



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, January 12, 2022, 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. 2834

A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUA'I COUNTY CODE 1987, AS AMENDED, RELATING TO THE COMPREHENSIVE ZONING ORDINANCE, AND CHAPTER 22, KAUA'I COUNTY CODE 1987, AS AMENDED, RELATING TO PUBLIC HEALTH, SAFETY AND WELFARE

This Bill proposes to protect health, life, and property and to conform with the General Plan to ensure that future contracts and agreements do not limit or prohibit Long-Term Rentals, Additional Rental Units (ARUs), Additional Dwelling Units (ADUs), and Guest Houses. It also proposes to increase access to housing island-wide, and to provide families more flexibility over the use of their own properties in ways that are consistent with the Comprehensive Zoning Ordinance (CZO).

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 this Bill 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. 2834 was passed on first reading and ordered to print by the Council of the County of Kaua'i at its meeting held on December 1, 2021, by the following vote:

AYES:	Carvalho, Chock, Cowden, DeCosta, Evslin, Kualii, Kaneshiro	TOTAL - 7,
NOES:	None	TOTAL - 0,
EXCUSED & NOT VOTING:	None	TOTAL - 0,
RECUSED & NOT VOTING:	None	TOTAL - 0.

Lihu'e, Hawai'i
December 2, 2021

/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.

**A BILL FOR AN ORDINANCE AMENDING CHAPTER 8,
KAUA'I COUNTY CODE 1987, AS AMENDED,
RELATING TO THE COMPREHENSIVE ZONING ORDINANCE, AND
CHAPTER 22, KAUA'I COUNTY CODE 1987, AS AMENDED, RELATING
TO PUBLIC HEALTH, SAFETY AND WELFARE**

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

SECTION 1. Findings and Purpose. The Kaua'i County Council finds that many subdivisions have provisions which are stricter than the Comprehensive Zoning Ordinance (CZO). This includes prohibitions against Long-Term Rentals within a home and prohibitions against Additional Dwelling Units (ADU). These types of prohibitions exclude lower income families from many neighborhoods and increase the cost of housing island-wide.

The Council finds that research from around the country has shown that increasing access to housing in low-poverty neighborhoods helps improve outcomes in disadvantaged children and reduces intergenerational poverty. Increasing access to housing island-wide is also a critical tool to help reverse the exodus of families from Kaua'i who are forced to move away because of the high cost of housing. Giving families more flexibility over the use of their own properties in ways that are consistent with the CZO also ensures that families can build multi-generational housing on their property.

The Kaua'i General Plan recommends incentivizing housing developments within existing communities "in order to leverage existing physical and social infrastructure while preserving vital open space." The Plan specifically cites ADUs and the future potential of Additional Rental Units (ARU), as a way to increase housing opportunities in existing communities.

The General Plan further states that "communities that cater to a high-end market, resulting in enclaves of similar household incomes and housing types, are no longer acceptable. New communities must further the goals of sustainability, equity, and opportunity." To help achieve those goals, it includes a specific action item to "prohibit future subdivision and development from restricting construction of ADUs in their deed and covenants."

Additionally, the General Plan states that "[t]here is an insufficient amount of affordable housing for the disabled, elderly, homeless individuals and families, and young families. The lack of affordable housing, results in overcrowding, which in turn fuels the demand for illegal or substandard housing units." These substandard housing units often do not comply with building requirements and endanger the

inhabitants. The 2014 Homeless Utilization Report identified three hundred (300) unsheltered houseless individuals on Kaua'i. The houseless community increases yearly with several large encampments that lack running water, basic sanitation, and have higher incidents of criminal activity. Kaua'i needs homes for young families, the disabled, elderly, houseless, and impoverished to protect health, life, and security of all its residents.

The purpose of this Ordinance is to protect health, life, and property and to conform with the General Plan to ensure that future contracts and agreements do not limit or prohibit Long-Term Rentals, ARUs, ADUs, and Guest Houses.

SECTION 2. Chapter 8, Kaua'i County Code 1987, as amended, is hereby amended by amending Section 8-15.2 to read as follows and all other and prior ordinances or parts of ordinances in conflict herewith are hereby repealed:

“Sec. 8-15.2 Additional Dwelling Unit on Residentially Zoned Lots.

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

(1) 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.

(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. 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 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 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, there shall be 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.

(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 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 3. Chapter 22, Kaua'i County Code 1987, as amended, is hereby amended by adding a new Article 28 to read as follows and all other and prior ordinances or parts of ordinances in conflict herewith are hereby repealed:

"Article 28. Limiting or Prohibiting Long-Term Rentals, Additional Dwelling Units, Additional Rental Units, and Guest Houses.

Sec. 22-28.1 Definitions.

"Additional Dwelling Unit" shall have the same meaning as additional dwelling unit under Chapter 8 of the Kaua'i County Code.

“Additional Rental Unit” shall have the same meaning as additional rental unit under Chapter 8 of the Kaua‘i County Code.

“Dwelling Unit” Applicable to this section only, means any building or any portion thereof which is designed or intended for occupancy by one (1) family or persons living together or by a person living alone.

“Guest House” shall have the same meaning as guest house under Chapter 8 of the Kaua‘i County Code.

“Long-Term Rental” shall mean a dwelling unit which is occupied for a period of one hundred eighty-one (181) days or more.

Sec. 22-28.2 Limiting or Prohibiting.

Covenants, conditions, deed restrictions, declarations of condominium property regime, association bylaws, and any other agreements that run with the land shall not limit or prohibit Long-Term Rentals, Additional Dwelling Units, Additional Rental Units, and Guest Houses.

Sec. 22-28.3 Applicability.

Nothing in this section shall apply to any contracts and agreements:

(a) In existence as of the effective date of this Ordinance;

(b) Of a successor-in-interest to real property to the extent that an association entered into, amended, or enforced, a covenant, condition, or restriction before the effective date of this Ordinance; and

(c) Formed by the County of Kaua‘i, the State of Hawai‘i, or the United States federal government.

Sec. 22-28.4 Enforcement.

Failure to comply with this Ordinance creates an independent right of action.

SECTION 4. Severability. If any provision of this Ordinance or the application thereof to any person or circumstances 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 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 shall not be included.

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

Introduced by: /s/ LUKE A. EVSLIN
/s/ BERNARD P. CARVALHO, JR.

DATE OF INTRODUCTION

December 1, 2021

Līhu'e, Kaua'i, Hawai'i

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