

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, October 5, 2022, at 8:30 a.m., or soon thereafter, at the Council Chambers, 4396 Rice Street, Room 201, Historic County Building, Lihue, on the following:

Bill No. 2860

A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO GUEST HOUSE (*Kaua'i County Council, Applicant*)

This Bill proposes to amend Chapter 8, Kaua'i County Code 1987, as amended, by amending the definition of "Guest House" in Section 8-1.5 of the Comprehensive Zoning Ordinance (CZO), increasing the maximum floor area of a Guest House from five hundred (500) square feet to eight hundred (800) square feet. The Bill also proposes to add new language to Section 8-4.5(a)(5) of the CZO requiring one (1) off-street parking space per Guest House in addition to the required off-street parking for the primary dwelling unit.

Bill No. 2877

A BILL FOR AN ORDINANCE AMENDING CHAPTER 8 (COMPREHENSIVE ZONING ORDINANCE), CHAPTER 12 (BUILDING CODE), AND CHAPTER 13 (ELECTRICAL CODE), KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO ELECTRIC VEHICLE CHARGING INFRASTRUCTURE REQUIREMENTS FOR PARKING

This Bill proposes to amend Kaua'i County Code 1987, as amended, Chapter 8 (Comprehensive Zoning Ordinance) (CZO), Chapter 12 (Building Code), and Chapter 13 (Electrical Code), to establish electric vehicle charging system (EVCS) and other EV-related requirements in the CZO, with establishment of penalties for failure to comply and corresponding changes to the Building Code and Electrical Code. The EVCS installation and maintenance requirements are based on Hawai'i Revised Statutes (HRS) Section 291-71, which states in part: "Places of public accommodation with at least one hundred parking spaces available for use by the general public shall have at least one parking space equipped with an electric vehicle charging system located anywhere in the parking structure or lot" and HRS Section 291-73, which states: "Each county may adopt ordinances to enforce the requirements of section 291-71, including the establishment of penalties for failure to comply with the requirements of that section or maintain electric vehicle charging systems in working order." Additionally, the "EV-ready" provisions of Bill No. 2877 require that applicable sites install certain infrastructure at the time of new parking lot construction, which the property owner could later use for EVCS installation. The Bill would apply to zoning permit applicants for parking at properties as follows: (1) Industrial District, (2) Commercial District, (3) Resort District, (4) Agriculture District, for operations with fifty (50) or more employees, and (5) Multi-family ("Dwelling, Multiple Family") residential sites with three (3) or more units. The Bill would apply to these sites for: (1) new construction, and (2) modifications to increase the size of any existing or new structure on the

property by 2,000 square feet or more, provided that only EVCS-installed requirements shall apply to modifications, not EV-ready requirements. For 1-99 parking spaces: (1) EVCS-installed spaces would be not mandatory but encouraged, and (2) the minimum number of EV-ready spaces would be 15% of the total number of parking spaces, with a minimum of one (1) parking space and all fractions rounded up, minus the number of any EVCS spaces voluntarily installed to the standards prescribed by the Bill. For 100 or more parking spaces: (1) the minimum number of EVCS-installed parking spaces would be 5% of the total number of parking spaces, with all fractions rounded up, and (2) the minimum number of EV-ready parking spaces would be 15% of the total number of parking spaces, with all fractions rounded up, minus the number of EVCS-installed spaces.

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

(The Council Committee or Council may amend these Bills 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. 2860 and Bill No. 2877 were passed on first reading and ordered to print by the Council of the County of Kaua’i at its meeting held on September 7, 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  
September 8, 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 – September 15, 2022)

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

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(Kaua'i County Council, Applicant)

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

SECTION 1. Findings and Purpose. The Council of the County of Kaua'i finds that there is an urgent need to address the shortage of available housing units on Kaua'i which has been intensified by the growing off-island housing market willing to pay a premium for a Kaua'i property. According to the Kaua'i County General Plan (2018), "[b]etween January 2008 and September 2015, forty-five percent (45%) of homes sold were purchased by mainland and foreign buyers." Additionally, "[s]purred by internal and external population growth, the growing number of households continues to outpace housing development. Given that there is a current deficit of 1,400 housing units, meeting the projected demand of approximately 9,000 homes by 2035 will be challenging."

