



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, September 9, 2020, at 1:30 p.m., or soon thereafter, at the Council Chambers, 4396 Rice Street, Room 201, Historic County Building, Lihue, on the following:

Bill No. 2796

A BILL FOR AN ORDINANCE AMENDING CHAPTER 8 OF THE KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO COMPREHENSIVE ZONING ORDINANCE (CZO) (*County of Kaua'i Planning Department, Applicant*) (ZA-2020-16)

This Bill proposes to amend Chapter 8, Section 1.5, Kaua'i County Code 1987, as amended, by amending the definitions of "Applicant" and "Owner" to eliminate the seventy-five percent (75%) or more equitable and legal title requirement. The purpose of this Bill is to clarify who qualifies as an "owner" and who may submit an application for zoning permits pursuant to this Chapter. This Bill further proposes to amend the definition of "Applicant" by eliminating "lessees" or anyone other than the owner, from being an "Applicant." The purpose of this amendment is to ensure that it is the owner that authorizes any proposed zoning application and not the leaseholder whose lease term may be close to its expiration date.

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 Bills are available at the Office of the County Clerk, Council Services Division.

(The Council Committee or Council may amend this Bill at their 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. 2796 was passed on first reading and ordered to print by the Council of the County of Kaua'i at its meeting held on August 5, 2020, by the following vote:

AYES:	Chock, Cowden, Evslin, Kagawa, Kualii, Kaneshiro	TOTAL – 6,
NOES:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Brun	TOTAL – 1*,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Lihue, Hawai'i
August 5, 2020

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

*Beginning with the March 11, 2020 Council Meeting and until further notice, Councilmember Arthur Brun will not be present due to U.S. v. Arthur Brun et al., Cr. No. 20-00024-DKW (United States District Court), and therefore will be noted as excused (i.e., not present).

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 – August 12, 2020)

**A BILL FOR AN ORDINANCE AMENDING CHAPTER 8 OF THE
KAUA'I COUNTY CODE 1987, AS AMENDED, RELATING TO
COMPREHENSIVE ZONING ORDINANCE (CZO)**

(County of Kaua'i Planning Department, Applicant) (ZA-2020-16)

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

SECTION 1. Chapter 8, Section 1.5 of the Kaua'i County Code 1987, as amended, shall be amended as follows:

“**Applicant**” means [any person having a controlling interest (seventy-five percent (75%) or more of the equitable and legal title) of a lot; any person leasing the land of another under a recorded lease having a stated term of not less than five (5) years;] an owner or any person who has full written authorization of [another having the controlling interest or recorded lease for a stated term of not less than five (5) years.] the owner.”

SECTION 2. Chapter 8, Section 1.5 of the Kaua'i County Code 1987, as amended, shall be amended as follows:

“**Owner**” means the holders of [at least seventy-five percent (75%) of the equitable and] legal title of [a lot.] land in fee simple.”

SECTION 3. Chapter 8, Section 3.1(b) of the Kaua'i County Code 1987, as amended, shall be amended as follows:

“(b) Applications. [The owner or lessee (holding under recorded lease the unexpired term of which is more than five (5) years from the date of filing the application), or any person duly authorized by the owner or lessee of the property affected, or any utility company possessing the power of eminent domain,] Applicants may file a written application with the Planning Department for a zoning permit of the required type on a form prescribed by the Planning Department. The application shall contain or be accompanied by:

- (1) A non-refundable filing and processing fee in the amount indicated in Subsections (c)(1), (d)(1), (e)(1) or (f)(1), as applicable.
- (2) A description of the property in sufficient detail to determine its precise location.

(3) A plot plan of the property, drawn to scale, showing all existing and proposed structures and any other information necessary:

(A) To show conformity with the standards established in this Chapter; and

(B) To a proper determination relative to the specific request.

(4) Any other plans and information required by the Planning Department.”

SECTION 4. Chapter 8, Section 3.1(c) of the Kaua‘i County Code 1987, as amended, shall be amended as follows:

“(c) Class I Zoning Permits.

(1) The filing and processing fee is thirty dollars (\$30.00).

(2) The Planning Director or designee shall check the application to determine whether the construction, development, activity, or use conforms to the standards established by this Chapter and may require additional information if necessary to make the determination.

(3) A Class I Zoning Permit shall be issued with or without conditions or denied by the Planning Director or by any member of the Planning Department to whom the Planning Director has delegated authority.

(4) If the Planning Director or designee fails to take action on a completed application within [twenty-one (21)] thirty (30) days of its filing, unless the applicant assents to a delay, the application shall be deemed approved.

(5) An applicant who is denied a Class I Zoning Permit or who disagrees with the conditions that have been imposed on its issuance may appeal the decision to the Planning Commission in accordance with Subsection (g).”

SECTION 5. Chapter 8, Section 3.1(g) of the Kaua‘i County Code 1987, as amended, shall be amended as follows:

“(g) Appeal. An applicant who seeks to appeal from an adverse decision of the Planning Director or designee shall file a notice of appeal with the Planning Director and the Planning Commission within [twenty-one (21)] thirty (30) days after the adverse decision. If the appeal is from the denial of a Class III Zoning Permit, the Planning Director shall make the notice public and shall notify any persons who have duly requested notice of appeals. The Planning Commission shall consider the appeal within sixty (60) days of the filing of the notice at a public session and shall render its decision within that period.”

SECTION 6. 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 which can be given effect without the invalid provision or application, and to this end, the provisions of this Ordinance are severable.

SECTION 7. 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 8. This Ordinance shall take effective upon approval.

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

DATE OF INTRODUCTION:

August 5, 2020

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. 2796, which on first reading was ordered to print by the Council of the County of Kaua'i at its meeting held on August 5, 2020, by the following vote:

FOR PASSAGE:	Chock, Cowden, Evslin, Kagawa, Kualii, Kaneshiro	TOTAL – 6,
AGAINST PASSAGE:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Brun	TOTAL – 1*,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Lihu'e, Hawai'i
August 5, 2020



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

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