

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 Thursday, June 13, 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. 2749

A BILL FOR AN ORDINANCE AMENDING SUBSECTION 8-1.5 AND SUBSECTION 8-4.3, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO DEVELOPMENT STANDARDS WITHIN THE RESIDENTIAL DISTRICT (*County of Kaua'i Planning Department, Applicant*)

This Bill proposes to amend Chapter 8, Kaua'i County Code 1987, as amended, by amending Section 8-1.5, Definitions, and Section 8-4.3, Development Standards for Residential Structures Not Involving the Subdivision of Land.

The purpose of this Bill is to amend the setback standards involving residential structures. The proposed amendments remove inconsistencies in the interpretation and application of setback requirements, and allows more flexibility when siting a building on a residential lot, thereby enabling the homeowner better utilization of the property.

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. 2749 was passed on first reading and ordered to print by the Council of the County of Kaua'i at its meeting held on May 8, 2019, by the following vote:

AYES: Brun, Chock, Cowden, Evslin, Kagawa, Kualii, Kaneshiro	TOTAL – 7,
NOES: None	TOTAL – 0,
EXCUSED & NOT VOTING: None	TOTAL – 0,
RECUSED & NOT VOTING: None	TOTAL – 0.
Līhu'e, Hawai'i	/s/ Jade K. Fountain-Tanigawa
May 8, 2019	County Clerk, County of Kaua'i

NOTE: SPECIAL ACCOMMODATIONS AND SIGN LANGUAGE INTERPRETER AND INTERPRETERS FOR NON-ENGLISH SPEAKING PERSONS ARE AVAILABLE UPON REQUEST FIVE (5) DAYS PRIOR TO THE MEETING DATE, TO THE COUNTY CLERK, 4396 RICE STREET, SUITE 209, LIHU'E, KAUAI, HAWAII, 96766. TELEPHONE NO. (808) 241-4188. FACSIMILE NO. (808) 241-6349.

**A BILL FOR AN ORDINANCE AMENDING SUBSECTION 8-1.5 AND
SUBSECTION 8-4.3, KAUAI COUNTY CODE 1987, AS AMENDED,
RELATING TO DEVELOPMENT STANDARDS WITHIN THE
RESIDENTIAL DISTRICT**

(County of Kaua'i Planning Department, Applicant)

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF KAUAI, STATE OF HAWAII:

SECTION 1. Findings and Purpose. The purpose of this ordinance is to amend the setback standards involving residential structures.

The application of the residential setback requirements can be misleading at times since the standards would be contingent upon the orientation of the residential structure as it relates to the front of the building and the front of the property that is along the roadway. Therefore, in an effort to standardize the requirements to avoid any confusion, the department feels it is necessary to revise the current language to assist contractors, developers, architects, and the homeowner by allowing more flexibility in siting a building on a residential lot, and it will further remove some inconsistencies relative to the setback requirements.

The present Comprehensive Zoning Ordinance requirements also create hardships for property owners that have limited amount of land area and/or oddly configured lots. The present requirements limits design flexibility of the accessory structure(s) as well as the primary dwelling.

With similar lots being created through subdivision, open space and private lawn areas are beginning to shrink in size. Therefore, it is important to relax the setback requirements to enable the homeowner better utilization of his property without creating adverse impacts to the surroundings.

SECTION 2. Chapter 8, Article 1, Kaua'i County Code 1987, as amended, is hereby amended by amending the definition of "Front, Building" to read as follows:

"Front, Building" means the side of a building or structure nearest the street on which the building fronts[, or the side intended for access from public area]. In cases where this definition is not applicable, the Planning Director shall make the determination."

SECTION 3. Chapter 8, Article 4, Kaua'i County Code 1987, as amended, is hereby amended by amending Sec. 8-4.3 to read as follows:

“Sec. 8-4.3 Development Standards for Residential Structures Not Involving the Subdivision of Land.

(a) Parcel Area. Parcel area shall be as follows:

(1) The parcel area required for single family detached dwelling units shall be calculated in accordance with the density and acreage limitations in the particular Residential Density District, as provided in Sec. 8-4.2, except that, one (1) single family detached dwelling unit may be constructed on any legal lot or parcel of record as of August 17, 1972, even if the lot or parcel is smaller than is required in the density district in which the lot or parcel is located.

(2) Subject to the density and acreage limitations in the particular Residential Density District, as provided in Sec. 8-4.2, the minimum parcel area on which two (2) or more attached single family dwellings may be developed shall be twelve thousand (12,000) square feet.

(3) Subject to the density and acreage limitations in the particular Residential Density District, as provided in Sec. 8-4.2, the minimum parcel area on which two (2) or more multiple family dwelling units may be developed shall be ten thousand (10,000) square feet.

