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# A BILL FOR AN ACT

RELATING TO SUSTAINABLE LIVING.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that populations are  
2 increasing while resources are decreasing. The result is a need  
3 for more sustainable and environmentally appropriate living.  
4 Sustainable and environmentally appropriate living is presently  
5 inhibited due to zoning regulations that control and regulate  
6 conventional development. Some innovations for more  
7 development can only be researched and tested from outside the  
8 confines of the State's existing mechanisms.

9           In 2007, New Mexico's governor signed into law the  
10 Sustainable Development Test Site Act, which allows counties  
11 throughout that state to define a new category of rules that  
12 apply to approved sustainable development sites. Taos county,  
13 for example, is issuing permits for sites to conduct sustainable  
14 development research that would otherwise be restricted due to  
15 ordinances that apply to conventional development.

16           Similarly, this Act allows and encourages privately or  
17 otherwise funded sustainable projects within a county to



1 research new low-impact ways of living and growing food without  
2 the limitations imposed by traditional codes and ordinances.  
3 This Act allows permitted designated sustainable living research  
4 sites to receive exemptions from certain codes for experimental  
5 purposes. The sites are intended to be located within  
6 agricultural and rural districts in certain counties. Under  
7 this Act, applicants for permits must provide detailed  
8 descriptions of the research to be conducted at the sites as  
9 well as annual status reports of research activities. This Act  
10 enables the construction of what are often referred to as  
11 "ecovillages," which are innovative and rapidly developing  
12 nationwide and internationally, but which are not permitted  
13 under Hawaii's current laws.

14 The short-term goal of sustainable research sites is to  
15 develop sustainable resources and practices such as community  
16 resource sharing, natural or recycled building materials,  
17 thermal and solar heating or cooling systems, renewable power  
18 generation, water harvesting, contained sewage treatment  
19 systems, and food production. The long-term goal of these sites  
20 is to develop research that will contribute to emergency  
21 preparedness development in Hawaii and to further the intentions



1 of the Aloha+ Challenge, which identifies six goals to be  
2 achieved by 2030:

- 3 (1) Clean energy: Seventy per cent clean energy,  
4 including forty per cent from renewables and thirty  
5 per cent from efficiency;
- 6 (2) Local food: At least double local food production so  
7 that twenty to thirty per cent of food consumed is  
8 grown locally;
- 9 (3) Natural resource management: Reverse the trend of  
10 natural resource loss mauka to makai by increasing  
11 freshwater security, watershed protection, community-  
12 based marine management, invasive species prevention  
13 and control, and restoration of native species;
- 14 (4) Waste reduction: Reduce the solid waste stream prior  
15 to disposal by seventy per cent through source  
16 reduction, recycling, bioconversion, and landfill  
17 diversion methods;
- 18 (5) Smart sustainable communities: Increase livability  
19 and resilience in the built environment through  
20 planning and implementation at the state and county  
21 levels; and



1 (6) Green workforce and education: Increase local green  
2 jobs and education to implement these targets.

3 SECTION 2. The Hawaii Revised Statutes is amended by  
4 adding a new chapter to be appropriately designated and to read  
5 as follows:

6 "CHAPTER

7 SUSTAINABLE LIVING RESEARCH ACT

8 § -1 Short title. This chapter shall be known and may  
9 be cited as the Sustainable Living Research Act.

10 § -2 Definitions. As used in this chapter:

11 "Permittee" means a person who holds a sustainable living  
12 research permit.

13 "Planning commission" means a county planning commission.

14 "Planning department" means a county planning department.

15 "Sustainable living" means a live-in environment composed  
16 of structures and systems that inherently produce utilities and  
17 life-support systems that conserve resources and may include:

18 (1) The provision of on-site energy needs by way of  
19 renewable resources;

20 (2) The provision of water needs while minimizing the  
21 withdrawals from ground water and surface water



1 systems in accordance with county and state water law  
2 and the rules and policies of the county and state  
3 engineers;

4 (3) The provision of sewage treatment needs with minimal  
5 discharge;

6 (4) The reuse of materials discarded by modern society;

7 (5) The development of organic foods;

8 (6) The development of renewable fuel; and

9 (7) The development and testing of shared living  
10 situations.

