
A BILL FOR AN ACT

RELATING TO AGRICULTURAL BUILDINGS.

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

1 SECTION 1. Section 46-88, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§46-88 Agricultural buildings; exemptions from building**
4 **permit and building code requirements.** (a) Notwithstanding any
5 law to the contrary, the following agricultural buildings,
6 structures, and appurtenances thereto that are not used as
7 dwellings or lodging units are exempt from building permit and
8 building code requirements where they are no more than one
9 thousand square feet in floor area:

10 (1) Nonresidential manufactured pre-engineered commercial
11 buildings and structures;

12 (2) Single [~~stand-alone~~] stand-alone recycled ocean
13 shipping or cargo containers that are used as
14 nonresidential commercial buildings and are properly
15 anchored;

16 (3) Notwithstanding the one thousand square foot floor
17 area restriction, agricultural shade cloth structures,



- 1 cold frames, or greenhouses not exceeding sixty
2 thousand square feet in area per structure; provided
3 that where multiple structures are erected, the
4 minimum horizontal separation between each shade cloth
5 structure, cold frame, or greenhouse is fifteen feet;
- 6 (4) Aquacultural or aquaponics structures, including
7 above-ground water storage or production tanks,
8 troughs, and raceways with a maximum height of six
9 feet above grade, and in-ground ponds and raceways,
10 and piping systems for aeration, carbon dioxide, or
11 fertilizer or crop protection chemical supplies within
12 agricultural or aquacultural production facilities;
- 13 (5) Livestock watering tanks, water piping, and plumbing
14 not connected to a source of potable water, or
15 separated by an air gap from such a source;
- 16 (6) Non-masonry fences not exceeding ten feet in height
17 and masonry fences not exceeding six feet in height;
- 18 (7) One-story masonry or wood-framed buildings or
19 structures with a structural span of less than twenty-
20 five feet and a total square footage of no more than



- 1 one thousand square feet, including farm buildings
2 used as:
- 3 (A) Barns;
 - 4 (B) Greenhouses;
 - 5 (C) Farm production buildings including aquaculture
6 hatcheries and plant nurseries;
 - 7 (D) Storage buildings for farm equipment or plant or
8 animal supplies or feed; or
 - 9 (E) Storage or processing buildings for crops;
10 provided that the height of any stored items
11 shall not collectively exceed twelve feet [~~in~~
12 height];
- 13 (8) Raised beds containing soil, gravel, cinders, or other
14 growing media or substrates with wood, metal, or
15 masonry walls or supports with a maximum height of
16 four feet;
- 17 (9) Horticultural tables or benches no more than four feet
18 in height supporting potted plants or other crops; and
- 19 (10) Nonresidential indigenous Hawaiian hale that do not
20 exceed five hundred square feet in size, have no



1 kitchen or bathroom, and are used for traditional
2 agricultural activities or education;
3 provided that the buildings, structures, and appurtenances
4 thereto comply with all applicable state and county zoning
5 codes.

6 (b) Notwithstanding the one thousand square foot floor
7 area restriction in subsection (a), the following buildings,
8 structures, and appurtenances thereto shall be exempt from
9 building permit requirements when compliant with relevant
10 building codes or county, national, or international
11 prescriptive construction standards:

12 (1) Nonresidential manufactured pre-engineered and county
13 pre-approved commercial buildings and structures
14 consisting of a total square footage greater than one
15 thousand square feet but no more than eight thousand
16 square feet; and

17 (2) One-story wood-framed or masonry buildings or
18 structures with a structural span of less than twenty-
19 five feet and a total square footage greater than one
20 thousand square feet but no more than eight thousand
21 square feet constructed in accordance with county,



1 national, or international prescriptive construction
2 standards, including buildings used as:

- 3 (A) Barns;
- 4 (B) Greenhouses;
- 5 (C) Farm production buildings, including aquaculture
6 hatcheries and plant nurseries;
- 7 (D) Storage buildings for farm equipment, plant or
8 animal supplies, or feed; or
- 9 (E) Storage or processing buildings for crops;
10 provided that the height of any stored items
11 shall not collectively exceed twelve feet [~~in~~
12 ~~height~~].

