
A BILL FOR AN ACT

RELATING TO FARM EMPLOYEE HOUSING.

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

- 1 SECTION 1. Section 205-2, Hawaii Revised Statutes, is
2 amended by amending subsection (d) to read as follows:
- 3 "(d) Agricultural districts shall include:
- 4 (1) Activities or uses as characterized by the cultivation
5 of crops, crops for bioenergy, orchards, forage, and
6 forestry;
- 7 (2) Farming activities or uses related to animal husbandry
8 and game and fish propagation;
- 9 (3) Aquaculture, which means the production of aquatic
10 plant and animal life within ponds and other bodies of
11 water;
- 12 (4) Wind-generated energy production for public, private,
13 and commercial use;
- 14 (5) Biofuel production, as described in section
15 205-4.5(a)(16), for public, private, and commercial
16 use;
- 17 (6) Solar energy facilities; provided that:

- 1 (A) This paragraph shall apply only to land with soil
2 classified by the land study bureau's detailed
3 land classification as overall (master)
4 productivity rating class B, C, D, or E; and
- 5 (B) Solar energy facilities placed within land with
6 soil classified as overall productivity rating
7 class B or C shall not occupy more than ten per
8 cent of the acreage of the parcel, or twenty
9 acres of land, whichever is lesser, unless a
10 special use permit is granted pursuant to section
11 205-6;
- 12 (7) Bona fide agricultural services and uses that support
13 the agricultural activities of the fee or leasehold
14 owner of the property and accessory to any of the
15 above activities, regardless of whether conducted on
16 the same premises as the agricultural activities to
17 which they are accessory, including farm dwellings and
18 farm employee housing as defined in section
19 205-4.5(a)(4), [~~employee housing,~~] farm buildings,
20 mills, storage facilities, processing facilities,
21 photovoltaic, biogas, and other small-scale renewable



1 energy systems producing energy solely for use in the
2 agricultural activities of the fee or leasehold owner
3 of the property, agricultural-energy facilities as
4 defined in section 205-4.5(a)(17), vehicle and
5 equipment storage areas, and plantation community
6 subdivisions as defined in section 205-4.5(a)(12);
7 (8) Wind machines and wind farms;
8 (9) Small-scale meteorological, air quality, noise, and
9 other scientific and environmental data collection and
10 monitoring facilities occupying less than one-half
11 acre of land; provided that these facilities shall not
12 be used as or equipped for use as living quarters or
13 dwellings;
14 (10) Agricultural parks;
15 (11) Agricultural tourism conducted on a working farm, or a
16 farming operation as defined in section 165-2, for the
17 enjoyment, education, or involvement of visitors;
18 provided that the agricultural tourism activity is
19 accessory and secondary to the principal agricultural
20 use and does not interfere with surrounding farm
21 operations; provided further that this paragraph shall



1 apply only to a county that has adopted ordinances
2 regulating agricultural tourism [~~under~~] pursuant to
3 section 205-5;

4 (12) Agricultural tourism activities, including overnight
5 accommodations of twenty-one days or less, for any one
6 stay within a county; provided that this paragraph
7 shall apply only to a county that includes at least
8 three islands and has adopted ordinances regulating
9 agricultural tourism activities pursuant to section
10 205-5; provided further that the agricultural tourism
11 activities coexist with a bona fide agricultural
12 activity. For the purposes of this paragraph, "bona
13 fide agricultural activity" means a farming operation
14 as defined in section 165-2;

15 (13) Open area recreational facilities;

16 (14) Geothermal resources exploration and geothermal
17 resources development, as defined under section 182-1;

18 (15) Agricultural-based commercial operations registered in
19 Hawaii, including:

20 (A) A roadside stand that is not an enclosed
21 structure, owned and operated by a producer for