11 "Sustainable living research" means activities conducted at  
12 a sustainable living research site that test ideas, concepts, or  
13 inventions designed to promote sustainable living.

14 "Sustainable living research permit" means a permit issued  
15 by the planning department that designates an area as a  
16 sustainable living research site and specifies:

17 (1) The sustainable living research that can be conducted  
18 within the site by the permittee; and

19 (2) The county codes, ordinances, rules, or permits that  
20 are not applicable to the permittee and the research.



1 "Sustainable living research site" means an area that is  
2 subject to a sustainable living research site permit issued by  
3 the planning department.

4 § -3 Application for sustainable living research permit;  
5 evaluation. (a) A person desiring a sustainable living  
6 research permit shall submit an application to the planning  
7 department for the county in which the proposed sustainable  
8 living research site is located. The application shall include:

- 9 (1) A detailed description of the sustainable living  
10 research that will be conducted on the sustainable  
11 living research site, including an explanation of the  
12 ideas, concepts, and inventions that will be tested;
- 13 (2) A site plan of the sustainable living research site;
- 14 (3) The number of inhabitants and employees whom are  
15 expected to occupy the sustainable living research  
16 site;
- 17 (4) An assessment of the county codes, ordinances, rules,  
18 or permits relating to construction or building  
19 requirements, occupancy, zoning, or subdivisions that  
20 are not practicable for the specific sustainable  
21 living research site;



1 (5) An application fee, if any, set by the planning  
2 department;

3 (6) Other information as may be required by conditions  
4 adopted pursuant to section -7, rules adopted by  
5 the planning department or planning commission, or  
6 county ordinance; and

7 (7) An affidavit indemnifying the county and State from  
8 liabilities relating to the building exemptions.

9 An application shall be complete upon submission of all of the  
10 above items to the planning department.

11 (b) Within ten days of receipt of a complete application,  
12 the planning department shall forward a copy of the application  
13 to the department of health for review. The department of  
14 health shall hold a public hearing in the community where the  
15 proposed site will be located. Within sixty days after its  
16 receipt of the application, the department of health shall  
17 determine whether the proposed sustainable living research will  
18 have a detrimental environmental impact on the proposed  
19 sustainable living research site or the surrounding area;  
20 provided that the department of health may take additional time



1 to process any application if the proposed research poses a  
2 significant impact to the local community or environment.

3 § -4 Application review; decision; permit. (a)

4 Following the application review conducted pursuant to section  
5 -3(b), the planning department shall issue its decision in  
6 writing. The planning department shall issue a sustainable  
7 living research permit if:

8 (1) The department of health has determined that the  
9 proposed sustainable living research will not have a  
10 detrimental environmental impact on the proposed  
11 sustainable living research site or the surrounding  
12 area; and

13 (2) The proposed sustainable living research at the site  
14 may be beneficial to the development of sustainable  
15 living.

16 (b) A sustainable living research permit shall include:

17 (1) The specific sustainable living research that may be  
18 conducted at the sustainable living research site;

19 (2) The maximum number of individuals that may inhabit the  
20 sustainable living research site;



1 (3) The specific county codes, ordinances, rules, and  
2 permits relating to construction or building  
3 requirements, occupancy, zoning, or subdivisions that  
4 the permittee and sustainable living research  
5 conducted are excepted from pursuant to the permit;  
6 and

7 (4) Other restrictions on the sustainable living research  
8 site and the permittee's activities as required by  
9 rules adopted pursuant to section -7 and chapter  
10 91, if any.

11 (c) The sustainable living research permit shall be filed  
12 and recorded in the office of the county clerk. The permit  
13 shall expire at the earlier of:

- 14 (1) Ten years after the date of issuance; or
- 15 (2) The completion of the sustainable living research.