13 (c) The exemptions in subsections (a) and (b) shall apply;
14 provided that:

- 15 (1) The aggregate floor area of the exempted agricultural
16 buildings shall not exceed:
 - 17 (A) Five thousand square feet per zoning lot for lots
18 of two acres or less;
 - 19 (B) Eight thousand square feet per zoning lot for
20 lots greater than two acres but no more than five
21 acres; and



- 1 (C) Eight thousand square feet plus two per cent of
- 2 the acreage per zoning lot for lots greater than
- 3 five acres; provided that each exempted
- 4 agricultural building is compliant with the
- 5 square foot area restrictions in subsection (a)
- 6 or subsection (b);
- 7 (2) The minimum horizontal separation between each
- 8 agricultural building, structure, or appurtenance
- 9 thereto is fifteen feet;
- 10 (3) The agricultural buildings, structures, or
- 11 appurtenances thereto are located on a commercial farm
- 12 or ranch and are used for general agricultural or
- 13 aquacultural operations, or for purposes incidental to
- 14 such operations;
- 15 (4) The agricultural buildings, structures, or
- 16 appurtenances thereto are constructed or installed on
- 17 property that is used primarily for agricultural or
- 18 aquacultural operations, and is two or more contiguous
- 19 acres in area or one or more contiguous acres in area
- 20 if located in a nonresidential agricultural or
- 21 aquacultural park;



- 1 (5) An owner or [~~occupier~~] occupant that intends to
2 utilize the exemptions under this section shall
3 provide [~~written notice~~] an agricultural farm plan to
4 the appropriate county agency of the size, type, [~~and~~]
5 location, and uses of the proposed building,
6 structure, related appurtenances, or development. No
7 work shall commence until the county agency has
8 determined that a building permit for the proposed
9 building, structure, related appurtenances, or
10 development is not required for compliance with
11 county, state, or federal floodplain management
12 development standards, ordinances, codes, statutes,
13 rules, or regulations pursuant to the National Flood
14 Insurance Program requirements;
- 15 (6) The appropriate county agency shall certify the
16 building, structure, related appurtenances, or
17 development within thirty calendar days upon [~~the~~]
18 receipt of the written notice from the owner or
19 [~~occupier,~~] occupant, pursuant to paragraph (5);
- 20 (7) The owner or [~~occupier~~] occupant shall provide a final
21 as-built written notice to the appropriate county



1 building permitting agency of the final as-built size,
2 type, and location of the building, structure, related
3 appurtenances, or development. Such final as-built
4 written notification shall be provided to the county
5 agency within thirty calendar days of the completion,
6 occupancy, or use of the building, structure, related
7 appurtenances, or development. Failure to provide
8 such written notice may void the building permit or
9 building code exemption, or both, which voidance for
10 such failure is subject to the sole discretion of the
11 appropriate county building permitting agency;

- 12 (8) No electrical power and no plumbing systems shall be
13 connected to the building or structure without first
14 obtaining the appropriate county electrical or
15 plumbing permit, and all such installations shall be
16 installed under the supervision of a licensed
17 electrician or plumber, as appropriate, and inspected
18 and approved by an appropriate county or licensed
19 inspector or, if a county building agency is unable to
20 issue an electrical permit because the building or
21 structure is permit-exempt, an electrical permit shall



1 be issued for an electrical connection to a meter on a
2 pole beyond the permit-exempt structure in accordance
3 with the installation, inspection, and approval
4 requirements in this paragraph;

5 (9) Disposal of wastewater from any building or structure
6 constructed or installed pursuant to this section
7 shall comply with chapter 342D;

8 (10) Permit-exempt agricultural buildings shall be exempt
9 from any certificate of occupancy requirements; and

10 (11) The appropriate county fire department and county
11 building permitting agency shall have the right to
12 enter the property, upon reasonable notice to the
13 owner or occupant~~[7]~~ by mail or by posting on the
14 property, to investigate exempted agricultural
15 buildings for compliance with the requirements of this
16 section; provided that if entry is refused after
17 reasonable notice is given, the applicable department
18 or agency ~~[may apply to the district court of the~~
19 ~~ircuit in which the property is located for a~~
20 ~~warrant, directed to any police officer of the~~
21 ~~ircuit, commanding the police officer to provide~~



1 ~~sufficient aid and to assist the department or agency~~
2 ~~in gaining entry onto the property to investigate~~
3 ~~exempted agricultural buildings for compliance with~~
4 ~~the requirements of this section.]~~ shall issue a
5 notice of violation and notice of order with
6 appropriate civil fines until the violation is
7 corrected.

