
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 205-
15 4.5(a)(16), for public, private, and commercial use;

16 (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 205-
19 4.5(a)(4), [~~employee housing,~~] farm buildings, mills,
20 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 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 registered in
18 Hawaii, including:
19 (A) A roadside stand that is not an enclosed
20 structure, owned and operated by a producer for
21 the display and sale of agricultural products



1 grown in Hawaii and value-added products that
2 were produced using agricultural products grown
3 in Hawaii;

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

11 (C) A retail food establishment owned and operated by
12 a producer and permitted under chapter 11-50,
13 Hawaii administrative rules, that prepares and
14 serves food at retail using products grown in
15 Hawaii and value-added products that were
16 produced using agricultural products grown in
17 Hawaii;

18 (D) A farmers' market, which is an outdoor market
19 limited to producers selling agricultural
20 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 value-
7 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 205-
16 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 or detached from
4 the primary farm dwelling; provided that the farm
5 employee housing shall be no larger than eight
6 hundred habitable square feet under roof per
7 residential dwelling unit;
8 provided that the total land area upon which the farm
9 dwelling, farm employee housing, and all appurtenances
10 are situated shall be no larger than a ratio
11 of square feet per acre of agricultural land
12 leased to the fee owner of the farm dwelling; provided
13 further that no fee owner of the farm dwelling shall
14 submit any portion thereof to a condominium property
15 regime to separate the ownership of the farm employee
16 housing units from the farm dwelling pursuant to
17 chapter 514B; provided further that no portion of the
18 farm dwelling shall be used for agricultural tourism
19 or related accommodations under paragraph (14);
20 (5) Public institutions and buildings that are necessary
21 for agricultural practices;



- 1 (6) Public and private open area types of recreational
2 uses, including day camps, picnic grounds, parks, and
3 riding stables, but not including dragstrips,
4 airports, drive-in theaters, golf courses, golf
5 driving ranges, country clubs, and overnight camps;
6 provided that overnight camps in operation before
7 January 1, 1961, may be approved by special permit;
- 8 (7) Public, private, and quasi-public utility lines and
9 roadways, transformer stations, communications
10 equipment buildings, solid waste transfer stations,
11 major water storage tanks, and appurtenant small
12 buildings such as booster pumping stations, but not
13 including offices or yards for equipment, material,
14 vehicle storage, repair or maintenance, treatment
15 plants, corporation yards, or other similar
16 structures;
- 17 (8) Retention, restoration, rehabilitation, or improvement
18 of buildings or sites of historic or scenic interest;
- 19 (9) Agricultural-based commercial operations as described
20 in section 205-2(d)(15);



- 1 (10) Buildings and uses, including mills, storage, and
2 processing facilities, maintenance facilities,
3 photovoltaic, biogas, and other small-scale renewable
4 energy systems producing energy solely for use in the
5 agricultural activities of the fee or leasehold owner
6 of the property, and vehicle and equipment storage
7 areas that are normally considered directly accessory
8 to the above-mentioned uses and are permitted under
9 section 205-2(d);
- 10 (11) Agricultural parks;
- 11 (12) Plantation community subdivisions, which as used in
12 this chapter means an established subdivision or
13 cluster of farm employee housing, community buildings,
14 and agricultural support buildings on land currently
15 or formerly owned, leased, or operated by a sugar or
16 pineapple plantation; provided that the existing
17 structures may be used or rehabilitated for use, and
18 new farm employee housing and agricultural support
19 buildings may be allowed on land within the
20 subdivision as follows:



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

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

7 (C) The agricultural support buildings shall be
8 rented or leased to agricultural business
9 operators or agricultural support services[+].

10 For the purposes of this paragraph, "farm employee
11 housing" has the same meaning as in paragraph (4) (B);

12 (13) Agricultural tourism conducted on a working farm, or a
13 farming operation as defined in section 165-2, for the
14 enjoyment, education, or involvement of visitors;
15 provided that the agricultural tourism activity is
16 accessory and secondary to the principal agricultural
17 use and does not interfere with surrounding farm
18 operations; provided further that this paragraph shall
19 apply only to a county that has adopted ordinances
20 regulating agricultural tourism under section 205-5;

- 1 (14) Agricultural tourism activities, including overnight
2 accommodations of twenty-one days or less, for any one
3 stay within a county; provided that this paragraph
4 shall apply only to a county that includes at least
5 three islands and has adopted ordinances regulating
6 agricultural tourism activities pursuant to section
7 205-5; provided further that the agricultural tourism
8 activities coexist with a bona fide agricultural
9 activity. For the purposes of this paragraph, "bona
10 fide agricultural activity" means a farming operation
11 as defined in section 165-2;
- 12 (15) Wind energy facilities, including the appurtenances
13 associated with the production and transmission of
14 wind generated energy; provided that the wind energy
15 facilities and appurtenances are compatible with
16 agriculture uses and cause minimal adverse impact on
17 agricultural land;
- 18 (16) Biofuel processing facilities, including the
19 appurtenances associated with the production and
20 refining of biofuels that is normally considered
21 directly accessory and secondary to the growing of the



1 energy feedstock; provided that biofuel processing
2 facilities and appurtenances do not adversely impact
3 agricultural land and other agricultural uses in the
4 vicinity.

