's budget submittal on March 15 of each year, the expenditures and outcomes of said account."

SECTION 7. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Ordinance which 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, the brackets, bracketed material, and underscoring need not be included.

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

Introduced by: /s/ MASON K. CHOCK
(By Request)

DATE OF INTRODUCTION:

March 9, 2016

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. 2619, Draft 2, which was adopted on second and final reading by the Council of the County of Kaua'i at its meeting held on May 18, 2016 by the following vote:

FOR ADOPTION:	Chock, Kagawa, Kaneshiro, Kuali'i,	TOTAL – 4,
AGAINST ADOPTION:	Hooser, Yukimura, Rapozo	TOTAL – 3,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Līhu'e, Hawai'i
May 19, 2016

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

ATTEST:

Mel Rapozo
Chairman & Presiding Officer

DATE OF TRANSMITTAL TO MAYOR:

May 19, 2016

Approved this 3rd day of June, 2016.

Bernard P. Carvalho, Jr.,
Mayor
County of Kaua'i