16 (d) The planning department shall approve or deny an  
17 application for a sustainable living research permit within  
18 ninety days of its receipt of a complete application; provided  
19 that the department shall deny an application if the proposed  
20 research would cause significant impacts to the local community



1 or the environment. This deadline may be extended upon mutual  
2 agreement of the applicant and the planning department.

3 (e) If the planning department denies an application for a  
4 sustainable living research permit or fails to rule on an  
5 application within ninety days after the complete application is  
6 submitted, the applicant may appeal the planning department's  
7 decision or failure to rule to the appropriate planning  
8 commission within thirty days.

9 § -5 Sustainable living research site; requirements. A  
10 sustainable living research site shall be:

- 11 (1) Fifteen acres or less;  
12 (2) Built with thirty-foot setbacks from adjacent  
13 properties; and  
14 (3) Located within a county with a population of less than  
15 five hundred thousand.

16 § -6 Sustainable living research permitted; enforcement.

17 (a) The permittee, when conducting sustainable living research  
18 that is specified in the sustainable living research permit,  
19 shall comply with all applicable laws and rules except those  
20 county codes, ordinances, rules, or permits specified in the  
21 permit as inapplicable to the permittee and the research.



1 (b) Nothing in this chapter or the sustainable living  
2 research permit shall be deemed to allow the permittee to  
3 appropriate or otherwise use underground or surface water  
4 without first obtaining a water rights permit or approval if  
5 otherwise required pursuant to chapter 174C. New appropriations  
6 of water and water rights transfers shall in no event be  
7 exempted from applicable state laws and rules relating to water  
8 resources.

9 (c) Nothing in this chapter or the sustainable living  
10 research permit shall be deemed to exempt the permittee from  
11 preparing an environmental assessment or environmental impact  
12 statement where such a statement or assessment is otherwise  
13 required by law.

14 (d) Relevant employees and agents of the State or the  
15 county, at all reasonable times and with reasonable notice, may  
16 enter the sustainable living research site for the purpose of  
17 inspecting the site and activities conducted on the site to  
18 ensure that conditions specified in the sustainable living  
19 research permit are being met.

20 (e) The permittee shall annually submit a report to the  
21 planning department describing the sustainable living research



1 and activities conducted during the preceding twelve months and  
2 summarizing the research findings. All information contained in  
3 the report and all other information learned from activities  
4 pursuant to the sustainable living research permit shall be made  
5 available to the public. The planning department may visit the  
6 site annually to determine the accuracy of the annual report.  
7 Copies of the report shall be distributed to the department of  
8 transportation, the department of commerce and consumer affairs,  
9 the department of land and natural resources, and the office of  
10 planning.

11 (f) The planning commission may revoke the sustainable  
12 living research permit if it finds, after a public hearing, that  
13 the permittee has substantially violated a sustainable living  
14 research permit provision, this chapter, or an applicable rule  
15 adopted pursuant to this chapter or chapter 91, and has failed  
16 to correct the violation within thirty days of notification of  
17 the violation.

18 (g) A permittee may apply to have a sustainable living  
19 research permit amended by submitting a new application pursuant  
20 to section -3. If the planning department determines that  
21 the proposed amendment will substantially alter the sustainable



1 living research or other activities conducted at the sustainable  
2 living research site and does not approve those changes, the  
3 permittee may appeal that decision to the appropriate planning  
4 commission within thirty days.

5       § -7 Adoption of conditions. The planning department  
6 may include, as part of the permit issued pursuant to this  
7 chapter, special rules and conditions that are consistent with  
8 the purpose of this chapter and other applicable laws and  
9 policies. If the applicant is not in agreement with any special  
10 rules and conditions imposed by the planning department, the  
11 applicant may appeal to the appropriate planning commission.

12       § -8 Rules. No later than October 1, 2017, the planning  
13 department of each county with a population of less than five  
14 hundred thousand shall adopt rules pursuant to chapter 91 to  
15 implement the requirements of this chapter."

