

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

(Kaua'i County Council, Applicant) (ZA-2021-2)

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

SECTION 1. Chapter 8, Section 8-1.5, Kaua'i County Code 1987, as amended, is hereby amended by amending the definition of "Developed Campgrounds," "Organized Recreation Camps," and "Undeveloped Campground" as follows:

““Developed Campgrounds” means land or premises designed to be used, let, or rented for [temporary] compensation, monetary or otherwise, for transient occupancy by campers traveling by automobile or otherwise and which contain such facilities as tent sites, bathrooms or other sanitary facilities, piped water installations, and parking areas, but not including mobile home parks. Each individual tent camping site offers a campsite that may have permanent footings, platforms, and/or private restroom facilities. Developed campgrounds may include facilities for the temporary placement of camp trailers and camping vehicles which are utilized for non-permanent residential uses [at no more than six (6) vehicles per acre].

[“Organized Recreation Camps” means land or premises containing structures designed to be used for organized camping. The structures include bunk houses, tent platforms, mess halls and cooking facilities, and playfields. Examples include Boy Scout Camps and summer camps.]

[“Undeveloped Campground” means land or premises designed to be used for temporary occupancy by campers traveling by foot or horse which may contain facilities and fireplaces, but do not contain facilities as are provided at developed campgrounds.]

“Undeveloped Campgrounds” means land or premises designed to be used by property owners and their guests for non-commercial camping purposes. There are no permanent footings or platforms, and there are no permanent structures. There is no compensation, monetary or otherwise, for use of this site.”

SECTION 2. Chapter 8, Kaua'i County Code 1987, as amended, is hereby amended by amending Table 8-2.4 – Table of Uses, in pertinent part, to outright permit “Developed campgrounds” in the Resort Zoning District as follows:

Sec.	USE	ZONING DISTRICT										
		Residential		RR	Commercial			Industrial		AG	O	UNV
		R-1 to R-6	R-10 to R-20		CN	CG	IL	IG				
8-2.4(g) (1)	Accessory uses and structures			P								
8-2.4(g) (2)	Apartment hotels			P								
8-2.4(g) (3)	Automobile service and storage			P								

Sec.	USE	ZONING DISTRICT									
		Residential		RR	Commercial		Industrial		AG	O	UNV
		R-1 to R-6	R-10 to R-20		CN	CG	IL	IG			
8-2.4(g) (4)	Barber shop and beauty shop			P							
8-2.4(g) (5)	Commercial recreation			P							
8-2.4(g) (6)	Developed campgrounds			P							
[8-2.4(g) (6)] 8-2.4(g) (7)	Gift shops			P							
[8-2.4(g) (7)] 8-2.4(g) (8)	Golf courses			P							
[8-2.4(g) (8)] 8-2.4(g) (9)	Home business			P							
[8-2.4(g) (9)] 8-2.4(g) (10)	Hotels			P							
[8-2.4(g) (10)] 8-2.4(g) (11)	Laundromat			P							
[8-2.4(g) (11)] 8-2.4(g) (12)	Libraries			P							
[8-2.4(g) (12)] 8-2.4(g) (13)	Motels			P							
[8-2.4(g) (13)] 8-2.4(g) (14)	Museums			P							
[8-2.4(g) (14)] 8-2.4(g) (15)	Police and fire stations			P							
[8-2.4(g) (15)] 8-2.4(g) (16)	Public parks and monuments			P							
[8-2.4(g) (16)] 8-2.4(g) (17)	Restaurants and food service			P							
[8-2.4(g) (17)]	[Retail cleaning outlets]			[P]							
8-2.4(g) (18)	Retail cleaning outlets			P							
8-2.4(g) (19)	Retail food and drug shops			P							
8-2.4(g) (20)	Shoe repair shops			P							
8-2.4(g) (21)	Single family detached dwellings			P							
8-2.4(g) (22)	Transient vacation rentals, provided they are located within the designated Visitor Destination Areas established pursuant to Article 17 of this Chapter. These uses are prohibited in non-VDA areas.			P							

SECTION 3. Chapter 8, Kaua'i County Code 1987, as amended, is hereby amended by amending Table 8-2.4 – Table of Uses, in pertinent part, to prohibit “Developed campgrounds” in the Agriculture Zoning District as follows:

