



**COUNTY OF KAUA'I
DEPARTMENT OF PLANNING**

**SHORELINE SETBACK DETERMINATION (SSD)
APPLICATION**

APPLICANT INFORMATION	
Applicant: _____	Phone: _____
Mailing Address: _____	Email: _____
Applicant's Status: (Check one)	
<input type="checkbox"/> Owner of the Property	If applicant is not the landowner, attach written landowner Letter of Authorization
<input type="checkbox"/> Authorized Agent	

PROJECT INFORMATION	
County Zoning District: _____	Tax Map Key(s): _____
Building Permit Number: _____ (If building plans submitted)	Land Area: _____
Nature of Development: _____ (Description of proposed structure or subdivision)	_____
_____	_____
_____	_____

NO PERMITS WILL BE ISSUED UNTIL THE DIRECTOR'S DECISIONS ARE CONSIDERED FINAL AS SPECIFIED UNDER KCC §8-27.8(c)(8)

Shoreline Setback Determination of Applicability (§8-27.1)

Check all that apply, fill in applicable information. Any box checked must be accompanied by additional information, photos and/or documentation.

1. Shoreline Abutting Property:

- Property IS Abutting the Shoreline –
Proposed project's approximate distance from shoreline (based on aerial map): _____ ft.
- Property IS NOT Abutting the Shoreline –
Proposed project's approximate distance from shoreline (based on aerial map): _____ ft.

2. Additional Information:

- Shoreline Change (Information available here: [Kauai Shoreline Change \(arcgis.com\)](http://Kauai Shoreline Change (arcgis.com)))
 - Erosion Rate: _____ ft./year
 - Accretion Rate: _____ ft./year

Number and description of parcels (including roads, buildings, structures) between Shoreline and this parcel:



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- Artificially armored Shoreline:
 If checked, what type of armoring (e.g. seawall, revetment, bulkhead): _____
 Is the armoring permitted/authorized? _____
 Date of authorization (attach copy of authorization letter): _____
- Is property in coastal floodplain (if checked, what zone)? _____
- Has this property been subject to coastal hazards (i.e. flooding, erosion, tsunami, etc.) in the past?

3. Describe proposed structure(s), including but not limited to the landscaping plan (please attach):

4. Explain how the proposed structure is in compliance with §8-27.8(c)(2) (attach additional information if necessary):

5. Estimated Project Valuation:

**If seeking Exemption 2, attach Non-Substantial Improvement Worksheet and Declaration.*

**A certified state shoreline survey is required for any repairs exceeding \$125,000 and shall be included in the application for a shoreline setback determination (§8-27.7(6)(F)).*

**If parcel is not abutting shoreline and applicant is unable to secure permission from the abutting landowner to complete a certified shoreline, submit affidavit of statement of inability to certify shoreline, pursuant to §8-27.3(e).*

Application Submittal Checklist:

- A non-refundable processing fee of **\$100** shall accompany a request for determination. (§8-27.8(e))
- An aerial map/image (ex. Google Maps or Google Earth) with a line drawn from the shoreline/vegetation line (approximate shoreline) to the proposed project and the calculated distance in feet.
- A detailed Plot Plan **to scale** with all existing and proposed structures including driveways, visible lot coverage, setbacks and measurement details, fences, gates, and walls, etc.
- Coastal Hazard Disclosure Statement Form. (page 4)



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EXEMPTION DETERMINATION

Exemption 1

In cases where the applicant can demonstrate to the satisfaction of the Planning Director that the applicant's proposed structure or subdivision will not affect beach processes, impact public beach access, or be affected by or contribute to coastal erosion or hazards, excluding natural disasters. Factors to be considered shall include, but not be limited to, proximity to the shoreline, topography, properties between shoreline and applicant's property, elevation, and the history of coastal hazards in the area.

Exemption 2

Pursuant to §8-27.7, those structures and uses found exempt in Table 2 including repairs to a lawfully existing structure, including nonconforming structures, provided that:

- (A) The repairs DO NOT enlarge, add to or expand the structure; increase the size or degree of non-conformity; or intensify the use of the structure or its impact on coastal processes;
- (B) The repairs DO NOT constitute a substantial improvement of the structure;
- (C) The repairs are permitted by the Comprehensive Zoning Ordinance, Development Plans, building code, floodplain management regulations, special management area requirements under HRS Chapter 205A and any other applicable rule or law.
- (D) The Planning Director determines that the proposal complies with the definition of "repair" under Sec. 8-1.5, Kaua'i County Code 1987, as amended.