16       SECTION 3. Section 205-2, Hawaii Revised Statutes, is  
17 amended by amending subsections (c) and (d) to read as follows:

18       "(c) Rural districts shall include activities or uses as  
19 characterized by low density residential lots of not more than  
20 one dwelling house per one-half acre, except as provided by  
21 county ordinance pursuant to section 46-4(c), in areas where



1 "city-like" concentration of people, structures, streets, and  
2 urban level of services are absent, and where small farms are  
3 intermixed with low density residential lots except that within  
4 a subdivision, as defined in section 484-1, the commission for  
5 good cause may allow one lot of less than one-half acre, but not  
6 less than eighteen thousand five hundred square feet, or an  
7 equivalent residential density, within a rural subdivision and  
8 permit the construction of one dwelling on such lot; provided  
9 that all other dwellings in the subdivision shall have a minimum  
10 lot size of one-half acre or 21,780 square feet. Such petition  
11 for variance may be processed under the special permit  
12 procedure. These districts may include contiguous areas which  
13 are not suited to low density residential lots or small farms by  
14 reason of topography, soils, and other related characteristics.  
15 Rural districts shall also include golf courses, golf driving  
16 ranges, and golf-related facilities.

17 In addition to the uses listed in this subsection, rural  
18 districts shall include [~~geothermal~~] as permissible uses:

19 (1) Geothermal resources exploration and geothermal  
20 resources development, as defined under section  
21 182-1 [~~, as permissible uses.~~]; and



- 1       (2) Sustainable living research sites pursuant to chapter  
2       \_\_\_\_\_.
- 3       (d) Agricultural districts shall include[+] as permissible  
4 uses:
- 5       (1) Activities or uses as characterized by the cultivation  
6       of crops, crops for bioenergy, orchards, forage, and  
7       forestry;
- 8       (2) Farming activities or uses related to animal husbandry  
9       and game and fish propagation;
- 10      (3) Aquaculture, which means the production of aquatic  
11      plant and animal life within ponds and other bodies of  
12      water;
- 13      (4) Wind generated energy production for public, private,  
14      and commercial use;
- 15      (5) Biofuel production, as described in section  
16      205-4.5(a)(16), for public, private, and commercial  
17      use;
- 18      (6) Solar energy facilities; provided that:
- 19          (A) This paragraph shall apply only to land with soil  
20          classified by the land study bureau's detailed



1 land classification as overall (master)  
2 productivity rating class B, C, D, or E; and  
3 (B) Solar energy facilities placed within land with  
4 soil classified as overall productivity rating  
5 class B or C shall not occupy more than ten per  
6 cent of the acreage of the parcel, or twenty  
7 acres of land, whichever is lesser, unless a  
8 special use permit is granted pursuant to section  
9 205-6;

10 (7) Bona fide agricultural services and uses that support  
11 the agricultural activities of the fee or leasehold  
12 owner of the property and accessory to any of the  
13 above activities, regardless of whether conducted on  
14 the same premises as the agricultural activities to  
15 which they are accessory, including farm dwellings as  
16 defined in section 205-4.5(a)(4), employee housing,  
17 farm buildings, mills, storage facilities, processing  
18 facilities, photovoltaic, biogas, and other small-  
19 scale renewable energy systems producing energy solely  
20 for use in the agricultural activities of the fee or  
21 leasehold owner of the property, agricultural-energy



1 facilities as defined in section 205-4.5(a)(17),  
2 vehicle and equipment storage areas, and plantation  
3 community subdivisions as defined in section  
4 205-4.5(a)(12);

5 (8) Wind machines and wind farms;

6 (9) Small-scale meteorological, air quality, noise, and  
7 other scientific and environmental data collection and  
8 monitoring facilities occupying less than one-half  
9 acre of land; provided that these facilities shall not  
10 be used as or equipped for use as living quarters or  
11 dwellings;

12 (10) Agricultural parks;