- 1 the display and sale of agricultural products
2 grown in Hawaii and value-added products that
3 were produced using agricultural products grown
4 in Hawaii;
- 5 (B) Retail activities in an enclosed structure owned
6 and operated by a producer for the display and
7 sale of agricultural products grown in Hawaii,
8 value-added products that were produced using
9 agricultural products grown in Hawaii, logo items
10 related to the producer's agricultural
11 operations, and other food items;
- 12 (C) A retail food establishment owned and operated by
13 a producer and permitted under chapter 11-50,
14 Hawaii administrative rules, that prepares and
15 serves food at retail using products grown in
16 Hawaii and value-added products that were
17 produced using agricultural products grown in
18 Hawaii;
- 19 (D) A farmers' market, which is an outdoor market
20 limited to producers selling agricultural
21 products grown in Hawaii and value-added products



1 that were produced using agricultural products
2 grown in Hawaii; and

3 (E) A food hub, which is a facility that may contain
4 a commercial kitchen and provides for the
5 storage, processing, distribution, and sale of
6 agricultural products grown in Hawaii and
7 value-added products that were produced using
8 agricultural products grown in Hawaii.

9 The owner of an agricultural-based commercial
10 operation shall certify, upon request of an officer or
11 agent charged with enforcement of this chapter under
12 section 205-12, that the agricultural products
13 displayed or sold by the operation meet the
14 requirements of this paragraph;

15 (16) Hydroelectric facilities as described in section
16 205-4.5(a)(23); and

17 (17) Composting and co-composting operations; provided that
18 operations that process their own green waste and do
19 not require permits from the department of health
20 shall use the finished composting product only on the



1 operation's own premises to minimize the potential
2 spread of invasive species.
3 Agricultural districts shall not include golf courses and golf
4 driving ranges, except as provided in section 205-4.5(d). No
5 landfill unit, as defined in section 342H-52, shall be located
6 on land within the agricultural district that has soil
7 classified by the land study bureau's detailed land
8 classification as overall (master) productivity rating class A
9 in a county with a population greater than five hundred
10 thousand. Agricultural districts include areas that are not
11 used for, or that are not suited to, agricultural and ancillary
12 activities by reason of topography, soils, and other related
13 characteristics."

14 SECTION 2. Section 205-4.5, Hawaii Revised Statutes, is
15 amended as follows:

16 1. By amending subsection (a) to read:

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



- 1 (1) Cultivation of crops, including crops for bioenergy,
- 2 flowers, vegetables, foliage, fruits, forage, and
- 3 timber;
- 4 (2) Game and fish propagation;
- 5 (3) Raising of livestock, including poultry, bees, fish,
- 6 or other animal or aquatic life that are propagated
- 7 for economic or personal use;
- 8 (4) Farm dwellings, farm employee housing, farm buildings,
- 9 or activities or uses related to farming and animal
- 10 husbandry. For the purposes of this paragraph [~~,"farm~~
- 11 ~~dwelling"~~]:
- 12 (A) "Farm dwelling" means a [~~single-family~~
- 13 residential dwelling located on and accessory to
- 14 a farm [~~,including~~] where agricultural activity
- 15 provides income to the family occupying the
- 16 dwelling. "Farm dwelling" includes clusters of
- 17 [~~single-family~~] farm dwellings permitted within
- 18 agricultural parks developed by the State [~~,or~~
- 19 ~~where agricultural activity provides income to~~
- 20 ~~the family occupying the dwelling~~]; and



1 (B) "Farm employee housing" means one or more
2 residential dwelling units accessory to the farm
3 operation that may be attached to or detached
4 from the primary farm dwelling; provided that:
5 (i) Each residential dwelling unit shall not
6 exceed eight hundred square feet of
7 habitable area under roof;
8 (ii) Each residential dwelling unit shall solely
9 be occupied by agricultural employees and
10 their immediate family members who are
11 actively engaged in the farm operation; and
12 (iii) Any farm employee housing for which a
13 building permit or certificate of occupancy
14 has been issued pursuant to county ordinance
15 before the effective date of Act _____,
16 Session Laws of Hawaii 2026, shall be deemed
17 a nonconforming use;
18 provided further that no fee owner of the farm
19 dwelling shall submit any portion thereof to a
20 condominium property regime to separate the ownership
21 of the farm employee housing units from the farm