- Non-Substantial Improvement Worksheet and Declaration.
- Letter from the Department of Public Works stating that the proposed project does NOT constitute "Substantial Improvement," pursuant to §8-27.2
- State Certified Shoreline Survey (If applicable).

Applicant Certification

I certify that the information provided in this assessment application is true and correct to the best of my knowledge.

I understand:

- Additional fees and/or the submittal of other application forms may be necessary to complete this application for acceptance and processing.
- Tender of fees by the County does not imply acceptance of this application.
- Errors in self-declaration or missing or incomplete information will delay acceptance and processing of your application.
- Any purposeful misrepresentations in this application may result in delay, denial, permit revocation, violations, fines and even criminal prosecution.
- Pursuant to §8-27.8(c)(12) the Kaua'i County Code, 1987 as amended, no construction or repair of a structure subject to the Shoreline Setback Determination shall commence until a sign has been erected and maintained.

Applicant Name: _____

Applicant Signature: _____

Date of Signature: _____

WARNING: if you are a property owner of a Unit within a Condominium Property Regime (CPR), you are obligated to acknowledge and understand your rights and duties under the documents governing your CPR. The Kaua'i County Planning Department (Department) has no duty or obligation to enforce CPR Documents. By submitting this application [or, authorization for], you hereby indemnify and hold harmless the Department from any and all liability arising from disputes or actions resulting from the interpretation or enforcement of your CPR documents.



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COASTAL HAZARD DISCLOSURE STATEMENT FORM

Project Address and TMK Number (the "Property"), and Shoreline Setback Permit Number

Scope of Construction for the Project or Description of Work

Disclosure:

The property owner acknowledges and understands that the property may be subject to coastal hazards as defined under Kaua'i County Code (KCC) Section 8-27.1. These coastal hazards may limit the ability to develop the property and future development may be subject to further restrictions and limitations pursuant to KCC Chapter 8, Article 27, as amended, as well as federal, state, and county laws and regulations that govern coastal properties.

The property owner further acknowledges and understands that pursuant to Hawai'i Revised Statutes §205A-2(c)(9)(B), the construction of private shoreline hardening structures, including seawalls and revetments, is prohibited at sites having sand beaches and at sites where such structures would interfere with existing recreational and waterline activities. The property owner understands that this prohibition may limit the ability to protect the property from coastal erosion and other shoreline hazards through structural means.

Additional information can be obtained from the County of Kaua'i Planning Department (<https://www.kauai.gov/Government/Departments-Agencies/Planning-Department/Shoreline-Setback>) including but not limited to links to the State of Hawaii, Department of Land and Natural Resources, Flood Hazard Assessment Tool and the State of Hawai'i Sea Level Rise Viewer.

Declaration: I declare under penalty of perjury and under the laws of the State of Hawai'i (Unsworn Falsification HRS §710-1063) that I am the property owner for the address listed above, I personally filled out the above information, that the foregoing is true and correct, and I certify its accuracy.

WARNING: if you are a property owner of a Unit within a Condominium Property Regime (CPR), you are obligated to acknowledge and understand your rights and duties under the documents governing your CPR. The Kaua'i County Planning Department (Department) has no duty or obligation to enforce CPR Documents. By submitting this application [or, authorization for], you hereby indemnify and hold harmless the Department from any and all liability arising from disputes or actions resulting from the interpretation or enforcement of your CPR documents.

***The property owner signature is required to be notarized when the property owner is not present at the time of submitting the permit application. In lieu of notarization, the Planning Department will accept forms that are electronically signed using secure software that verifies the identity of the user (e.g., DocuSign or Adobe Sign).*

Property Owner Name (print)

Property Owner Signature

Date

Property Owner Name (print)

Property Owner Signature

Date

Property Owner Name (print)

Property Owner Signature

Date

Property Owner Name (print)