Sec.	USE	ZONING DISTRICT									
		Residential		RR	Commercial		Industrial		AG	O	UNV
		R-1 to R-6	R-10 to R-20		CN	CG	IL	IG			
8-2.4(r)(1)	Animal hospitals								U		
8-2.4(r)(2)	Botanical and Zoological gardens								U		
8-2.4(r)(3)	Cemeteries								U		
8-2.4(r)(4)	Churches, temples, and monasteries								U		
8-2.4(r)(5)	Commercial Recreation								U		
8-2.4(r)(6)	Construction and worker temporary housing								U		

Sec.	USE	ZONING DISTRICT										
		Residential		RR	Commercial		Industrial		AG	O	UNV	
		R-1 to R-6	R-10 to R-20		CN	CG	IL	IG				
[8-2.4(r)(7)]	[Development campgrounds]									[U]		
[8-2.4(r)(8)] 8-2.4(r) (7)	Farm worker housing									U		
[8-2.4(r)(9)] 8-2.4(r) (8)	Farmers Markets									U		
[8-2.4(r)(10)] 8-2.4(r) (9)	Golf courses									U		
[8-2.4(r)(11)] 8-2.4(r) (10)	Mineral extraction and quarries									U		
[8-2.4(r)(12)] 8-2.4(r) (11)	Pet keeping and raising proposed within five hundred (500) feet of any Residential District									U		
[8-2.4(r)(13)] 8-2.4(r) (12)	Piggery, when to be located within three thousand (3,000) feet of any Use District									U		
[8-2.4(r)(14)] 8-2.4(r) (13)	Poultry [and piggeries] Raising, when to be located within three thousand (3,000) feet of any Use District									U		
[8-2.4(r)(15)] 8-2.4(r) (14)	Private and public utilities facilities									U		
[8-2.4(r)(16)] 8-2.4(r) 15	Restaurants and food services									U <sub>2</sub>		
[8-2.4(r)(17)] 8-2.4(r) (16)	Retail Sales									U		
[8-2.4(r)(18)] 8-2.4(r) (17)	Schools and day care centers									U		
[8-2.4(r)(19)] 8-2.4(r) (18)	Transportation terminals									U		
[8-2.4(r)(20)] 8-2.4(r) (19)	Any other use or structure which the Planning Director finds to be similar in nature to those listed in this Section and appropriate to the District									U		

SECTION 4. Chapter 8, Kaua'i County Code 1987, as amended, is hereby amended by amending Table 8-2.4 – Table of Uses, in pertinent part, to prohibit “Developed campgrounds” in the Open Zoning District as follows:

Sec.	USE	ZONING DISTRICT										
		Residential		RR	Commercial		Industrial		AG	O	UNV	
		R-1 to R-6	R-10 to R-20		CN	CG	IL	IG				
8-2.4(t) (1)	Communication facilities									U		
8-2.4(t) (2)	Day care centers									U		
[8-2.4(t) (3)]	[Developed campgrounds]									[U]		
[8-2.4(t) (4)] 8-2.4(t) (3)	Home businesses									U		
[8-2.4(t) (5)] 8-2.4(t) (4)	Intensive agriculture									U		

Sec.	USE	ZONING DISTRICT										
		Residential			Commercial		Industrial					
		R-1 to R-6	R-10 to R-20	RR	CN	CG	IL	IG	AG	O	UNV	
[8-2.4(t) (6)] 8-2.4(t) (5)	Livestock and grazing within the Urban District as established by the State Land Use Commission										U	
[8-2.4(t) (7)]	[Organized recreation camps]										[U]	
[8-2.4(t) (8)] 8-2.4(t) (6)	Outdoor recreation concessions										U	
[8-2.4(t) (9)] 8-2.4(t) (7)	Police and fire facilities										U	
[8-2.4(t) (10)] 8-2.4(t) (8)	Quarries										U	
[8-2.4(t) (11)] 8-2.4(t) (9)	Recreation vehicle parks										U	
[8-2.4(t) (12)] 8-2.4(t) (10)	Religious facilities										U	
[8-2.4(t) (13)] 8-2.4(t) (11)	Utility installations										U	
[8-2.4(t) (14)] 8-2.4(t) (12)	Any other use or structure which the Planning Director finds to be similar in nature to those listed in this Section and appropriate to the District										U	

SECTION 5. Chapter 8, Article 4, Kaua'i County Code 1987, as amended, is hereby amended by amending Sec. 8-4.9 as follows:

**"Sec. 8-4.9 Development of Other Uses in a Residential District.**

All permitted uses, all uses requiring a Use Permit, and all Uses allowed by variance other than residential shall conform to:

(a) Development standards established for the district in which they are normally permitted, provided that:

(1) The minimum distance from property lines shall be the same as that required for single family detached dwellings; and

(2) The maximum building heights shall be the same as that required for single family detached dwellings; [or] and

(3) Developed campgrounds are prohibited in all Residential Zoning Districts; or

(b) The requirements and conditions imposed by the Planning Commission in granting the Use Permit or Variance Permit."

