

would not result in the potential to create any additional lots than could have been created prior to consolidation and resubdivision;

3. Any subdivision for purposes of providing an easement exclusively for the protection of sites of cultural and historic significance; greenways; protection of sensitive environmental areas such as wetlands, streams, and endangered species habitat; and easements for public access to shoreline and mountain areas; or

4. Any subdivision for purposes of providing a roadway easement, roadway lot, or restricted use lot.

F. If the original lot has been subdivided into the maximum number of lots permitted pursuant to this chapter, additional lots may be created for family members as described in subsections 18.20.280.B.1 and 18.20.280.B.2 of this code, whether or not a deferral of improvements is intended, with the approval of the council; the application for such additional lots shall be processed in the same manner as applications for conditional permits, as provided by chapter 19.40 of this title.

G. No deed, lease, agreement of sale, mortgage, or other instrument of conveyance shall contain any covenant or clause which restricts, directly or indirectly, the operation of agricultural activities on lands within the agricultural district. This subsection shall not apply to any covenant or clause existing prior to the effective date of the ordinance codified in this chapter. (Ord. No. 4464, § 8, 2017; Ord. 2749 § 3 (part), 1998)

19.30A.050 Permitted uses.

The following uses and structures are permitted in the agricultural district provided they also comply with all other applicable laws:

A. Principal uses.

1. Agriculture.
2. Agricultural land conservation.
3. Agricultural parks, pursuant to chapter 171, Hawaii Revised Statutes.
4. Animal and livestock raising, including animal feed lots, and sales yards.
5. Private agricultural parks as defined herein.
6. Minor utility facilities as defined in section 19.04.040 of this code.
7. Retention, restoration, rehabilitation, or improvement of buildings, sites, or cultural landscapes of historical or archaeological significance.

8. Solar energy facilities, as defined in section 19.04.040 of this code, and subject to the restrictions of chapter 205, Hawaii Revised Statutes, that are less than fifteen acres, occupy no more than 35 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 farm dwellings per lot, one of which shall not exceed one thousand 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 shall meet 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 Molokai and Lanai, the owner or lessee of the lot shall 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 of this code.

4. Storage, wholesale, and distribution, including barns; greenhouses; storage facilities for agricultural supplies, products, and irrigation water; farmer's cooperatives; and similar structures that are 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; this includes the burning of bagasse as part of an agricultural operation.

6. Energy systems, small-scale.

7. Small-scale animal-keeping.

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

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

10. Open land recreation as follows: hiking; non-commercial 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; 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 Molokai, such uses shall have been approved by the Molokai planning commission as conforming to the intent of this chapter. Open land recreation uses or structures not specifically permitted by this subsection or by subsection 19.30A.060(A)(7) shall be prohibited; certain open land recreation uses or structures may also be required to obtain a special permit pursuant to chapter 205, Hawaii Revised Statutes.

11. Except on Molokai, bed and breakfast homes permitted under chapter 19.64 of this code 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, provided that the bed and breakfast home is not subject to a condominium property regime pursuant to chapter 514A or chapter 514B, Hawaii 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, Hawaii Revised Statutes; or

c. Located in sites listed on the State of Hawaii Register of Historic Places or the National Register of Historic Places.

12. Short-term rental homes permitted under chapter 19.65 of this code, provided that an approved farm plan has been fully implemented and is consistent with chapter 205, Hawaii 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), Hawaii Revised Statutes, that are registered pursuant to chapter 346, Hawaii Revised Statutes, and located in a legally permitted farm dwelling.

15. Other uses that primarily support a permitted principal use; however, such uses shall be approved by the appropriate planning commission as conforming to the intent of this chapter. (Ord. No. 4921, § 11, 2018; Ord. No. 4315, § 4, 2016; Ord. No. 4253, § 2, 2015; Ord. No. 4246, § 4, 2015; Ord. No. 3824, § 2, 2011; Ord. No. 3611, § 3, 2008; Ord. 2749 § 3 (part), 1998)

19.30A.060 Special uses.