13 (11) Agricultural tourism conducted on a working farm, or a  
14 farming operation as defined in section 165-2, for the  
15 enjoyment, education, or involvement of visitors;  
16 provided that the agricultural tourism activity is  
17 accessory and secondary to the principal agricultural  
18 use and does not interfere with surrounding farm  
19 operations; and provided further that this paragraph  
20 shall apply only to a county that has adopted



- 1           ordinances regulating agricultural tourism under  
2           section 205-5;
- 3       (12) Agricultural tourism activities, including overnight  
4           accommodations of twenty-one days or less, for any one  
5           stay within a county; provided that this paragraph  
6           shall apply only to a county that includes at least  
7           three islands and has adopted ordinances regulating  
8           agricultural tourism activities pursuant to section  
9           205-5; provided further that the agricultural tourism  
10          activities coexist with a bona fide agricultural  
11          activity. For the purposes of this paragraph, "bona  
12          fide agricultural activity" means a farming operation  
13          as defined in section 165-2;
- 14       (13) Open area recreational facilities;
- 15       (14) Geothermal resources exploration and geothermal  
16          resources development, as defined under section 182-1;
- 17       (15) Agricultural-based commercial operations, including:  
18           (A) A roadside stand that is not an enclosed  
19               structure, owned and operated by a producer for  
20               the display and sale of agricultural products  
21               grown in Hawaii and value-added products that



1           were produced using agricultural products grown  
2           in Hawaii;

3           (B) Retail activities in an enclosed structure owned  
4           and operated by a producer for the display and  
5           sale of agricultural products grown in Hawaii,  
6           value-added products that were produced using  
7           agricultural products grown in Hawaii, logo items  
8           related to the producer's agricultural  
9           operations, and other food items; and

10          (C) A retail food establishment owned and operated by  
11          a producer and permitted under title 11, chapter  
12          12 of the rules of the department of health that  
13          prepares and serves food at retail using products  
14          grown in Hawaii and value-added products that  
15          were produced using agricultural products grown  
16          in Hawaii.

17          The owner of an agricultural-based commercial  
18          operation shall certify, upon request of an officer or  
19          agent charged with enforcement of this chapter under  
20          section 205-12, that the agricultural products



1 displayed or sold by the operation meet the  
 2 requirements of this paragraph; [and]  
 3 (16) Hydroelectric facilities as described in section  
 4 205-4.5(a)(23) [-]; and  
 5 (17) Sustainable living research sites pursuant to chapter  
 6 \_\_\_\_\_.

7 Agricultural districts shall not include golf courses and golf  
 8 driving ranges, except as provided in section 205-4.5(d).

9 Agricultural districts include areas that are not used for, or  
 10 that are not suited to, agricultural and ancillary activities by  
 11 reason of topography, soils, and other related characteristics."

12 SECTION 4. Section 205-4.5, Hawaii Revised Statutes, is  
 13 amended by amending subsection (a) to read as follows:

14 "(a) Within the agricultural district, all lands with soil  
 15 classified by the land study bureau's detailed land  
 16 classification as overall (master) productivity rating class A  
 17 or B and for solar energy facilities, class B or C, shall be  
 18 restricted to the following permitted uses:

- 19 (1) Cultivation of crops, including crops for bioenergy,
- 20 flowers, vegetables, foliage, fruits, forage, and
- 21 timber;

- 1           (2) Game and fish propagation;
- 2           (3) Raising of livestock, including poultry, bees, fish,  
3           or other animal or aquatic life that are propagated  
4           for economic or personal use;
- 5           (4) Farm dwellings, employee housing, farm buildings, or  
6           activities or uses related to farming and animal  
7           husbandry. "Farm dwelling", as used in this  
8           paragraph, means a single-family dwelling located on  
9           and used in connection with a farm, including clusters  
10          of single-family farm dwellings permitted within  
11          agricultural parks developed by the State, or where  
12          agricultural activity provides income to the family  
13          occupying the dwelling;
- 14          (5) Public institutions and buildings that are necessary  
15          for agricultural practices;
- 16          (6) Public and private open area types of recreational  
17          uses, including day camps, picnic grounds, parks, and  
18          riding stables, but not including dragstrips,  
19          airports, drive-in theaters, golf courses, golf  
20          driving ranges, country clubs, and overnight camps;