Property Owner Signature

Date

**** Attach Notary Jurat ****



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DEPARTMENT USE ONLY	
Acceptance Date:	
Website Posting Date:	
Determination Date:	
Planning Commission Date:	
Expiration Date:	
Planner Assigned:	
SSD-202_____ - _____	
DIRECTOR DETERMINATION	
<input type="checkbox"/> Pursuant to §8-27.3 the Kaua'i County Code, 1987 as amended, the Planning Department hereby certifies the proposed structure(s) or subdivision(s) as exempt from those shoreline setback determination requirements established under §8-27.8. <input type="checkbox"/> Pursuant to §8-27.7 the Kaua'i County Code, 1987 as amended, the proposed structure(s) is permitted within the shoreline setback area. The proposed structure(s) is exempt from §8-27.7(b) but subject to the conditions of §8-27.8 and, if applicable, the conditions of §8-27(a)(6)(E): <ul style="list-style-type: none"> – Non-substantial Improvement Worksheet and Declaration. – Signage shall be posted prior to the commencement of construction. <input type="checkbox"/> Pursuant to §8-27.7 of the Kaua'i County Code, 1987 as amended, the proposed structure(s) constitutes a repair to a lawfully existing structure and is therefore permitted within the shoreline setback area. However, because the value of the proposed repair work exceeds \$125,000, a State Certified Shoreline Survey is required. Accordingly, the proposed structure(s) is exempt from §8-27.7(b) but remains subject to the conditions of §8-27.8, §8-27(a)(6)(E), and §8-27(a)(6)(F): <ul style="list-style-type: none"> – State Certified Shoreline Survey. – Non-substantial Improvement Worksheet and Declaration. – Signage shall be posted prior to the commencement of construction. <input type="checkbox"/> Additional comments/conditions:	
_____ Planning Director or designee	_____ Date



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Table 1. (This table is included for illustrative purposes only.)

Lots Included in the Kaua'i Coastal Erosion Study. The distance in feet of the shoreline setback line as measured from the certified shoreline based on the average lot depth in feet.

LOTS INCLUDED IN KAUA'I COASTAL EROSION STUDY

Average Lot Depth	Setback Line
Less than 140 feet (<140 feet)	40 feet plus (70 X annual coastal erosion rate) plus 20 feet
140 feet to 220 feet (140-220 feet)	Greater of: 40 feet plus (70 X annual coastal erosion rate) plus 20 feet -or- (Average Lot Depth minus 100 feet) ÷ by 2 plus 60 feet
Greater than 220 feet (>220 feet)	Greater of: 40 feet plus (70 X annual coastal erosion rate) plus 20 feet -or- 120 feet from the certified shoreline

View erosion rate maps from the County website at:
Kaua'i Coastal Erosion Study Update 2020 [Kauai Shoreline Change \(arcgis.com\)](http://arcgis.com)

LOTS NOT INCLUDED IN KAUA'I COASTAL EROSION STUDY

Setback Calculation	
(Average Lot Depth – 100/2+60) Subject to the Following:	
1	For all other lots, the shoreline setback line shall be no less than 60 feet.
2	For all lots, the maximum setback that can be required shall be 120 feet.

Non-Abutting Lots. If an Applicant is unable to secure permission from the abutting landowner to complete a certified shoreline for a non-abutting lot within approximately five hundred (500) feet of the shoreline, the Planning Director may, pursuant to §8-4.3, impose conditions to zoning permits to increase setbacks where evidence exists that a proposed structure may be affected by coastal hazards or erosion. (§8-27.3(e))



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Table 2. (This table is included for illustrative purposes only.)

Please see the [Chapter 8, Article 27 of the KCC Comprehensive Zoning Ordinance](#) for full version of this section.