(b) Setback requirements. Setback requirements shall be as follows:

(1) Front setback: No [building] structure, including but not limited to garages, carport, decks above grade, and accessory or storage structures may be closer than ten (10) feet to the right-of-way line of a public thoroughfare or the property line of a private street or the pavement line of a driveway or parking lot serving more than three (3) dwelling units.

[(2) No garage, carport or storage building may be closer than ten (10) feet to the right-of-way line of a public thoroughfare.]

(2) Rear setback: No structure shall be closer than (5) feet or one-half (1/2) the total height of the building wall nearest the rear property line, whichever is greater.

(3) Side setback: No building shall be closer to a side property line than five (5) feet or one-half (1/2) the total height of the highest building wall from the ground level nearest the property line, whichever is greater.

(4) No eave, roof overhang, or other appurtenance to a building, other than a fence under six (6) feet in height, shall project into any setback more than one-half (1/2) the distance of the setback, or four (4) feet, whichever is less.

(5) No balconies, overhead walkways, decks, carports or other exterior spaces intended for human occupancy above the ground floor of any building, shall penetrate the setback area.

[(6) No building shall be closer than ten (10) feet to the rear property line. Accessory buildings and garden or service shelters not higher than seven (7) feet nor covering more than four hundred (400) square feet, nor exceeding twenty percent (20%) of the rear property line in the longest dimension facing the rear property line, may be built without setback. Accessory buildings higher than seven (7) feet shall not be set back less than five (5) feet from the rear property line or one-half (1/2) the total height of the building wall nearest the property line measured from the ground level to the wall plate line, whichever is greater.

(7) The front side of any building shall not be closer than ten (10) feet from any property line, and the rear side of any building shall not be closer than fifteen (15) feet from any property line.]

[(8)] (6) Greater setbacks because of topographic, drainage, sun exposure or privacy conditions may be required and made a condition for a Zoning Permit.

(c) Minimum distance between [buildings.] structures. Minimum distance between [buildings] structures shall be [as follows:] ten (10) feet.

[(1) Minimum distance between detached buildings containing dwelling units shall be:

End to end or side to side or end to side	10 feet
Front to end or side	20 feet
Front to front	20 feet
Front to rear	25 feet
Rear to rear	30 feet
Rear to end or side	20 feet

All dimensions shall be increased five (5) feet for each story over one (1) in both buildings.

(2) The minimum distance between detached accessory buildings and between dwelling unit buildings and detached accessory buildings shall be ten (10) feet.]

(d) Parcel Dimension Requirements. Parcel dimension requirements shall be as follows:

(1) A parcel large enough to qualify for two (2) or more dwelling units shall conform to the following requirements before any person is permitted to develop more than one (1) single family dwelling unit and accessory buildings on the parcel:

(A) The minimum frontage on a public or private street shall be twenty-five (25) feet unless the parcel is a flag lot.

(B) The minimum average width of the existing parcel, excluding the flag portion of a flag lot, shall be sixty (60) feet.

(2) Requirements for parking, access, driveways, building height, utilities and other regulations not specified in this Section shall be the same as those required of all residential development as established in Sec. 8-4.5.

(3) The amount of land coverage created including buildings and pavement, shall not exceed [fifty percent (50%)] sixty percent (60 %) of the lot or parcel area.

(e) Open Space. When development on a parcel meeting the density and parcel area requirements of this Section results in the designation of areas within the parcel for open space use, the area shall be designated on a map of the parcel as permanent open space and the map shall be recorded with the Bureau of Land Conveyances. In addition, the areas shall automatically be transferred to the Open District for zoning purposes.”

SECTION 4. Severability. If any provision of this ordinance or the application thereof to any person or property or circumstances is held invalid, the invalidity does not affect 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 declared severable.

SECTION 5. 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 need not be included.

SECTION 6. Effective Date. This Ordinance shall take effect upon its approval.

Introduced by:



MASON K. CHOCK
(By Request)

DATE OF INTRODUCTION:

May 8, 2019

Līhu'e, Kaua'i, Hawai'i


V:\BILLS\2018-2020 TERM\PDB RES SETBACKS (MC:amk)

CERTIFICATE OF THE COUNTY CLERK

I hereby certify that heretofore attached is a true and correct copy of Bill No. 2749, which was passed on first reading and ordered to print by the Council of the County of Kaua'i at its meeting held on May 8, 2019, by the following vote:

FOR PASSAGE:	Brun, Chock, Cowden, Evslin, Kagawa, Kualii, Kaneshiro	TOTAL - 7,
AGAINST PASSAGE:	None	TOTAL - 0,
EXCUSED & NOT VOTING:	None	TOTAL - 0,
RECUSED & NOT VOTING:	None	TOTAL - 0.

Lihu'e, Hawai'i
May 8, 2019



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