8 (d) As used in this section:

9 "Agricultural building" means a development, including a
10 nonresidential building or structure, built for agricultural or
11 aquacultural purposes, located on a commercial farm or ranch
12 constructed or installed to house farm or ranch implements,
13 agricultural or aquacultural feeds or supplies, livestock,
14 poultry, or other agricultural or aquacultural products, used in
15 or necessary for the operation of the farm or ranch, or for the
16 processing and selling of farm or ranch products.

17 "Agricultural farm plan" means a document, submitted to the
18 planning department of the county of Hawaii, county of Kauai, or
19 county of Maui, or the department of planning and permitting of
20 the city and county of Honolulu, assessing site-specific aspects



1 of a property and outlining structures needed to meet the
2 agricultural operation's goals.

3 "Agricultural operation" means the planting, cultivating,
4 harvesting, processing, or storage of crops, including those
5 planted, cultivated, harvested, and processed for food,
6 ornamental, grazing, feed, or forestry purposes, as well as the
7 feeding, breeding, management, and sale of animals including
8 livestock, poultry, honeybees, and their products.

9 "Appurtenance" means an object or device in, on, or
10 accessory to a building or structure, and which enhances or is
11 essential to the usefulness of the building or structure,
12 including but not limited to work benches, horticultural and
13 floricultural growing benches, aquacultural, aquaponic, and
14 hydroponic tanks, raceways, troughs, growbeds, and filterbeds,
15 when situated within a structure.

16 "Aquacultural operation" means the propagation,
17 cultivation, farming, harvesting, processing, and storage of
18 aquatic plants and animals in controlled or selected
19 environments for research, commercial, or stocking purposes and
20 includes aquaponics or any growing of plants or animals in or
21 with aquaculture effluents.



1 "Barn" means a building for storing hay, grain, and other
2 horticultural or aquacultural products and often for housing
3 livestock.

4 "Development" means any manmade change to improved or
5 unimproved real estate, including but not limited to buildings
6 or other structures, mining, dredging, filling, grading, paving,
7 excavation or drilling operations, or storage of equipment or
8 materials.

9 "Dwelling" means a structure, or part of a structure, which
10 is used as a home, residence, or sleeping place by one person or
11 by two or more persons maintaining a common household, to the
12 exclusion of all others.

13 "Manufactured pre-engineered commercial building or
14 structure" means a building or structure whose specifications
15 comply with appropriate county codes[7] and have been pre-
16 approved by a county or building official.

17 "Nonresidential building or structure" means a building or
18 structure, including an agricultural building, that is used only
19 for agricultural or aquacultural operations and is not intended
20 for use as, or used as, a dwelling.



1 (e) This section shall not apply to buildings or
2 structures otherwise exempted from building permitting or
3 building code requirements by applicable county ordinance.

4 (f) This section shall not be construed to supersede
5 public or private lease conditions.

6 (g) This section shall not apply to development on land in
7 the state land use urban district.

8 (h) The State or any county shall not be liable for claims
9 arising from the construction of agricultural buildings,
10 structures, related appurtenances, or other development exempt
11 from the building code and permitting process as described in
12 this section, unless the claim arises out of gross negligence or
13 intentional misconduct by the State or county.

14 (i) This section shall not apply to buildings or
15 structures used to store pesticides or other hazardous material
16 unless stored in accordance with federal and state law.

17 (j) This section does not exempt any new or existing
18 agricultural buildings, structures, related appurtenances, or
19 other development from building permit requirements and other
20 requirements of county, state, or federal floodplain management
21 development standards, ordinances, codes, statutes, rules, or



1 regulations, pursuant to National Flood Insurance Program
2 requirements.

3 (k) Failure to comply with the conditions of this section
4 shall result in penalties consistent with county building
5 department provisions.

6 (l) Any agricultural building constructed pursuant to this
7 section and exempt from building permits and building codes
8 shall be consistent with the agricultural farm plan for the
9 property. The use of the building or structure must be in
10 support of the agricultural activity contained in the plan."

11 SECTION 2. This Act does not affect rights and duties that
12 matured, penalties that were incurred, and proceedings that were
13 begun before its effective date.

14 SECTION 3. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 4. This Act shall take effect on July 1, 2050.

17



Report Title:

Agricultural Building and Structures; Exemptions from Building Permits and Building Codes; Agricultural Farm Plan

Description:

Requires certain agricultural buildings or structures exempt from building permits and building codes to be consistent with an agricultural farm plan for the property and to be made available by the owner or occupant for inspection by a county building official at any time. Effective 7/1/2050. (HD1)

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