PERMITTED STRUCTURES WITHIN THE SHORELINE SETBACK AREA	
	Section 8-27.7
(a)	The following structures are permitted in the shoreline setback area. All structures and/or landscaping not specifically permitted in this section are prohibited without a variance.
(1)	Existing conforming or legally nonconforming structures.
(2)	Structure that received a shoreline variance or administrative approval prior to February 26, 2008.
(3)	A structure that is necessary for, or ancillary to, continuation of agriculture or aquaculture existing in the shoreline setback area on June 16, 1989.
(4)	“Temporary structures” as defined in Section 8-27.2. To ensure that there will be no irreversible or long-term adverse effects, the Director shall require as a condition of a permit the restoration of the site to its original condition or better, and the Director may require a bond to ensure such restoration.
(5)	A structure that consists of maintenance, repair, reconstruction, and minor additions or alterations that results in no interference with natural beach processes and is ancillary or associated with one of the following sites: (A) A Hawaiian fish pond; (B) A publicly owned and legal boating, maritime, or water sports recreational facility.
(6)	Repairs to a lawfully existing structure, including nonconforming structures, provided that: (A) The repairs do not enlarge, add to or expand the structure; increase the size or degree of non-conformity; or intensify the use of the structure or its impact on coastal processes; (B) The repairs do not constitute a substantial improvement of the structure; (C) The repairs are permitted by the Comprehensive Zoning Ordinance, Development Plans, building code, floodplain management regulations, special management area requirements under HRS Chapter 205A and any other applicable rule or law; and (D) The Planning Director determines that the proposal complies with the definition of “repair” under Sec.8-1.5, Kaua‘i County Code 1987, as amended. (E) To ensure that proposed repairs under Sec. 8-27.2, Kaua‘i County Code 1987, as amended, do not constitute a substantial improvement, the Director shall require the applicant to provide the following: (i) Appraisal of the structure, less the value of depreciation. (ii) A cost breakdown estimate of the proposed repair project through a “Non-Substantial Improvement Job Cost Breakdown Worksheet.” The worksheet is to be submitted to and maintained by the Director and shall include all costs of the subject repair project, including but not limited to costs associated with site work, masonry, plumbing, electrical work, carpentry (framing and finish work), drywall, glass and glazing, painting, flooring, appliances, cabinetry, and all labor. (iii) The applicant shall submit a signed declaration acknowledging understanding and agreeing the repair exemption cost figures estimated in the “Non-Substantial Improvement Job Cost Breakdown Worksheet” are subject to review after the completion of the proposed repairs for consistency with the actual and proposed repairs.



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	<p>(iv) The applicant shall inform the Planning Department of the date of completion of the repair project and any additional construction materials, labor and associated costs incurred during the repair. In the absence of any notification of completion, the Department shall consider this repair project still ongoing.</p> <p>(v) Within 60 days of the notification of completion or while the repair project is still ongoing, the Director may require the applicant to submit receipts for each of the improvements listed on the “Non-Substantial Improvement Job Cost Breakdown Worksheet” and any other construction materials, labor and associated costs necessitated by the repairs that have been completed. If the applicant cannot provide receipts, the Director may establish the fair market cost for each of the improvements for which receipts cannot be provided.</p> <p>(vi) Should the expenditures on the receipts provided demonstrate that the project is not a repair and is in fact considered a substantial improvement pursuant to Section 8-27.2, Kaua’i County Code 1987, as amended, the Director shall follow the enforcement standards in Section 8-27.11, Kaua’i County Code 1987, as amended.</p> <p>(F) A certified state shoreline survey is required for any repairs exceeding \$125,000 and must be included in the application for a shoreline setback determination.</p>
(7)	Repairs and maintenance to existing public infrastructure owned or operated by a state or county agency, or by a regulated public utility providing essential public services, including but not limited to roads, bridges, drainage systems, wastewater facilities, water systems, electric utilities, and public safety infrastructure, shall be exempt from the requirements set forth in this section, subsections (a)(6)(E) and (a)(6)(F).
(8)	Beach nourishment or dune restoration projects approved by all applicable governmental agencies.
(9)	A structure approved by the Director as a minor structure.
(10)	Qualified demolition of existing structures.
(11)	Unmanned civil defense facilities installed for the primary purposes of: (i) warning the public of emergencies and disasters; or (ii) measuring and/or monitoring geological, meteorological and other events.
(12)	Scientific studies and surveys, including archaeological surveys.
(13)	Structures built by a governmental agency to address an emergency as declared by the Governor of the State of Hawai’i, the Mayor of the County of Kaua’i or any other public official authorized by the law to declare an emergency.
(14)	Structures relating to film productions that have received a County Revocable Film Permit. Structures undertaken for film productions must be removed within thirty (30) days following the completion of the film production.
(15)	Structures required for remedial and removal actions undertaken pursuant to Chapter 128D of the Hawai’i Revised Statutes.
(16)	Repair and/or rebuilding of existing public park facilities, excluding shoreline armoring structures or improvements.

	Section 8-27.7(b)
(b)	The following conditions shall apply to any new structure or any substantial improvement permitted in the shoreline setback area:
(1)	All new structures shall be constructed in accordance with the standards for development in Chapter 15, Article 1, Flood Plain Management, Kaua’i County Code 1987, as amended, relating to coastal high hazard districts and FEMA guidelines regarding construction in areas mapped on Flood Insurance Rate Maps as flood hazard areas.