5 For the purposes of this paragraph:

6 "Appurtenances" means operational infrastructure
7 of the appropriate type and scale for economic
8 commercial storage and distribution, and other similar
9 handling of feedstock, fuels, and other products of
10 biofuel processing facilities.

11 "Biofuel processing facility" means a facility
12 that produces liquid or gaseous fuels from organic
13 sources such as biomass crops, agricultural residues,
14 and oil crops, including palm, canola, soybean, and
15 waste cooking oils; grease; food wastes; and animal
16 residues and wastes that can be used to generate
17 energy;

18 (17) Agricultural-energy facilities, including
19 appurtenances necessary for an agricultural-energy
20 enterprise; provided that the primary activity of the
21 agricultural-energy enterprise is agricultural



1 activity. To be considered the primary activity of an
2 agricultural-energy enterprise, the total acreage
3 devoted to agricultural activity shall be no less than
4 ninety per cent of the total acreage of the
5 agricultural-energy enterprise. The
6 agricultural-energy facility shall be limited to lands
7 owned, leased, licensed, or operated by the entity
8 conducting the agricultural activity.

9 As used in this paragraph:

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

12 "Agricultural-energy enterprise" means an
13 enterprise that integrally incorporates an
14 agricultural activity with an agricultural-energy
15 facility.

16 "Agricultural-energy facility" means a facility
17 that generates, stores, or distributes renewable
18 energy as defined in section 269-91 or renewable fuel
19 including electrical or thermal energy or liquid or
20 gaseous fuels from products of agricultural activities
21 from agricultural lands located in the State.



1 "Appurtenances" means operational infrastructure
2 of the appropriate type and scale for the economic
3 commercial generation, storage, distribution, and
4 other similar handling of energy, including equipment,
5 feedstock, fuels, and other products of
6 agricultural-energy facilities;

7 (18) Construction and operation of wireless communication
8 antennas, including small wireless facilities;
9 provided that, for the purposes of this paragraph,
10 "wireless communication antenna" means communications
11 equipment that is either freestanding or placed upon
12 or attached to an already existing structure and that
13 transmits and receives electromagnetic radio signals
14 used in the provision of all types of wireless
15 communications services; provided further that "small
16 wireless facilities" shall have the same meaning as in
17 section 206N-2; provided further that nothing in this
18 paragraph shall be construed to permit the
19 construction of any new structure that is not deemed a
20 permitted use under this subsection;



- 1 (19) Agricultural education programs conducted on a farming
2 operation as defined in section 165-2, for the
3 education and participation of the general public;
4 provided that the agricultural education programs are
5 accessory and secondary to the principal agricultural
6 use of the parcels or lots on which the agricultural
7 education programs are to occur and do not interfere
8 with surrounding farm operations. For the purposes of
9 this paragraph, "agricultural education programs"
10 means activities or events designed to promote
11 knowledge and understanding of agricultural activities
12 and practices conducted on a farming operation as
13 defined in section 165-2;
- 14 (20) Solar energy facilities that do not occupy more than
15 ten per cent of the acreage of the parcel, or twenty
16 acres of land, whichever is lesser or for which a
17 special use permit is granted pursuant to section
18 205-6; provided that this use shall not be permitted
19 on lands with soil classified by the land study
20 bureau's detailed land classification as overall
21 (master) productivity rating class A;



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

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

20 (i) Impoundment facilities using a dam to store
21 water in a reservoir;



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

1 (24) Notwithstanding any other law to the contrary,
2 composting and co-composting operations; provided that
3 operations that process their own green waste and do
4 not require permits from the department of health
5 shall use the finished composting product only on the
6 operation's own premises to minimize the potential
7 spread of invasive species."

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

9 "(c) Within the agricultural district, all lands with soil
10 classified by the land study bureau's detailed land
11 classification as overall (master) productivity rating class C,
12 D, E, or U shall be restricted to the uses permitted for
13 agricultural districts as set forth in section 205-5(b) [-] and
14 to the uses permitted for farm dwellings and farm employee
15 housing as set forth in section 205-2(d)(7)."

16 SECTION 3. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 4. This Act shall take effect on July 1, 3000.



Report Title:

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

Description:

Clarifying the allowable uses within the agricultural district with respect to farm dwellings and farm employee housing. Effective 7/1/3000. (HD2)

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