A. The following uses and structures are permitted in the agricultural district if a special use permit, as provided in section 19.510.070 of this title, is obtained; except that if a use described in this section also requires a special permit as provided in chapter 205, Hawaii Revised Statutes, and if the land area of the subject parcel is fifteen acres or less, the State special permit shall fulfill the requirements of this section:

1. Additional farm dwellings beyond those permitted by subsection 19.30A.050(B)(1).

2. Farm labor dwellings that do not meet the criteria of subsection 19.30A.050(B)(2).

3. Commercial agricultural structures that do not meet the standards and restrictions of this chapter.

4. Public and quasi-public institutions that are necessary for agricultural practices.

5. Major utility facilities as defined in section 19.04.040 of this title.

6. Telecommunications and broadcasting antenna.

7. Open land recreation uses, structures, or facilities that do not meet the criteria of subsection 19.30A.050(B)(10), including commercial camping, gun or firing ranges, archery ranges, skeet shooting, paint ball, bungee jumping, skateboarding, rollerblading, playing fields, and accessory buildings and structures. Certain open land recreation uses or structures may also be required to obtain a special permit as provided in section 205-6, Hawaii Revised Statutes. The following uses or structures are prohibited: airports, heliports, drive-in theaters, country clubs, drag strips, motor sports facilities, golf courses, and golf driving ranges.

8. Cemeteries, crematories, and mausoleums.
9. Churches and religious institutions.
10. Mining and resource extraction.
11. Landfills.
12. Solar energy facilities that are greater than fifteen acres.

B. Home businesses are permitted when a State special permit, as provided in section 205-6, Hawaii Revised Statutes, is obtained; provided that, the home business shall comply with the provisions of chapter 19.67 of this title, and shall obtain a County special use permit when required by chapter 19.67 of this title. (Ord. No. 4315, § 5, 2016; Ord. No. 4315, Ord. No. 4246, § 5, 2015; Ord. No. 4168, § 8, 2014; ord. no. 3941, § 10, 2012; ord. no. 3824, § 3, 2011; ord. 2749 § 3 (part), 1998)

19.30A.070 Private agricultural parks.

Private agricultural parks provide for appropriately sized, functionally configured, and affordable agricultural parcels to support diversified agricultural development. Lots created for the purposes of establishing or expanding a private agricultural park shall not be counted in or as part of the number of lots permitted by subsection 19.30A.030.G. Except as otherwise provided in this chapter, the following requirements and standards shall apply for uses, facilities, and structures in areas designated as private agricultural parks;

A. Individual lot leases or deeds shall provide that the lots is restricted to agricultural purposes;

B. Lots within private agricultural parks shall be made available for lease or sale;

C. No permanent or temporary dwellings or farm dwellings, including trailers and campers, shall be permitted within a private agricultural park, unless the following requirement are met:

1. A special use permit, pursuant to section 19.510.070, Maui County Code, has been obtained;

2. The lot on which the dwelling is located is used principally for agriculture, and the occupant of the dwelling provides security or caretaker services for the private agricultural park;

3. A maximum of one dwelling per lot;

4. The private agricultural park shall be subject to a maximum density of one dwelling per twenty-five acres of private agricultural park area; and

5. The dwelling shall be subject to a maximum developable area of seven hundred square feet.

D. A restrictive covenant excluding dwellings that do not meet the criteria of subsection 19.30A.070.C shall be included in the deed of the lot and run with said lot as long as said lot is within the agricultural district. This restriction shall not prohibit the construction of storage sheds, equipment sheds or other structures appropriate to the agricultural activity carried on within the lot;

E. Agricultural parks shall not be less than twenty-five acres in size;

F. Minimum lot area: five acres;

G. Subdivision requirements, as set forth in the following provisions of Title 18, Maui County Code, shall not apply to private agricultural parks and the lots therein:

1. 18.16.010 to 18.16.180;
2. 18.16.270 to 18.16.310B;
3. 18.16.320;
4. 18.20 to 18.20.090;
5. 18.20.140; and
6. 18.28; and

H. All requirements set forth herein shall terminate if an area designated as an agricultural park is rezoned to a nonagricultural zoning district. (Ord. 2749 § 3 (part), 1998)

19.30A.072 Commercial agricultural structures.

