

NOTICE OF PUBLICATION AND NOTICE OF PUBLIC HEARING

OFFICE OF THE COUNTY CLERK
COUNTY OF KAUAI

Notice is hereby given that the Council of the County of Kaua'i will hold a public hearing on Wednesday, July 6, 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. 2868

A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO APPLICATION OF REGULATIONS (*County of Kaua'i Planning Department, Applicant*) (ZA-2022-4)

This Bill proposes to amend Chapter 8, Kaua'i County Code 1987, as amended, by amending Section 8-1.4 (Application of Regulations) to explicitly reflect that Condominium Property Regime dwelling unit density allocations align with the respective zoning district density unit allocations by requiring that "[f]or proposed Condominium Property Regime (CPR) projects, the condominium project shall not exceed the number of dwelling units that the project site is entitled to under the density standards established in the respective zoning district chapter. Each individual CPR unit shall qualify for at least one (1) dwelling unit."

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. 2868 was passed on first reading and ordered to print by the Council of the County of Kaua'i at its meeting held on June 1, 2022, 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
June 1, 2022

/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 9, 2022)

**A BILL FOR AN ORDINANCE AMENDING CHAPTER 8,
KAUA'I COUNTY CODE 1987, AS AMENDED,
RELATING TO APPLICATION OF REGULATIONS**

(County of Kaua'i Planning Department, Applicant) (ZA-2022-4)

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

SECTION 1. Findings and Purpose. The Council finds that the Condominium Property Regime (CPR) process for vacant or open lands has in the past created confusion and antagonistic and litigative actions between property owners as well as property owners and the County of Kaua'i, particularly around the ability for landowners to propose that a respective property have individual CPR units that do not qualify for any dwelling units.

The Council also finds that Hawai'i Revised Statutes Section 514B-5 specifies: "Any condominium property regime established under this chapter shall conform to the existing underlying county zoning for the property and all applicable county permitting requirements adopted by the county in which the property is located, including any supplemental rules adopted by the county, pursuant to section 514B-6, to ensure the conformance of condominium property regimes to the purposes and provisions of county zoning and development ordinances" With this provision, and by practice, the Planning Department generally informs the Hawai'i Real Estate Commission that CPR proposals that exceed their respective properties' dwelling unit density do not conform to the existing underlying zoning.

The purpose of this Ordinance is to amend the Comprehensive Zoning Ordinance to explicitly reflect that condominium property regime dwelling unit density allocations align with the respective zoning district density unit allocations.

SECTION 2. Chapter 8, Article 1, Kaua'i County Code 1987, as amended is hereby amended by amending Section 8-1.4, to read as follows:

"Sec. 8-1.4 Application of Regulations.

(a) For the purposes of this Chapter, the County of Kaua'i shall include the districts of Waimea, Kōloa, Līhu'e, Kawaihau and Hanalei as described in Sec. 4-1(4), H.R.S.

(b) Unless otherwise expressly prohibited by law, the provisions of this Chapter shall apply to all areas within the County boundaries.

(c) In administering and applying the provisions of this Chapter, unless otherwise stated, they shall be held to be the minimum requirements necessary to accomplish the purpose of this Chapter.

(d) For parcels containing multiple zoning designations, each designation shall be considered individually in applying the standards of this Chapter, with the exception that any lot or parcel located in the State Land Use Commission Agricultural District and containing fifty (50) acres or more in the County Open District shall be considered together with the County Agriculture District for the purpose of determining parcel acreage to apply subdivision standards.

(e) Nothing in this Chapter shall regulate the placement, design and construction of utility poles, towers and transmission lines by a public utility company as defined in Sec. 269-1, H.R.S., provided, that the poles and towers shall be no higher than twenty (20) feet above the height limits for structures applicable in the Use District in which the poles and towers are constructed.

(f) Nothing in this Chapter shall regulate the minimum size of lots in a subdivision which are to be used for government or public utility facilities. The creation of such lots shall be in compliance with the provisions of Chapter 9, County Subdivision Ordinance, of the Code.

(g) Nothing in this Chapter shall prohibit the use of factory built housing or trailer homes as permitted dwellings, buildings or structures for the purpose of human habitation or occupancy within the various Use Districts provided that all such factory built housing and trailer homes must first:

(1) Meet all applicable development standards, density limitation and other such requirements for the particular Use District;

(2) Be permanently affixed to the ground;

(3) Have had their wheels and axles, if any, removed;

(4) If licensed pursuant to Hawai'i Revised Statutes Chapter 249, have been registered as a stored vehicle in accordance with Hawai'i Revised Statutes Sec. 249-5;

(5) Meet the standards and requirements contained in Sec. 12-4.4 of Chapter 12, Building Code; and

(6) Meet all other applicable governmental rules, regulations, ordinances, statutes and laws.

(h) Recreational trailers may be used as temporary dwellings for travel, recreational or vacation purposes in accordance with Chapter 16 (Recreational Trailer Camps) of Title 11, Administrative Rules, Department of Health, State of Hawai'i, or any other State or County laws, ordinances or rules relating to the use of public or private lands, parks or camp grounds for camping or recreational purposes. Except as provided herein, no recreational trailer shall be used as a dwelling or building for the purpose of human habitation or occupancy.

(i) For proposed Condominium Property Regime (CPR) projects, the condominium project shall not exceed the number of dwelling units that the project site is entitled to under the density standards established in the respective zoning district chapter. Each individual CPR unit shall qualify for at least one (1) dwelling unit."

SECTION 3. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the invalidity does not affect the 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 severable.

SECTION 4. 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 5. This Ordinance shall take effect upon its approval.

Introduced by:



MASON K. CHOCK
(By Request)

DATE OF INTRODUCTION:

June 1, 2022

Līhu'e, Kaua'i, Hawai'i

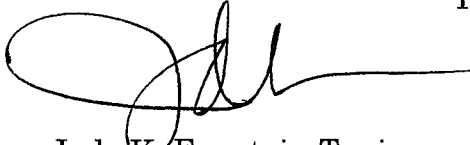
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CERTIFICATE OF THE COUNTY CLERK

I hereby certify that heretofore attached is a true and correct copy of Bill No. 2868, 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 1, 2022, by the following vote:

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

Līhu'e, Hawai'i
June 1, 2022



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