- 1           (7) Public, private, and quasi-public utility lines and  
2           roadways, transformer stations, communications  
3           equipment buildings, solid waste transfer stations,  
4           major water storage tanks, and appurtenant small  
5           buildings such as booster pumping stations, but not  
6           including offices or yards for equipment, material,  
7           vehicle storage, repair or maintenance, treatment  
8           plants, corporation yards, or other similar  
9           structures;
- 10          (8) Retention, restoration, rehabilitation, or improvement  
11          of buildings or sites of historic or scenic interest;
- 12          (9) Agricultural-based commercial operations as described  
13          in section 205-2(d)(15);
- 14          (10) Buildings and uses, including mills, storage, and  
15          processing facilities, maintenance facilities,  
16          photovoltaic, biogas, and other small-scale renewable  
17          energy systems producing energy solely for use in the  
18          agricultural activities of the fee or leasehold owner  
19          of the property, and vehicle and equipment storage  
20          areas that are normally considered directly accessory



1 to the above-mentioned uses and are permitted under  
2 section 205-2(d);

3 (11) Agricultural parks;

4 (12) Plantation community subdivisions, which as used in  
5 this chapter means an established subdivision or  
6 cluster of employee housing, community buildings, and  
7 agricultural support buildings on land currently or  
8 formerly owned, leased, or operated by a sugar or  
9 pineapple plantation; provided that the existing  
10 structures may be used or rehabilitated for use, and  
11 new employee housing and agricultural support  
12 buildings may be allowed on land within the  
13 subdivision as follows:

14 (A) The employee housing is occupied by employees or  
15 former employees of the plantation who have a  
16 property interest in the land;

17 (B) The employee housing units not owned by their  
18 occupants shall be rented or leased at affordable  
19 rates for agricultural workers; or



- 1           (C) The agricultural support buildings shall be  
2                       rented or leased to agricultural business  
3                       operators or agricultural support services;
- 4       (13) Agricultural tourism conducted on a working farm, or a  
5           farming operation as defined in section 165-2, for the  
6           enjoyment, education, or involvement of visitors;  
7           provided that the agricultural tourism activity is  
8           accessory and secondary to the principal agricultural  
9           use and does not interfere with surrounding farm  
10          operations; and provided further that this paragraph  
11          shall apply only to a county that has adopted  
12          ordinances regulating agricultural tourism under  
13          section 205-5;
- 14       (14) Agricultural tourism activities, including overnight  
15          accommodations of twenty-one days or less, for any one  
16          stay within a county; provided that this paragraph  
17          shall apply only to a county that includes at least  
18          three islands and has adopted ordinances regulating  
19          agricultural tourism activities pursuant to section  
20          205-5; provided further that the agricultural tourism  
21          activities coexist with a bona fide agricultural



1 activity. For the purposes of this paragraph, "bona  
2 fide agricultural activity" means a farming operation  
3 as defined in section 165-2;

4 (15) Wind energy facilities, including the appurtenances  
5 associated with the production and transmission of  
6 wind generated energy; provided that the wind energy  
7 facilities and appurtenances are compatible with  
8 agriculture uses and cause minimal adverse impact on  
9 agricultural land;

10 (16) Biofuel processing facilities, including the  
11 appurtenances associated with the production and  
12 refining of biofuels that is normally considered  
13 directly accessory and secondary to the growing of the  
14 energy feedstock; provided that biofuel processing  
15 facilities and appurtenances do not adversely impact  
16 agricultural land and other agricultural uses in the  
17 vicinity.