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(2)	The applicant shall agree in writing that the applicant, its successors, and permitted assigns shall defend, indemnify, and hold the County of Kaua'i harmless from and against any and all loss, liability, claim or demand arising out of damages to said structures from any coastal natural hazard and coastal erosion.
(3)	The applicant shall agree in writing for itself, its successors and assigns that the construction of any erosion control or shoreline hardening structure and/or landscaping shall not be allowed to protect the permitted structure during its life, with the exception of approved beach or dune nourishment fill activities, and landscape planting and irrigation located more than forty feet (40') from the shoreline.
(4)	Unless otherwise provided, all new structures and/or landscaping shall not: <ul style="list-style-type: none"> (i) adversely affect beach processes, (ii) artificially fix the shoreline, (iii) interfere with public access or public views to and along the shoreline, (iv) impede the natural processes and/or movement of the shoreline and/or sand dunes, or (v) alter the grade of the shoreline setback area.
(5)	All new structures shall be consistent with the purposes of this article and HRS Chapter 205A, as amended, and shall be designed and located to minimize the alteration of natural landforms and existing public views to and along to the shoreline.
(6)	On lots threatened by sea level rise erosion or historic coastal erosion, before approval of an additional structure, the applicant must agree to retreat, relocate, or remove the proposed and existing structure(s) before or when the shoreline reaches the structure(s) at the respective property owner's expense.
(7)	The requirements of this Subsection (b) shall run with the land and shall be set forth in a unilateral agreement recorded by the applicant with the Bureau of Conveyances or the Land Court, whichever is applicable, no later than thirty (30) days after the date of final shoreline approval of the structure under Section 8-27.8. A copy of the recorded unilateral agreement shall be filed with the Director and the County Engineer no later than forty-five (45) days after the date of the final shoreline determination and approval of the structure and the filing of such with the Director shall be a prerequisite to the issuance of any related building permit. (Ord. No. 979, December 5, 2014; Ord. No. 1088, February 4, 2021)

PROCEDURES FOR OBTAINING SHORELINE SETBACK DETERMINATIONS

Section 8-27.8	
(c)	Procedure.
(2)	For public structures whose valuation does not exceed \$500,000 and repairs to lawfully existing private structures as delineated in Section 8-27.7(a), the request shall include construction and site plans, and written text addressing compliance with the criteria set forth in this Article. The Director may also require additional information, including, but not limited to a current shoreline setback determination or a current certified shoreline survey or shoreline survey stamped by a licensed surveyor, registered in the State of Hawai'i and coastal erosion information, a list of proposed plants and their growth, existing and final contours, photographs, and an environmental assessment.

Section 8-27.8	
(c)	Procedure.
(12)	No construction or repair of a structure subject to the Shoreline Setback Determination shall commence until a sign has been erected and maintained in accordance with this subsection.



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(A)	The sign shall be clear and legible and shall display the following information:
(1)	The Shoreline Setback Determination number;
(2)	Planning Commission acceptance date;
(3)	The expiration date;
(4)	The name, address, and telephone number of the agency to contact for information regarding the Shoreline Setback Determination;
(5)	The name, address, and telephone number of the applicant;
(6)	The associated building permit number and Special Management Area permit number, if applicable. The sign shall be posted in a conspicuous location on the subject site and shall be clearly visible from the adjacent public right-of-way. The sign shall be located no farther than ten (10) feet from the public right-of-way, with the face of the sign oriented parallel to the public thoroughfare. For projects accessed by a private road, the sign shall be located as near as practicable to the site entrance and visible from the nearest public thoroughfare.
(B)	The sign shall be posted in a conspicuous location on the subject site and shall be clearly visible from the adjacent public right-of-way. The sign shall be located no farther than ten (10) feet from the public right-of-way, with the face of the sign oriented parallel to the public thoroughfare. For projects accessed by a private road, the sign shall be located as near as practicable to the site entrance and visible from the nearest public thoroughfare.
(C)	The sign shall be installed at least 5 days prior to the commencement of construction or repair and shall remain posted and legible for the entire duration of the project.
(D)	The minimum dimensions of the sign shall be twenty-four (24) inches by thirty-six (36) inches. The sign shall be installed without ground disturbance, either freestanding (such as a sandwich board or A-frame sign) or affixed to an existing or other permanent structure. The sign shall be durable, waterproof, and weighted or otherwise secured to withstand wind and other weather conditions.
(E)	The background color of the sign shall be white, and the text shall be black. All text shall be of sufficient size, style, and contrast to be clear and legible to a person with normal vision at a distance of at least ten (10) feet.
(F)	Failure to post or maintain the sign in compliance with this subsection shall constitute a violation and may result in enforcement action.