The purpose of this Ordinance is to encourage build-out of Guest House entitlements to increase the supply of long-term rental inventory and housing options for small or extended families and to require one (1) off-street parking space for each Guest House.

SECTION 2. Chapter 8, Section 8-1.5, Kaua'i County Code 1987, as amended, is hereby amended by amending the definition of "Guest House" as follows:

"Guest House" means a building with a floor area of no more than [five hundred (500)] eight hundred (800) square feet, may contain a kitchen, and is used for dwelling purposes by guests, tenants, or owner(s). A Guest House shall not be used for a transient vacation rental (TVR) or homestay operation within or outside of the visitor destination area (VDA)."

SECTION 3. Chapter 8, Section 8-4.5, Kaua'i County Code 1987, as amended, is hereby amended by amending Subsection 8-4.5(a)(5) as follows:

"(5) A minimum of two (2) off-street parking spaces per dwelling unit shall be provided. When off-street parking spaces serving more than one (1) dwelling unit are provided in a parking area, the spaces shall be paved. For Guest Houses, one (1) off-street parking space per Guest House shall be provided in addition to the required off-street parking for the primary dwelling unit. For elderly housing projects, the minimum off-street parking spaces may be one (1) per three (3) dwelling units. For multiple family dwelling units used primarily by visitors, tourists and transient guests, a minimum off-street parking space ratio of one and one-half (1.5) spaces per dwelling unit may be permitted by the Planning Director."

SECTION 4. 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 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 approval. The requirements of this Ordinance shall not affect any application which has been approved by the Commission prior to the effective date of this Ordinance, unless there is a subsequent approval required prior to a building permit, in which case, that subsequent application shall be subject to the relevant requirements of this Ordinance, excluding subdivisions which have received tentative approval prior to the approval date of this Ordinance.

Introduced by:



MASON K. CHOCK



BERNARD P. CARVALHO, JR.

DATE OF INTRODUCTION:

**September 7, 2022**

Lihue, Kaua'i, Hawai'i

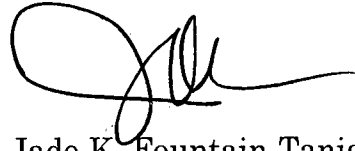
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CERTIFICATE OF THE COUNTY CLERK

I hereby certify that heretofore attached is a true and correct copy of Bill No. 2860, which was passed on first reading and ordered to print by the Council of the County of Kaua'i at its meeting held on September 7, 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.

Lihu'e, Hawai'i  
September 8, 2022



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

**A BILL FOR AN ORDINANCE AMENDING  
CHAPTER 8 (COMPREHENSIVE ZONING ORDINANCE), CHAPTER 12  
(BUILDING CODE), AND CHAPTER 13 (ELECTRICAL CODE), KAUAI  
COUNTY CODE 1987, AS AMENDED, RELATING TO ELECTRIC VEHICLE  
CHARGING INFRASTRUCTURE REQUIREMENTS FOR PARKING**

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

SECTION 1. Findings and Purpose. The Council of the County of Kauai finds that for many years the State of Hawai'i has endeavored to encourage and require installation of electric vehicle charging equipment at certain public places (e.g., Hawai'i Revised Statutes (HRS) Section 291-71, "places of public accommodation" with at least one hundred parking spaces available for use by the general public shall have at least one electric vehicle charging system parking space, and HRS Section 269-72, electric vehicle charging system rebate program). Additionally, the Kauai General Plan (2018) and HRS Section 269-92 (Renewable portfolio standards) both commit to zero emissions from the transportation sector by 2045. In support of this objective, the General Plan includes multiple action items relating to electric vehicles, including:

- "require new buildings to incorporate economically feasible design and equipment for energy sustainability";
- "accelerate the transition to alternative, carbon-free fuels in the ground transportation sector with regulations and policies that support electric vehicle adoption and other alternative fuel infrastructure";
- "installing more, and regularly maintaining and repairing, electric vehicle charging stations";
- "support the expansion of electric vehicle charging station infrastructure at County facilities"; and
- "support the expansion of electric vehicle charging station infrastructure at strategically accessible locations along the main highway and other major thoroughfares."