SECTION 6. Chapter 8, Article 8, Kaua'i County Code 1987, as amended, is hereby amended by inserting a new Sec. 8-8.7 as follows:

**"Sec. 8-8.7 Developed Campgrounds in Agriculture Zoning Districts.**

Developed campgrounds are prohibited in all Agriculture Zoning Districts."

SECTION 7. Chapter 8, Article 9, Kaua'i County Code 1987, as amended, is hereby amended by inserting a new Sec. 8-9.6 as follows:

**"Sec. 8-9.6 Developed Campgrounds in Open Zoning Districts.**

Developed campgrounds are prohibited in all Open Zoning Districts."

SECTION 8. Chapter 8, Article 17, Kaua'i County Code 1987, as amended, is hereby amended as follows:

**"ARTICLE 17. TIME SHARING AND TRANSIENT VACATION RENTALS**

**Sec. 8-17.1 Limitations on Location.**

Except as provided in this Section, time share units, time share plans, and transient vacation rentals are prohibited.

**Sec. 8-17.2 Permitted Time Share Locations.**

Subject to the limitations contained in Secs. 8-17.4 and 8-17.5, time share units and time share plans are allowed:

(a) In hotels in Resort or Commercial Districts; and  
(b) In the Resort RR-10 and RR-20 Districts and Multi-Family R-10 and R-20 Residential Districts when such districts are located within the Visitor Destination Areas of Po'ipū, Līhu'e, Wailua Kapa'a or Princeville, as more particularly designated on County of Kaua'i Visitor Destination Area maps attached to Ordinance No. 436 and incorporated herein by reference. The boundary lines established on these visitor destination maps shall be transferred onto the Official Zoning Maps for reference purposes.

(c) Time share units and time share plans are prohibited in the R-1, R-2, R-4 and R-6 Residential Districts.

**Sec. 8-17.3 Permitted Locations for Multi-Family Transient Vacation Rentals.**

Subject to the limitations contained in Sec. 8-17.5, multi-family transient vacation rentals are allowed:

(a) In hotels in Resort or Commercial Districts; and  
(b) In Resort Districts and Residential Districts within the visitor destination areas as more particularly designated on County of Kaua'i Zoning Maps.

**Sec. 8-17.4 Time Sharing in Projects Located Within Visitor Destination Areas and Hotels in Resort or Commercial Districts.**

If the project in which the time share unit or time share plan is to be created contains an existing time share unit or time share plan, then time share units and plans shall be regulated according to the terms of the project instruments.

If the project in which the time share unit or time share plan is to be created is not a hotel and does not contain time share units or time share plans, then such use may be created only if such use is explicitly and prominently authorized by the project instruments, or the project instruments are amended by unanimous vote of the unit owners to explicitly and prominently authorize time sharing. Provided, however, that time share units and time share plans permitted under this Section shall be limited to the Visitor Destination Areas described in Sec. 8-17.2, and to hotels in Resort or Commercial Districts.

**Sec. 8-17.5 Existing Time Share and Multi-Family Transient Vacation Rental Uses.**

(a) Time Share Units, Time Share Plans, and Multi-Family Transient Vacation Rentals Existing On or Before September 22, 1982, That Are Not Located in Visitor Destination Areas. Time share units, time share plans, or multi-family vacation rentals existing on or before September 22, 1982 that are not located within the visitor destination areas described in Sec. 8-17.2 may continue as allowed uses. However, no additional time share units, time share plans, or multi-family transient vacation rentals outside the visitor destination area shall be created after September 22, 1982. The uses left unimpaired by this Subsection shall not be lost by the failure to exercise the use unless it clearly appears that the use has been

abandoned for a period in excess of two (2) years. This Subsection shall not apply to hotels in Resort or Commercial Districts.

(b) Time Share Units, Time Share Plans, and Transient Vacation Rentals in Projects Located Within Visitor Destination Areas Existing On or Before September 22, 1982. Time share units and time share plans in projects existing on or before September 22, 1982, and located within areas described in Sec. 8-17.3 shall be regulated in accordance with the provisions of Sec. 8-17.4.