1 dwelling pursuant to chapter 514B; provided further
2 that agricultural tourism or related activities under
3 paragraph (14) may occur on the same parcel as a farm
4 dwelling when those activities are secondary and
5 incidental to a bona fide agricultural operation, do
6 not occur within farm employee housing units, and
7 comply with county ordinances adopted pursuant to
8 section 205-5;

9 (5) Public institutions and buildings that are necessary
10 for agricultural practices;

11 (6) Public and private open area types of recreational
12 uses, including day camps, picnic grounds, parks, and
13 riding stables, but not including dragstrips,
14 airports, drive-in theaters, golf courses, golf
15 driving ranges, country clubs, and overnight camps;
16 provided that overnight camps in operation before
17 January 1, 1961, may be approved by special permit;

18 (7) Public, private, and quasi-public utility lines and
19 roadways, transformer stations, communications
20 equipment buildings, solid waste transfer stations,
21 major water storage tanks, and appurtenant small



- 1 buildings such as booster pumping stations, but not
2 including offices or yards for equipment, material,
3 vehicle storage, repair or maintenance, treatment
4 plants, corporation yards, or other similar
5 structures;
- 6 (8) Retention, restoration, rehabilitation, or improvement
7 of buildings or sites of historic or scenic interest;
- 8 (9) Agricultural-based commercial operations as described
9 in section 205-2(d)(15);
- 10 (10) Buildings and uses, including mills, storage, and
11 processing facilities, maintenance facilities,
12 photovoltaic, biogas, and other small-scale renewable
13 energy systems producing energy solely for use in the
14 agricultural activities of the fee or leasehold owner
15 of the property, and vehicle and equipment storage
16 areas that are normally considered directly accessory
17 to the above-mentioned uses and are permitted under
18 section 205-2(d);
- 19 (11) Agricultural parks;
- 20 (12) Plantation community subdivisions, which as used in
21 this chapter means an established subdivision or



1 cluster of farm employee housing, community buildings,
 2 and agricultural support buildings on land currently
 3 or formerly owned, leased, or operated by a sugar or
 4 pineapple plantation; provided that the existing
 5 structures may be used or rehabilitated for use, and
 6 new farm employee housing and agricultural support
 7 buildings may be allowed on land within the
 8 subdivision as follows:

9 (A) The farm employee housing is occupied by
 10 employees or former employees of the plantation
 11 who have a property interest in the land;

12 (B) The farm employee housing units not owned by
 13 their occupants shall be rented or leased at
 14 affordable rates for agricultural workers; or

15 (C) The agricultural support buildings shall be
 16 rented or leased to agricultural business
 17 operators or agricultural support services[+].

18 For the purposes of this paragraph, "farm employee
 19 housing" has the same meaning as defined in paragraph

20 (4) (B);



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



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

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

15 For the purposes of this paragraph:

16 "Appurtenances" means operational infrastructure
17 of the appropriate type and scale for economic
18 commercial storage and distribution, and other similar
19 handling of feedstock, fuels, and other products of
20 biofuel processing facilities.



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

8 (17) Agricultural-energy facilities, including
9 appurtenances necessary for an agricultural-energy
10 enterprise; provided that the primary activity of the
11 agricultural-energy enterprise is agricultural
12 activity. To be considered the primary activity of an
13 agricultural-energy enterprise, the total acreage
14 devoted to agricultural activity shall be no less than
15 ninety per cent of the total acreage of the
16 agricultural-energy enterprise. The
17 agricultural-energy facility shall be limited to lands
18 owned, leased, licensed, or operated by the entity
19 conducting the agricultural activity.