Pursuant to HRS Section 291-73 (Ordinances to Enforce Authorized), effective July 1, 2021, the State legislature has directly involved the counties in electric vehicle charging system parking requirements, stating: "Each county may adopt ordinances to enforce the requirements of section 291-71, including the establishment of penalties for failure to comply with the requirements of that section or maintain electric vehicle charging systems in working order."

Additionally, the Council finds that pursuant to the authority granted to the County to regulate zoning under HRS Section 46-4, and the County's general power to enact ordinances deemed necessary to protect health, life, and property, and to

preserve the order and security under HRS Section 46-1.5, the County has the authority to regulate electric vehicle (EV) chargers in locations beyond “places of public accommodation,” in order to promote the government interest to foster a clean and healthful environment by reducing carbon dioxide (CO<sub>2</sub>) emissions via the adoption of electric vehicles. Furthermore, in addition to requirements that electric vehicle chargers be installed in certain circumstances, the Council finds that it is cost-effective to plan for future EV charger expansion by requiring “EV-ready” infrastructure to be set in place during new parking lot construction and that these requirements are appropriate for inclusion in the Comprehensive Zoning Ordinance due to the Planning Director’s oversight of parking requirements.

This Ordinance will not apply to existing parking facilities that are not seeking an applicable modification because regulation of new construction and modifications to existing construction via the County’s zoning ordinance and construction codes include review and permitting before construction is in place and appeals procedures that address due process requirements. These same enforcement structures and due process measures are not in place for existing constructions. Additionally, EV-ready infrastructure is more suited for new construction and the cost of retrofitting EV charger installation at existing properties that are not undergoing modification poses a higher burden that the Council is not proposing to impose via this Ordinance.

The purpose of this Ordinance is to establish requirements in the Comprehensive Zoning Ordinance (Kaua’i County Code 1987, as amended (KCC), Chapter 8), with corresponding changes to KCC Chapter 12, relating to the Building Code, and Chapter 13, relating to the Electrical Code, including establishment of penalties for failure to comply, relating to: (1) EV charger installation and maintenance requirements in keeping with HRS Sections 291-71 and 291-73, and (2) County requirements that applicable properties create parking spaces that are “EVCS-installed” and “EV-ready.”

SECTION 2. Chapter 8, Kaua’i County Code 1987, as amended, is hereby amended by establishing a new Article to be appropriately designated and to read as follows:

**“ARTICLE . Electric Vehicle Charging Infrastructure.**

**Section 8- .1 Definitions.**

The following definitions shall apply to this Article:

“Electric vehicle” or “EV” means:

- (1) A neighborhood electric vehicle as defined in Hawai’i Revised Statutes (HRS) Section 286-2;

(2) A vehicle, with four (4) or more wheels, that draws propulsion energy from a battery with at least four (4) kilowatt hours of energy storage capacity that can be recharged from an external source of electricity; or

(3) A fuel cell electric vehicle.

“Electric vehicle charging system” or “EVCS” or “EVCS-installed” means a system that:

(1) Is capable of providing electricity from a non-vehicle source to charge the batteries of one or more electric vehicles;

(2) Meets recognized standards, including standard SAE J1772 of SAE International; and

(3) Is designed and installed in compliance with article 625 of the National Electrical Code and has the same meaning as Electric Vehicle Supply Equipment as defined in article 625.2 of the National Electrical Code, as amended;

provided that the term shall not include facilities or systems for refueling the hydrogen storage tank of a fuel cell electric vehicle.

“EV-ready space” means a designated parking space which is provided with a dedicated branch circuit that is not less than 40-ampere and 208/240-volt assigned for electric vehicle supply equipment terminating in a receptacle or junction box located in close proximity to the proposed location of the EV parking space. For two adjacent EV-ready spaces, a single branch circuit is permitted.

“Fuel cell electric vehicle” means a zero-emission electric vehicle that uses a fuel cell to convert hydrogen gas and oxygen into electricity that is used in a vehicle powertrain for propulsion.

“Level 2 charging station” means the same as “alternating current Level 2 charging station” in HRS Section 269-72.

“Place of public accommodation” means the same as provided in HRS Section 489-2.

