

NOTICE OF PUBLICATION AND NOTICE OF PUBLIC HEARING

Notice is hereby given that the Council of the County of Kaua'i will hold a public hearing on Wednesday, July 17, 2019, at 1:30 p.m., or soon thereafter, at the Council Chambers, 4396 Rice Street, Room 201, Historic County Building, Līhu'e, on the following:

Bill No. 2693

A BILL FOR AN ORDINANCE AMENDING SUBSECTION 8-15.1(d), KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO ADDITIONAL DWELLING UNIT ON OTHER THAN RESIDENTIALLY ZONED LOTS

This Bill proposes to amend Subsection 8-15.1(d), Chapter 8, Kaua'i County Code 1987, as amended, relating to Additional Dwelling Unit (ADU) On Other Than Residentially Zoned Lots, by eliminating the requirements for a) submittal of a building permit application prior to November 22, 2006, and b) certification by the Planning Director that an ADU Facilities Clearance Form was complete as of June 15, 2007. This Bill further amends the deadline of February 15, 2015 to December 31, 2021, for qualified properties to obtain recertification of an existing ADU Facilities Clearance Form from the Planning Department, pursuant to Sec. 8-15.1, Kaua'i County Code 1987, as amended.

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

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

CERTIFICATE OF THE COUNTY CLERK

I hereby certify that the foregoing Bill No. 2693 was passed on first reading and ordered to print by the Council of the County of Kaua'i at its meeting held on June 13, 2019, by the following vote:

AYES: Brun, Cowden, Evslyn, Kagawa, Kaneshiro	TOTAL – 5,
NOES: None	TOTAL – 0,
EXCUSED & NOT VOTING: Chock, Kualii	TOTAL – 2,
RECUSED & NOT VOTING: None	TOTAL – 0.

Līhu'e, Hawai'i
June 14, 2019

/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 – June 21, 2019)

**A BILL FOR AN ORDINANCE AMENDING SUBSECTION 8-15.1(d),
KAUA'I COUNTY CODE 1987, AS AMENDED,
RELATING TO ADDITIONAL DWELLING UNIT
ON OTHER THAN RESIDENTIALLY ZONED LOTS**

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

SECTION 1. Chapter 8, Kaua'i County Code 1987, as amended, is hereby amended by amending Subsection 8-15.1(d) 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,] as of June 15, 2007, 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 re-zoned 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. 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.

(E) The lot must have direct access to a street which has an all-weather surface (asphalt or concrete) roadway pavement continuous to the major thoroughfare, or if the street does not have such all-weather surface at the time of application for a Building Permit, there exists funds specifically appropriated in the capital improvement budget ordinance for such roadway pavement. The Planning Director and County Engineer shall apply the standards and criteria for requiring road improvements established in the Subdivision Ordinance and the "Kaua'i County Planning Commission Road Widening Policy" (as may be amended from time to time), for those roads which are considered substandard.

(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 (\$250.00) shall be charged upon registration for a re-certification. If the applicant fails to obtain a re-certification by [February 15, 2015,] December 31, 2021, 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 piecemeal 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 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 2. 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 3. Ordinance material to be repealed is bracketed. New 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 need not be included.

SECTION 4. This Ordinance shall take effect upon its approval.

Introduced by:


MEL RAPOZO

DATE OF INTRODUCTION:

June 13, 2019

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. 2693, which was passed on first reading and ordered to print by the Council of the County of Kaua'i at its meeting held on June 13, 2019, by the following vote:

FOR PASSAGE:	Brun, Cowden, Evslin, Kagawa, Kaneshiro	TOTAL – 5,
AGAINST PASSAGE:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Chock, Kualii	TOTAL – 2,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Lihu'e, Hawai'i
June 13, 2019



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