A. Requirements. All commercial agricultural structures are subject to the following requirements and restrictions:

1. A commercial agricultural structure may sell agricultural products or value-added products that are not grown, raised, caught or produced on the lot on which the commercial agricultural structure is located, so long as an active agriculture operation is present on the lot where the commercial agriculture structure is located.

2. A farm plan showing an active agriculture operation shall be provided to the department of planning and its implementation shall be verified before a commercial agricultural structure commences operation. Agricultural products stands that are less than three hundred square feet in total floor area are exempt from this requirement.

B. Agricultural products stands. An agricultural products stand that is more than one thousand square feet in total floor area shall require a special use permit.

C. Farmer's markets. All farmer's markets are subject to the following requirements:

1. A farmer's market that is more than three thousand square feet in total floor area shall require a special use permit.

2. All farmer's markets shall operate only during daylight hours.

D. Agricultural retail structures. Agricultural retail structures are subject to the following requirements:

1. An agricultural retail structure that is more than one thousand square feet in total floor area shall require a special use permit.

2. All agricultural retail structures that serve food shall require a permit as required under title 11, chapter 50 of the rules of the state department of health.

3. Within an agricultural retail structure, other food items and logo items shall occupy no more than forty percent of the total floor area.

E. Agricultural food establishments. All agricultural food establishments are subject to the following requirements:

1. An agricultural food establishment that is more than one thousand square feet in total floor area shall require a special use permit.

2. All food must be prepared in accordance with the State Department of Health rules and regulations.

F. Registration. Producers who propose to own or operate a commercial agricultural structure shall register the structure with the department of planning. The registration form shall include the following information:

1. The name, address, and contact information for the producer.

2. The tax map key number of the lot on which the proposed commercial agricultural structure is located.

3. Verification that the producer is the owner, lessee, or licensee of the lot on which the proposed commercial agricultural structure is located. If the producer is the lessee or licensee, authorization of the owner shall also be provided. A lessee or licensee must have a verifiable lease with a minimum duration of one year for the portion of the lot upon which the structure is located, or will be located.

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4. The type of commercial agricultural structure(s) being registered.

5. The signature of the producer, certifying acknowledgment of and compliance with the requirements of this chapter and all other applicable laws and regulations, including those of the state department of health and the department of public works.

6. Any additional information requested by the planning director.

G. Database. The department of planning shall maintain a database of all commercial agricultural structures registered pursuant to this chapter.

H. Separate registration. Each commercial agricultural structure shall require a separate registration.

I. Exemption. Agricultural product stands that are three hundred square feet or less in total floor area are exempt from the registration requirements of this section.

J. Rules. Additional regulation of commercial agricultural structures may be established by administrative rules.

(Ord. No. 4246, § 6, 2015)

19.30A.080 Agricultural leases.

A. Any landowner may enter into an agricultural lease provided that the following conditions are met:

1. The principal use of the leased land is agriculture; and

2. No permanent or temporary dwellings or farm dwellings, including trailers and campers, are constructed on the leased area. This restriction shall not prohibit the construction of storage sheds, equipment sheds or other structures appropriate to the agricultural activity carried on within the lot.

B. Subdivision requirements, as set forth in Title 18, Maui County Code, shall not apply to agricultural leases. (Ord. 2749 § 3 (part), 1998)

19.30A.090 Substandard agricultural lots.

Substandard agricultural lots existing prior to the enactment of the ordinance codified in this chapter shall be subject to the following standards:

A. Lots less than two acres but equal to or greater than one-half acre shall be subject to the yard and building height standards as set forth for lots of such area in section 19.29.020, Maui County Code, and shall be exempt from the maximum developable area restriction of subsection 19.30A.030.D; and

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