

COUNCIL OF THE COUNTY OF MAUI

HOUSING AND LAND USE COMMITTEE

June 7, 2024

**Committee
Report No.** _____

Honorable Chair and Members
of the County Council
County of Maui
Wailuku, Maui, Hawaii

Chair and Members:

Your Housing and Land Use Committee, having met on May 15, 2024, makes reference to Bill 71 (2024), entitled “A BILL FOR AN ORDINANCE AMENDING SECTION 19.30A.050, MAUI COUNTY CODE, RELATING TO THE SIZE OF FARM DWELLINGS IN THE AGRICULTURAL DISTRICT.”

Bill 71’s purpose is to amend Section 19.30A.050, Maui County Code, to expand the allowable size of one of two farm dwellings per lot in the Agricultural District, from 1,000 to 1,500 square feet of developable area, on Maui and Lāna‘i.

Your Committee notes the Council, at its meeting of September 15, 2023, adopted Resolution 23-36, entitled “REFERRING TO THE LĀNA‘I, MAUI, AND MOLOKA‘I PLANNING COMMISSIONS A PROPOSED BILL RELATED TO FARM DWELLINGS.” Resolution 23-36’s purpose was to refer the proposed bill related to farm dwellings to the Lāna‘i, Maui, and Molokai Planning Commissions for their findings and recommendations.

Your Committee notes the following:

- The Lāna‘i Planning Commission discussed the Resolution at its meetings of December 13, 2023 and January 17, 2024, and recommended approval of the proposed bill.

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- The Maui Planning Commission, at its meeting of January 9, 2024, recommended amending the bill to remove the maximum developable area limitation of 10 percent of the total lot area under Code Section 19.30A.030 to be replaced with a maximum developable area cap between 5,000 to 7,500 square feet.
- The Molokai Planning Commission, at its meeting of December 13, 2023, recommended amending the bill to allow the proposed increase in farm dwelling size to apply only to Lānaʻi and Maui.

Your Committee further notes that Bill 71 would further Countywide Policy Plan objectives to: 1) Expand Housing Opportunities for Residents, and 2) Promote Sustainable Land Use and Growth Management.

Your Committee received a presentation from a representative of the Department of Planning, providing an overview of the bill and the Department's and Planning Commissions' recommendations.

Your Committee received testimony in support of Bill 71, noting the need for expanding housing options.

The Director of Agriculture also expressed support for the proposed bill.

A Deputy Corporation Counsel requested an executive meeting to discuss the County's rights and liabilities relating to property rights.

Your Committee voted to convene an executive meeting, closed to the public, to consult with legal counsel in accordance with Sections 92-5(a)(4) and 92-5(a)(8), Hawai'i Revised Statutes.

Following the executive meeting, your Committee reconvened in regular session.

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Based on information received in executive session, your Committee voted 8-1 to recommend passage of Bill 71 (2024), on first reading. Committee Chair Kama, Vice-Chair Cook, and members Johnson, Lee, Paltin, Sinenci, Sugimura, and U‘u-Hodgins voted “aye.” Committee member Rawlins-Fernandez voted “no.”

Your Housing and Land Use Committee RECOMMENDS that Bill 71 (2024), attached hereto, entitled “A BILL FOR AN ORDINANCE AMENDING SECTION 19.30A.050, MAUI COUNTY CODE, RELATING TO THE SIZE OF FARM DWELLINGS IN THE AGRICULTURAL DISTRICT,” be PASSED ON FIRST READING and be ORDERED TO PRINT.

This report is submitted in accordance with Rule 8 of the Rules of the Council.



TASHA KAMA, Chair

ORDINANCE NO. _____

BILL NO. ____ 71 ____ (2024)

A BILL FOR AN ORDINANCE AMENDING SECTION 19.30A.050, MAUI COUNTY CODE, RELATING TO THE SIZE OF FARM DWELLINGS IN THE AGRICULTURAL DISTRICT

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. Section 19.30A.050, Maui County Code, is amended to read as follows:

“19.30A.050 Permitted uses. The following uses and structures are permitted in the agricultural district, subject to compliance with all other applicable laws:

A. Principal uses.

1. Agriculture.
2. Agricultural land conservation.
3. Agricultural parks, in accordance with chapter 171, Hawai‘i Revised Statutes.
4. Animal and livestock raising, including animal feed lots, and sales yards.
5. Private agricultural parks.
6. Minor utility facilities as defined in section 19.04.040.
7. Retention, restoration, rehabilitation, or improvement of buildings, sites, or cultural landscapes of historical or archaeological significance; this does not include zipline, canopy, and bungee jumping commercial operations that may be incorporated into the restoration of a historic site, which require a conditional permit under chapter 19.40.
8. Solar energy facilities, as defined in section 19.04.040, and subject to the restrictions of chapter 205, Hawai‘i Revised Statutes, that are less than fifteen acres, occupy no more than thirty-five percent of the lot, and are compatible with existing agricultural uses; except that land with soil classified by the land study bureau's detailed land classification as overall (master) productivity rating class D or E need not be compatible with existing agricultural uses.