“Total number of parking spaces” means the total number of parking spaces proposed or required for the entire lot of record or the applicable condominium property regime (CPR) unit.



**Section 8- .2 EV Infrastructure Requirements: General Provisions.**

The following provisions shall apply to this Article:

(a) This Article applies to zoning permit applicants for certain properties referenced in Section 8- .3 for:

(1) New construction.

(2) Modifications to increase the size of any existing or new structure on the property by 2,000 square feet or more, provided that only EVCS-installed requirements shall apply to modifications, not EV-ready requirements.

(b) The zoning permit conditions required by this Article shall include the conditions that:

(1) All required EVCS-installed systems shall be maintained in working order.

(2) All required EV-ready infrastructure shall be maintained as able to support future installation of electric vehicle supply equipment.

(c) Each new EVCS that is installed or placed in service pursuant to this Article shall be at least a Level 2 charging station.

(d) Electric vehicle parking spaces shall be designated and clearly marked.

(e) Electric vehicle parking space requirements shall not displace or reduce accessible stalls required by the Americans with Disabilities Act Accessibility Guidelines.

(f) Owners of parking facilities may charge a fee for the use of an electric vehicle charging system.

**Section 8- .3 EV Infrastructure Requirements.**

(a) Where parking is provided at the following sites, EVCS-installed and EV-ready parking spaces shall be included in compliance with Table 8- .3.1 and any applicable requirements of Kaua'i County Code 1987, as amended, Title V (Building and Construction Regulations):

(1) Industrial District.

(2) Commercial District.

(3) Resort District.

(4) Agriculture District, for operations with fifty (50) or more employees.

(5) Multi-family (“Dwelling, Multiple Family”) residential sites with three (3) or more units.

<b>Table 8- .3.1: EVCS-INSTALLED AND EV-READY REQUIREMENTS</b>		
<b><u>Total Number of Parking Spaces</u></b>	<b><u>Minimum number of EVCS-Installed Spaces</u></b>	<b><u>Minimum number of EV-Ready Spaces</u></b>
<u>1 – 99</u>	<u>Not mandatory but encouraged.</u>	<u>15% of the total number of parking spaces, with a minimum of one (1) parking space and all fractions rounded up, minus the number of any EVCS spaces voluntarily installed to the standards prescribed by this Article.</u>
<u>100+</u>	<u>5% of the total number of parking spaces, with all fractions rounded up.</u>	<u>15% of the total number of parking spaces, with all fractions rounded up, minus the number of EVCS-installed spaces.</u>

(b) The minimum number of EVCS-installed parking spaces may be reduced in response to a substantiated request made by an applicable place of public accommodation pursuant to HRS Section 291-71(a), which allows that owners of multiple parking facilities within the State may designate and electrify fewer parking spaces than required in one or more of their owned properties, provided that the scheduled requirement is met for the total number of aggregate spaces on all of their owned properties.

**Section 8- .4 Civil Fines.**

Any person who violates the provisions of this Article shall be subject to the penalties provided in Section 8-3.5 of this Chapter.

**Section 8- .5 Administrative Rules.**

Pursuant to HRS Chapter 91, the Planning Commission may promulgate administrative rules consistent with this Article as may be necessary to implement any of the provisions of this Article.”

SECTION 3. Chapter 12 (Building Code), Article 2 (Adoption of the International Building Codes and Amendments Thereto), Section 12-2.2 (Sec. 12-2.2 Amendments to the International Building Code), Kaua'i County Code 1987, as amended, is amended in pertinent part to add new items (113) and (114) to read as follows:

“(113) Section 406.2.7 of the International Building Code, 2018 Edition, is adopted in pertinent part and renumbered as follows:

406.1.1 Electric vehicle charging stations. Where provided, electric vehicle charging stations shall be installed in accordance with NFPA 70. Electric vehicle charging system equipment shall be listed and labeled in accordance with UL 2202. Electric vehicle supply equipment shall be listed and labeled in accordance with UL 2594. Accessibility to electric vehicle charging stations shall be provided in accordance with Section 1111.