20 As used in this paragraph:



1 "Agricultural activity" means any activity
2 described in paragraphs (1) to (3) [~~of this~~
3 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
19 agricultural-energy facilities;

20 (18) Construction and operation of wireless communication
21 antennas, including small wireless facilities;



1 provided that, for the purposes of this paragraph,
2 "wireless communication antenna" means communications
3 equipment that is either freestanding or placed upon
4 or attached to an already existing structure and that
5 transmits and receives electromagnetic radio signals
6 used in the provision of all types of wireless
7 communications services; provided further that "small
8 wireless facilities" [~~shall have~~] has the same meaning
9 as defined in section 206N-2; provided further that
10 nothing in this paragraph shall be construed to permit
11 the construction of any new structure that is not
12 deemed a permitted use under this subsection;

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



1 means activities or events designed to promote
2 knowledge and understanding of agricultural activities
3 and practices conducted on a farming operation as
4 defined in section 165-2;

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

13 (21) Solar energy facilities on lands with soil classified
14 by the land study bureau's detailed land
15 classification as overall (master) productivity rating
16 B or C for which a special use permit is granted
17 pursuant to section 205-6; provided that:

18 (A) The area occupied by the solar energy facilities
19 is also made available for compatible
20 agricultural activities at a lease rate that is



1 at least fifty per cent below the fair market
2 rent for comparable properties;

3 (B) Proof of financial security to decommission the
4 facility is provided to the satisfaction of the
5 appropriate county planning commission before the
6 date of commencement of commercial generation;
7 and

8 (C) Solar energy facilities shall be decommissioned
9 at the owner's expense according to the following
10 requirements:

11 (i) Removal of all equipment related to the
12 solar energy facility within twelve months
13 of the conclusion of operation or useful
14 life; and

15 (ii) Restoration of the disturbed earth to
16 substantially the same physical condition as
17 existed before the development of the solar
18 energy facility.

19 For the purposes of this paragraph, "agricultural
20 activities" means the activities described in
21 paragraphs (1) to (3);



- 1 (22) Geothermal resources exploration and geothermal
2 resources development, as defined under section 182-1;
- 3 (23) Hydroelectric facilities, including the appurtenances
4 associated with the production and transmission of
5 hydroelectric energy, subject to section 205-2;
6 provided that the hydroelectric facilities and their
7 appurtenances:
- 8 (A) Shall consist of a small hydropower facility as
9 defined by the United States Department of
10 Energy, including:
- 11 (i) Impoundment facilities using a dam to store
12 water in a reservoir;
- 13 (ii) A diversion or run-of-river facility that
14 channels a portion of a river through a
15 canal or channel; and
- 16 (iii) Pumped storage facilities that store energy
17 by pumping water uphill to a reservoir at
18 higher elevation from a reservoir at a lower
19 elevation to be released to turn a turbine
20 to generate electricity;
- 21 (B) Comply with the state water code, chapter 174C;



1 (C) Shall, if over five hundred kilowatts in
2 hydroelectric generating capacity, have the
3 approval of the commission on water resource
4 management, including a new instream flow
5 standard established for any new hydroelectric
6 facility; and

7 (D) Do not impact or impede the use of agricultural
8 land or the availability of surface or ground
9 water for all uses on all parcels that are served
10 by the ground water sources or streams for which
11 hydroelectric facilities are considered; or

12 (24) Notwithstanding any other law to the contrary,
13 composting and co-composting operations; provided that
14 operations that process their own green waste and do
15 not require permits from the department of health
16 shall use the finished composting product only on the
17 operation's own premises to minimize the potential
18 spread of invasive species."

19 2. By amending subsection (c) to read:

20 "(c) Within the agricultural district, all lands with soil
21 classified by the land study bureau's detailed land



1 classification as overall (master) productivity rating class C,
2 D, E, or U shall be restricted to the uses permitted for
3 agricultural districts as set forth in section 205-5(b) [-] and
4 to the uses permitted for farm dwellings and farm employee
5 housing as set forth in section 205-2(d)(7); provided that
6 nothing in this section shall be construed to supersede or limit
7 the counties' authority to regulate zoning, density, building
8 size, setbacks, or other land use requirements within the
9 agricultural district."

10 SECTION 3. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

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



Report Title:

Agriculture; Agricultural Districts; Zoning; Farm Dwelling; Farm Employee Housing

Description:

Clarifies the allowable uses within agricultural districts with respect to farm dwellings and farm employee housing. Effective 7/1/2050. (SD2)

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