#### **Sec. 8-17.6 Penalty.**

An owner of any unit which is operated in violation of this Article, and/or any other person, firm, company, association, partnership or corporation violating any provision of this Article, shall each be fined not less than five hundred dollars (\$500.00) nor more than ten thousand dollars (\$10,000.00) for each offense. This civil fine may be in addition to any criminal fines. If any person fails to cease such violation within one (1) month, such person shall be subject to a new and separate violation for each day the violation continues to exist.

(a) Actions by County Attorney. The County Attorney may file a civil action to enjoin any violation of this Article and collect any penalties provided for by this Article.

(b) Disposition of Fines. All fines imposed for violations of this Article shall be paid to the Director of Finance to the credit of the Development Fund.

#### **Sec. 8-17.7 Amendments to Visitor Destination Areas Designations.**

Amendments to the location and/or boundaries of the Visitor Destination Areas shall be made in accordance with the amendment provisions of Sec. 8-3.4 of this Chapter 8, provided that the burden of proof rests with the applicant to show upon the clear preponderance of the evidence that the amendment is reasonable. The criteria for evaluating such proposed amendments shall be as follows:

(a) The proposed amendment is consistent with the General Plan and the Development Plan.

(b) The parcel or parcels to be affected by the proposed amendment are suitable for Visitor Destination Area uses.

(c) The availability of existing public services and facilities in the affected areas and whether the requested public services and facilities for the proposed change in use can be met without undue burden.

(d) The proposed change will conflict with other existing uses in the affected area.

(e) The proposed change will cause or result in unreasonable air, noise, or water pollution, or will adversely affect irreplaceable natural resources.

(f) The affected areas contain or are in close proximity to other areas that contain:

(1) Large numbers of hotel and/or multiple family dwelling units suitable as accommodations by temporary visitors.

(2) Lands designated for Resort Use on the General Plan or having Resort zoning.

(3) Outdoor or commercial recreational facilities, such as beaches, golf courses, tennis courts and other similar facilities.

(4) Tourist related commercial facilities, such as gift shops, food stores, recreational equipment and services shops, tour and transportation service terminals, restaurants, bars, night clubs, cabarets, shopping centers, theaters, auditoriums, and other similar facilities.

(g) The proposed change will include or adversely affect predominantly residential neighborhoods.

**Sec. 8-17.8 Single Family Transient Vacation Rentals.**

(a) Notwithstanding any underlying zoning designation and with the exception of properties on the National or State Register of Historic Places, single family transient vacation rentals are prohibited in all areas not designated as Visitor Destination Areas.

(b) Development Standards for Single Family Vacation Rentals Permitted Within Visitor Destination Areas and Holders of Nonconforming Use Certificates. Development standards shall be the same as those for single family detached dwellings in Secs. 8-4.5 through 8-4.8, inclusive, with the following additions:

(1) Applicant for a single family transient vacation rental shall designate a contact person or owner's representative who shall be available on a twenty-four (24) hour, seven (7) days-per-week basis. Applicant shall provide the name and contact information to neighbors adjacent to and directly across subject vacation rental, the Planning Department, the Kaua'i Police Department, the Kaua'i Civil Defense Agency, and the Kaua'i Visitors Bureau upon issuance of a nonconforming use certificate or registration number. Owner is responsible for keeping information updated with all agencies.

(2) One (1) outdoor sign no larger than one (1) square foot shall be posted in a visible place on a wall, fence, or post immediately inside or on the front boundary of the property where it is easy to see, for the purpose of providing the current Nonconforming Use Certificate number or the Registration Number and the 24/7 phone number. No other signs shall be allowed and there shall be no direct illumination of the required sign. The numbers on the sign shall be no smaller than two (2) inches in height.

(3) The applicant shall provide a list of requirements and information entitled "For the Safety and Comfort of You and Your Neighbors." This shall provide essential information to the visitor and shall seek to reduce negative impacts on the surrounding neighborhood. This information piece shall be provided to the Planning Department at time of application and shall be posted in a conspicuous place in the guest's sleeping quarters along with a copy of the Nonconforming Use Certificate or the Registration Number, whichever the case may be and if required. The list shall include, but not be limited to, suggested curfews, guidance with respect to the character of the neighborhood and gatherings and noise, and what to do in cases of emergency and natural disaster.

(4) All print and internet advertising for single family vacation rentals, including listings with a rental service or real estate firm, shall include the Nonconforming Use Certificate or the Registration Number.

(5) A copy of the Nonconforming Use Certificate or the Registration Number, where required, shall be displayed in the back of the front door of the sleeping quarters.