B. Accessory uses. Uses that are incidental or subordinate to, or customarily used in conjunction with, a permitted principal use, as follows:

1. [Two] On the island of Moloka'i, two farm dwellings per lot, one of which must not exceed one thousand square feet of maximum developable area. On the islands of Lāna'i and Maui, two farm dwellings per lot, one of which must not exceed one thousand five hundred square feet of developable area.

2. One farm labor dwelling per five acres of lot area. On the island of Maui, the owner or lessee of the lot must meet at least two of the following three criteria:

a. Provide proof of at least \$35,000 of gross sales of agricultural products per year, for the preceding two consecutive years, for each farm labor dwelling on the lot, as shown by state general excise tax forms and federal form 1040 Schedule F filings.

b. Provide certification by the department of water supply that agricultural water rates are being paid if the subject lot is served by the County water system.

c. Provide a farm plan that demonstrates the feasibility of commercial agricultural production.

On the islands of Moloka'i and Lāna'i, the owner or lessee of the lot must meet both of the criteria provided by subsections 19.30A.050(B)(2)(a) and 19.30A.050(B)(2)(b).

3. A maximum of two commercial agricultural structures per lot, subject to parking requirements of chapter 19.36B.

4. Storage, wholesale and distribution, including barns; greenhouses; storage facilities for agricultural supplies, products, and irrigation water; farmer's cooperatives; and similar structures customarily associated with one or more of the permitted principal uses or, for the purpose of this section, are associated with agriculture in the County.

5. Processing of agricultural products, the majority of which are grown in the County.

6. Energy systems, small-scale.

7. Small-scale animal-keeping.

8. Animal hospitals and animal board facilities; if conducted on the island of Moloka'i, such uses must have been approved by the Moloka'i planning commission as conforming to the intent of this chapter.

9. Riding academies; if conducted on the island of Moloka'i, such uses must have been approved by the Moloka'i planning commission as conforming to the intent of this chapter.

10. Open land recreation as follows: hiking; noncommercial camping; fishing; hunting; equestrian activities; rodeo arenas; arboretums; greenways; botanical gardens; guided tours that are accessory to principal uses, such as farm or plantation tours, petting zoos, and garden tours, excluding zipline, canopy, and bungee jumping conducted for commercial purposes; hang gliding; paragliding; mountain biking; and accessory restroom facilities. If hiking, fishing, hunting, equestrian activities, rodeo arenas, hang gliding, paragliding, or mountain biking are conducted for commercial purposes on the island of Moloka'i, such uses must have been approved by the Moloka'i planning commission as conforming to the intent of this chapter. Open land recreation uses or structures not specifically permitted by this subsection, subsection 19.30A.060(A)(7), or chapter 19.40, are prohibited; certain open land recreation uses or structures may also be required to obtain a special permit in accordance with chapter 205, Hawai'i Revised Statutes.

11. Except on Moloka'i, bed and breakfast homes permitted under chapter 19.64 that are:

a. Operated in conjunction with a bona fide agricultural operation that produced \$35,000 of gross sales of agricultural products for each of the preceding two years, as shown by state general excise tax forms and federal form 1040 Schedule F filings; or

b. In compliance with all of the following criteria, except that the bed and breakfast home is not subject to a condominium property regime pursuant to chapter 514A or chapter 514B, Hawai'i Revised Statutes:

i. The lot was created prior to November 1, 2008.

ii. The lot is comprised of five acres or less.

iii. An approved farm plan has been fully implemented and is consistent with chapter 205, Hawai'i Revised Statutes; or

c. Located in sites listed on the State of Hawai'i register of historic places or the national register of historic places.

12. Short-term rental homes permitted under chapter 19.65, except that an approved farm plan has been fully implemented and is consistent with chapter 205, Hawai'i Revised Statutes.

13. Parks for public use, not including golf courses, and not including commercial uses, except when under the supervision of a government agency in charge of parks and playgrounds.

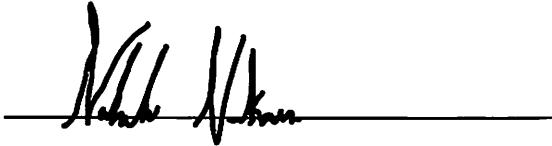
14. Family child care homes as defined in section 46-15.35(b), Hawai'i Revised Statutes, that are registered in accordance with chapter 346, Hawai'i Revised Statutes, and located in a legally permitted farm dwelling.

15. Other uses that primarily support a permitted principal use; however, the uses must be approved by the appropriate planning commission as conforming to the intent of this chapter."

SECTION 2. Material to be repealed is bracketed. New material is underscored. In printing this bill, the County Clerk need not include the brackets, the bracketed material, or the underscoring.

SECTION 3. This Ordinance takes effect on approval.

APPROVED AS TO FORM AND LEGALITY:



Department of the Corporation Counsel
County of Maui

paf:pmg:24-342p

INTRODUCED BY:

Yuki Lei Sugimura
YUKI LEI K. SUGIMURA