18 For the purposes of this paragraph:

19 "Appurtenances" means operational infrastructure  
20 of the appropriate type and scale for economic  
21 commercial storage and distribution, and other similar



1 handling of feedstock, fuels, and other products of  
2 biofuel processing facilities.

3 "Biofuel processing facility" means a facility  
4 that produces liquid or gaseous fuels from organic  
5 sources such as biomass crops, agricultural residues,  
6 and oil crops, including palm, canola, soybean, and  
7 waste cooking oils; grease; food wastes; and animal  
8 residues and wastes that can be used to generate  
9 energy;

10 (17) Agricultural-energy facilities, including  
11 appurtenances necessary for an agricultural-energy  
12 enterprise; provided that the primary activity of the  
13 agricultural-energy enterprise is agricultural  
14 activity. To be considered the primary activity of an  
15 agricultural-energy enterprise, the total acreage  
16 devoted to agricultural activity shall be not less  
17 than ninety per cent of the total acreage of the  
18 agricultural-energy enterprise. The agricultural-  
19 energy facility shall be limited to lands owned,  
20 leased, licensed, or operated by the entity conducting  
21 the agricultural activity.



1           As used in this paragraph:

2           "Agricultural activity" means any activity  
3 described in paragraphs (1) to (3) of this subsection.

4           "Agricultural-energy enterprise" means an  
5 enterprise that integrally incorporates an  
6 agricultural activity with an agricultural-energy  
7 facility.

8           "Agricultural-energy facility" means a facility  
9 that generates, stores, or distributes renewable  
10 energy as defined in section 269-91 or renewable fuel  
11 including electrical or thermal energy or liquid or  
12 gaseous fuels from products of agricultural activities  
13 from agricultural lands located in the State.

14           "Appurtenances" means operational infrastructure  
15 of the appropriate type and scale for the economic  
16 commercial generation, storage, distribution, and  
17 other similar handling of energy, including equipment,  
18 feedstock, fuels, and other products of agricultural-  
19 energy facilities;

20       (18) Construction and operation of wireless communication  
21 antennas; provided that, for the purposes of this



1 paragraph, "wireless communication antenna" means  
2 communications equipment that is either freestanding  
3 or placed upon or attached to an already existing  
4 structure and that transmits and receives  
5 electromagnetic radio signals used in the provision of  
6 all types of wireless communications services;  
7 provided further that nothing in this paragraph shall  
8 be construed to permit the construction of any new  
9 structure that is not deemed a permitted use under  
10 this subsection;

11 (19) Agricultural education programs conducted on a farming  
12 operation as defined in section 165-2, for the  
13 education and participation of the general public;  
14 provided that the agricultural education programs are  
15 accessory and secondary to the principal agricultural  
16 use of the parcels or lots on which the agricultural  
17 education programs are to occur and do not interfere  
18 with surrounding farm operations. For the purposes of  
19 this paragraph, "agricultural education programs"  
20 means activities or events designed to promote  
21 knowledge and understanding of agricultural activities



1 and practices conducted on a farming operation as  
2 defined in section 165-2;  
3 (20) Solar energy facilities that do not occupy more than  
4 ten per cent of the acreage of the parcel, or twenty  
5 acres of land, whichever is lesser or for which a  
6 special use permit is granted pursuant to section 205-  
7 6; provided that this use shall not be permitted on  
8 lands with soil classified by the land study bureau's  
9 detailed land classification as overall (master)  
10 productivity rating class A unless the solar energy  
11 facilities are:

12 (A) Located on a paved or unpaved road in existence  
13 as of December 31, 2013, and the parcel of land  
14 upon which the paved or unpaved road is located  
15 has a valid county agriculture tax dedication  
16 status or a valid agricultural conservation  
17 easement;

18 (B) Placed in a manner that still allows vehicular  
19 traffic to use the road; and

20 (C) Granted a special use permit by the commission  
21 pursuant to section 205-6;