(6) A site and floor plan shall be filed with the application.

**Sec. 8-17.9 Registration of All Transient Vacation Rentals.**

(a) All single family transient vacation rentals, excluding, however, a time share unit in a time share plan subject to Chapter 514E of the Hawai'i Revised Statutes, as amended, lawfully existing in Visitor Destination Areas on March 7, 2008 shall register with the Director of Finance on a form prescribed by the Director of Finance no later than one hundred eighty (180) days after March 7, 2008. Any new single family transient vacation rental, excludes, however, a time share unit in a time share plan subject to Chapter 514E of the Hawai'i Revised Statutes, as amended, established in Visitor Destination Areas subsequent to March 7, 2008 shall register with the Director of Finance prior to any such use of said rental. All single family transient vacation rental uses will be subject to Kaua'i County Code Title III, Chapter 5A.

(b) No single family transient vacation rental shall operate outside a Visitor Destination Area without a Nonconforming Use Certificate obtained under Sec. 8-13.10.

#### **Sec. 8-17.10 Nonconforming Use Certificates for Single Family Vacation Rentals.**

(a) The purpose of this Section is to provide a process to identify and register those single family transient vacation rentals as nonconforming uses which have been in lawful use prior to March 7, 2008 and to allow them to continue subject to obtaining a Nonconforming Use Certificate as provided by this Section.

(b) The owner, operator or proprietor of any single family transient vacation rental which operated outside of a Visitor Destination Area prior to March 7, 2008 shall obtain a Nonconforming Use Certificate for single family vacation rentals.

(c) No Nonconforming Use Certificate shall be issued by the Planning Director unless the use as a single family rental is a legal use under the Comprehensive Zoning Ordinance, and the applicant provides a sworn affidavit and demonstrates to the satisfaction of the Planning Director that a dwelling unit was being used as a vacation rental on an ongoing basis prior to March 7, 2008. The Planning Director, in making the decision, shall take into consideration, among other things, the following guidelines:

(1) The applicant had a State of Hawai'i general excise tax license and transient accommodations tax license for the purpose of the lawful operation of single family transient vacation rentals for a period long enough to demonstrate actual payment of taxes.

(2) That prior to March 7, 2008, applicant had deposits for reservations by transient guests in exchange for compensation for use of subject property as a vacation rental.

(3) That applicant had transient guests occupy subject property in exchange for compensation prior to March 7, 2008, with a pattern of consistency that evidences an ongoing and lawful enterprise.

(d) Applications for Nonconforming Use Certificates for single family transient vacation rentals located on land designated "Agricultural" pursuant to Chapter 205 of the Hawai'i Revised Statutes shall be made within sixty (60) days of August 16, 2010. If an operator as defined under Subsection (c) fails to apply for a Nonconforming Use Certificate within sixty (60) days of August 16, 2010, then the Planning Director shall assess an administrative late application processing fee of one thousand five hundred dollars (\$1,500.00) at filing. A Nonconforming Use Certificate may be issued for a single family transient vacation rental located on land in the State of Hawai'i's land use Agricultural District if:

(1) It was built prior to June 4, 1976; or

(2) The applicant has obtained a Special Permit under Hawai'i Revised Statutes, Sec. 205-6 which specifically permits a vacation rental on the subject property.

(A) An application for a Special Permit shall include verification by the applicant that the farm dwelling unit was being used as a vacation rental on an ongoing basis in accordance with Subsection (c).

(B) An application for a Special Permit pursuant to Hawai'i Revised Statutes Sec. 205-6 and Chapter 13 of the Rules of Practice and Procedures of the Planning Commission that is deemed complete by the Planning Director must be filed within one (1) year of August 16, 2010. Upon completion of the application, the Planning Director shall issue a provisional certificate that will allow the transient vacation rental to operate. The provisional certificate shall be null and void after the Planning Commission or the Land Use Commission makes a decision upon the application.



(C) In addition to the Special Permit standards set forth in Hawai'i Revised Statutes Sec. 205-6 and Chapter 13 of the Rules of Practice and Procedure of the Planning Commission, the Planning Commission may only grant a Special Permit if, prior to March 7, 2008: (i) the property upon which the transient vacation rental is located had a registered agricultural dedication pursuant to the guidelines set forth in the County of Kaua'i's Department of Finance Real Property Tax Division Agricultural Dedication Program Rules; (ii) a bona fide agricultural operation existed, as shown by State General Excise Tax Forms and/or Federal Income Tax Form 1040 Schedule F filings; or (iii) the Planning Commission finds that the size, shape, topography, location or surroundings of the property, or other circumstances, did not allow an applicant to qualify for an agricultural dedication pursuant to the County of Kaua'i's Department of Finance Real Property Tax Division Agricultural Dedication Program Rules or inhibited intensive agricultural activities.