(114) Section 1107 of the International Building Code, 2021 Edition, is adopted in pertinent part and renumbered as follows:

**SECTION 1111**  
**MOTOR-VEHICLE-RELATED FACILITIES**

**1111.1 General.**

Electrical vehicle charging stations shall comply with Section 1111.2. Fuel-dispensing systems shall comply with Section 1111.3.

**1111.2 Electrical vehicle charging stations.**

Electrical vehicle charging stations shall comply with Sections 1111.2.1 and 1111.2.2.

Exception: Electrical vehicle charging stations provided to Group R-2, R-3 and R-4 occupancies are not required to comply with this section.

**1111.2.1 Number of accessible vehicle spaces.**

Not less than 5 percent of vehicle spaces on the site served by electrical vehicle charging systems, but not fewer than one for each type of electric vehicle charging system, shall be accessible.

**1111.2.2 Vehicle space size.**

Accessible vehicle spaces shall comply with the requirements for a van accessible parking space that is 132 inches (3350 mm) minimum in width with an adjoining access aisle that is 60 inches (1525 mm) minimum in width.

**1111.3 Fuel-dispensing systems.**

Fuel-dispensing systems shall be accessible.”

SECTION 4. Chapter 13 (Electrical Code), Kaua'i County Code 1987, as amended, is amended by adding a new Section 13-4.2, to read as follows:

**"Sec. 13-4.2 Amendments to the National Electrical Code.**

The National Electrical Code, 2017 Edition, is amended as follows:

(1) Article 625 (Electric Vehicle Charging System), Part I (General), is amended by amending Section 625.15 (Markings) to read as follows:

**"625.15 Markings.** The equipment shall comply with 625.15(A) through (D).

**(A) General.** All equipment shall be marked by the manufacturer as follows:

**FOR USE WITH ELECTRIC VEHICLES**

**(B) Ventilation Not Required.** Where marking is required by 625.52(A), the equipment shall be clearly marked by the manufacturer as follows:

**VENTILATION NOT REQUIRED**

The marking shall be located so as to be clearly visible after installation.

**(C) Ventilation Required.** Where marking is required by 625.52(B), the equipment shall be clearly marked by the manufacturer, "Ventilation Required." The marking shall be located so as to be clearly visible after installation.

**(D) Service Panel Labeling.** The service panel or subpanel circuit directory shall identify the spaces reserved to support EV charging as "EV-Ready." The raceway location shall be permanently and visibly marked as "EV-Capable."

(2) Article 625 (Electric Vehicle Charging System), Part III (Installation) is amended by adding a new Section 625.53 to read as follows:

**"625.53 Identification.** Construction documents shall indicate the raceway termination point and proposed location of future EV spaces and EV chargers. Construction documents shall also provide information about the amperage of future EVCS, raceway methods, wiring schematics, and electrical load calculations to verify that the electrical panel service capacity and electrical system, including any on-site distribution transformers, have sufficient capacity to simultaneously charge all EVs at all required EV spaces at the full rated amperage of the EVCS."

SECTION 5. 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 that can be given effect without the invalid provisions or application, and to this end the provisions of this Ordinance are severable.

SECTION 6. 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. The assigned Article number for the new Kaua'i County Code 1987, as amended, Chapter 8, ARTICLE \_\_, "Electric Vehicle Infrastructure" shall be inserted in the blanks throughout.

SECTION 7. This Ordinance shall take effect on its approval.

Introduced by:



LUKE A. EVSLIN



KIPUKAI KUALITI

DATE OF INTRODUCTION:

**September 7, 2022**

Līhu'e, Kaua'i, Hawai'i

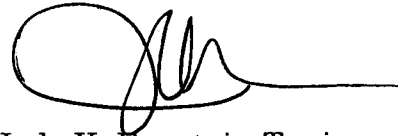
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CERTIFICATE OF THE COUNTY CLERK

I hereby certify that heretofore attached is a true and correct copy of Bill No. 2877, which was passed on first reading and ordered to print by the Council of the County of Kaua'i at its meeting held on September 7, 2022, by the following vote:

FOR PASSAGE:	Carvalho, Chock, Cowden, DeCosta, Evslin, Kualii, Kaneshiro	TOTAL – 7,
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Lihu'e, Hawai'i  
September 8, 2022



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