- 1           (21) Solar energy facilities on lands with soil classified  
2                    by the land study bureau's detailed land  
3                    classification as overall (master) productivity rating  
4                    B or C for which a special use permit is granted  
5                    pursuant to section 205-6; provided that:
- 6            (A) The area occupied by the solar energy facilities  
7                    is also made available for compatible  
8                    agricultural activities at a lease rate that is  
9                    at least fifty per cent below the fair market  
10                  rent for comparable properties;
- 11           (B) Proof of financial security to decommission the  
12                  facility is provided to the satisfaction of the  
13                  appropriate county planning commission prior to  
14                  date of commencement of commercial generation;  
15                  and
- 16           (C) Solar energy facilities shall be decommissioned  
17                  at the owner's expense according to the following  
18                  requirements:
- 19                  (i) Removal of all equipment related to the  
20                       solar energy facility within twelve months



1 of the conclusion of operation or useful  
2 life; and

3 (ii) Restoration of the disturbed earth to  
4 substantially the same physical condition as  
5 existed prior to the development of the  
6 solar energy facility.

7 For the purposes of this paragraph, "agricultural  
8 activities" means the activities described in  
9 paragraphs (1) to (3);

10 (22) Geothermal resources exploration and geothermal  
11 resources development, as defined under section 182-1;  
12 [~~or~~]

13 (23) Hydroelectric facilities, including the appurtenances  
14 associated with the production and transmission of  
15 hydroelectric energy, subject to section 205-2;  
16 provided that the hydroelectric facilities and their  
17 appurtenances:

18 (A) Shall consist of a small hydropower facility as  
19 defined by the United States Department of  
20 Energy, including:



- 1 (i) Impoundment facilities using a dam to store  
2 water in a reservoir;
- 3 (ii) A diversion or run-of-river facility that  
4 channels a portion of a river through a  
5 canal or channel; and
- 6 (iii) Pumped storage facilities that store energy  
7 by pumping water uphill to a reservoir at  
8 higher elevation from a reservoir at a lower  
9 elevation to be released to turn a turbine  
10 to generate electricity;
- 11 (B) Comply with the state water code, chapter 174C;
- 12 (C) Shall, if over five hundred kilowatts in  
13 hydroelectric generating capacity, have the  
14 approval of the commission on water resource  
15 management, including a new instream flow  
16 standard established for any new hydroelectric  
17 facility[+] that requires new or expanded surface  
18 water diversions; and
- 19 (D) Do not impact or impede the use of agricultural  
20 land or the availability of surface or ground  
21 water for all uses on all parcels that are served



1 by the ground water sources or streams for which  
 2 hydroelectric facilities are considered[-]; or  
 3 (24) Sustainable living research sites pursuant to chapter  
 4 \_\_\_\_\_."

5 SECTION 5. Section 205-5, Hawaii Revised Statutes, is  
 6 amended by amending subsection (c) to read as follows:

7 "(c) Unless authorized by special permit issued pursuant  
 8 to this chapter, only the following uses shall be permitted  
 9 within rural districts:

- 10 (1) Low density residential uses;
- 11 (2) Agricultural uses;
- 12 (3) Golf courses, golf driving ranges, and golf-related
- 13 facilities;
- 14 (4) Public, quasi-public, and public utility facilities;
- 15 [and]
- 16 (5) Geothermal resources exploration and geothermal
- 17 resources development, as defined under section 182-
- 18 1[-]; and
- 19 (6) Sustainable living research sites pursuant to chapter  
 20 \_\_\_\_\_.



1           In addition, the minimum lot size for any low density  
2 residential use shall be one-half acre and there shall be but  
3 one dwelling house per one-half acre, except as provided for in  
4 section 205-2."

5           SECTION 6. Statutory material to be repealed is bracketed  
6 and stricken. New statutory material is underscored.

7           SECTION 7. This Act shall take effect on July 1, 2038.



**Report Title:**

Sustainable Living Research; Permit

**Description:**

Establishes a permit that exempts sustainable living research and sites from certain county codes, ordinances, and rules.

Effective 7/1/2038. (HD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