(D) If the application for the Special Permit is granted, then the transient vacation rental operation shall be subject to conditions imposed by the Planning Commission or the Land Use Commission.

(E) If the application for Special Permit is denied, then the Nonconforming Use Certificate shall not be issued and the transient vacation rental must cease operation.

(e) The owner, operator, or proprietor shall have the burden of proof in establishing that the use is properly nonconforming based on the following documentation which shall be provided to the Planning Director as evidence of a nonconforming use: records of occupancy and tax documents, including all relevant State of Hawai'i general excise tax filings, all relevant transient accommodations tax filings, Federal and/or State of Hawai'i income tax returns for the relevant time period, reservation lists, and receipts showing payment. Other reliable information may also be provided. Based on the evidence submitted, the Planning Director shall determine whether to issue a Nonconforming Use Certificate for the single family transient vacation rental.

(f) The Planning Director shall make available to the public at the Planning Department counter and on the County of Kaua'i website a list of all completed applications for Nonconforming Use Certificates. Applications deemed completed shall concurrently be made available to the public. Copies of applications shall also be made available to the public as public information, as provided by H.R.S. Chapter 92F (the Uniform Information Practices Act). Such list shall include the names of the applicants and the tax map key number of the parcels which are the subject of the applications. The Planning Department may physically inspect a single family transient vacation rental prior to a Nonconforming Use Certificate being issued.

(g) The Planning Director shall prepare an application form which shall be available to the public. If an operator as defined under Subsection (c) fails to apply for a Nonconforming Use Certificate within sixty (60) days of August 16, 2010 the Planning Director shall assess an administrative late application processing fee of one thousand five hundred dollars (\$1,500.00) at filing. Applications received more than one (1) year after August 16, 2010 shall not be accepted and the use of a transient vacation rental shall be deemed discontinued.

(h) The owner or lessee who has obtained a Nonconforming Use Certificate under this Section shall apply to renew the Nonconforming Use Certificate annually on the date of issuance of the Nonconforming Use Certificate.

(1) Each application to renew shall include proof that there is a currently valid State of Hawai'i general excise tax license and transient accommodations tax license for the nonconforming use and shall be received by the Department prior to the expiration date of a held Nonconforming Use Certificate. Failure to meet this condition will result in the automatic denial of the application for renewal of the Nonconforming Use Certificates.

(2) Upon renewal, the Planning Department may initiate re-inspection of properties for compliance with other provisions of this chapter, or other pertinent land use laws, and may withhold approval of a renewal application and issue cease and desist notices to the applicant until all violations have been resolved to the satisfaction of the Planning Director.

(3) The applicant shall pay an annual renewal fee of seven hundred fifty dollars (\$750.00) which shall be deposited into the County General Fund.

#### **Sec. 8-17.11 Enforcement Against Illegal Transient Vacation Rentals.**

(a) In addition to other penalties provided by law, including, but not limited to, Secs. 8-3.5(a) and 8-17.6, the Planning Commission Rules, as amended, the Planning Director, or any member of the public who has duly obtained standing pursuant to rules promulgated by the commission, may initiate proceedings to revoke or modify the terms of a Nonconforming Use Certificate pursuant to the Rules of Practice and Procedures of the Planning Commission, as amended. Violations of conditions of approval or providing false or misleading information on the application or in any information relating thereto at any time during the application process shall be grounds for revocation or cease and desist orders.

(b) Advertising of any sort which offers a property as a transient vacation rental shall constitute prima facie evidence of the operation of a transient vacation rental on said property and the burden of proof shall be on the owner, operator, or lessee to establish that the subject property is not being used as a transient vacation rental or that it is being used for such purpose legally. If any unit is found to be operating unlawfully, penalties established in Secs. 8-3.5(a) and 8-17.6 shall apply.

#### **Sec. 8-17.12 Historic Properties Exemption.**

Single family dwelling units on the National or State Register of Historic Places may be allowed to operate as a transient vacation rental through a Use Permit and by abiding by the development standards specified in Sec. 8-17.8(b)."

SECTION 9. 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 10. 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 11. 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:



LUKE A. EVSLIN



MASON K. CHOCK

DATE OF INTRODUCTION:

Līhu‘e, Kaua‘i, Hawai‘i

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