

COUNCIL OF THE COUNTY OF MAUI

AGRICULTURE, DIVERSIFICATION, ENVIRONMENT, AND PUBLIC TRANSPORTATION COMMITTEE

March 22, 2024

**Committee
Report No.** _____

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

Chair and Members:

Your Agriculture, Diversification, Environment, and Public Transportation Committee, having met on March 7, 2024, makes reference to Bill 42 (2024), entitled “A BILL FOR AN ORDINANCE AMENDING THE DEFINITIONS OF “FARM” AND “FARM LABOR DWELLING” IN THE COMPREHENSIVE ZONING ORDINANCE.”

Bill 42’s purpose is to amend the definitions, under Section 19.04.040, Maui County Code, for “Farm” to mean a lot on which at least 51 percent of the area of the land that is usable, accessible, and feasible for farming, ranching, or conservation is used for, and the predominant activity is, agriculture or agricultural land conservation; and “Farm labor dwelling” to mean a dwelling unit that is used exclusively by full-time and part-time agricultural workers, including interns and apprentices, on a farm or ranch on which the unit is located. Family members of the agricultural worker may also reside in the farm labor dwelling unless the farm labor dwelling is located on important agricultural lands under section 205-45.5, Hawaii Revised Statutes.

By correspondence dated March 1, 2024, the Chair of your Committee transmitted a proposed CD1 version of Bill 42. The proposed CD1 version, approved as to form and legality by the Department of the Corporation Counsel, makes technical amendments to the bill’s years and sections by removing the subsections and incorporates nonsubstantive revisions.

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Your Committee notes that on October 20, 2023, the Council adopted Resolution 23-220, which referred a proposed bill to amend the definitions of “Farm” and “Farm labor dwelling” to the Planning Commissions for review, comment, and transmittal of their findings and recommendations to the Council.

By correspondence dated March 1, 2024, the Planning Director noted the following:

- Lāna‘i Planning Commission met on December 13, 2023, and January 17, 2024, and recommended approval of the Department’s revised proposed definition of “Farm.”
- Molokai Planning Commission met on December 13, 2023, and voted to recommend approval of the Department’s revised proposed definition of “Farm” and Resolution 23-220’s proposed definition of “Farm labor dwelling” and further recommended that Molokai be exempt from both proposed definitions.
- Maui Planning Commission met on January 9, 2024, and also agreed with the Department’s revisions to the definition of “Farm,” including additional comments to the bill for the Council’s consideration.

Your Committee received a computer-generated presentation from a representative of the Department outlining additional proposed revisions to Bill 42, to further revise the definition of “Farm” to mean a lot on which more than 49 percent is not usable, accessible, and feasible for farming and ranching; then those areas deemed unusable, inaccessible, and infeasible may be excluded provided that the remainder of the lot is used for the predominant activity of agriculture or agricultural land conservation. Land that is not usable, accessible, and feasible for active

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agricultural uses shall, subject to the approval of the Director, include culturally sensitive areas, slopes steeper than 1 to 1, streams or gulches, or land containing earth material that cannot be farmed.

By correspondence dated March 7, 2024, the Chair of your Committee provided an amendment summary form which incorporates the recommendations of the Planning Commissions and additional revisions by the Department of Agriculture and Department of Planning, including nonsubstantive revisions.

Your Committee agreed to amend the proposed version of Bill 42, CD1, as follows:

- Maintain the current definition of “Farm” for Molokai only. Revise the definition of “Farm,” for the islands of Lanai and Maui, to also include: If it is determined by the director that more than forty-nine percent of the lot is not usable, accessible, or feasible for farming or ranching, then those areas deemed unusable, inaccessible, or infeasible may be excluded, provided that the remainder of the lot is used for the predominant activity of agriculture or agricultural land conservation. For the purposes of this definition, land that is not usable, accessible, or feasible for active agricultural uses, subject to the approval of the director, must including.
- Amend Section 19.04.040, Maui County Code, to amend the definition of “farm labor dwelling” for the islands of Lanai and Maui to mean a dwelling unit or lodging unit that is used exclusively by full-time and part-time agricultural employees, including interns, apprentices, and volunteers, while working on a farm or ranch on which the unit is located. Family members of the agricultural employee may also reside in the

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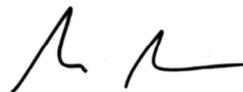
farm labor dwelling, unless the farm labor dwelling is located on important agricultural lands under section 205-45.5, Hawaii Revised Statutes, and must maintain documentation of the agreement between employee and employer at all times and provide the documentation to the director upon request.

Your Committee voted 6-0 to recommend passage of Bill 42, CD1 (2024) on first reading. Committee Chair Johnson, Vice-Chair Sinenci, and members Cook, Lee, Sugimura, and U‘u-Hodgins voted “aye.” Committee member Rawlins-Fernandez was excused.

Your Committee is in receipt of Bill 42, CD1 (2024), approved as to form and legality by the Department of the Corporation Counsel, incorporating your Committee’s recommended revisions and nonsubstantive revisions.

Your Agriculture, Diversification, Environment, and Public Transportation Committee RECOMMENDS that Bill 42, CD1 (2024), as revised herein and attached hereto, entitled “A BILL FOR AN ORDINANCE AMENDING THE DEFINITIONS OF “FARM” AND “FARM LABOR DWELLING” IN THE COMPREHENSIVE ZONING ORDINANCE,” 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.



GABE JOHNSON, Chair

ORDINANCE NO. _____

BILL NO. 42, CD1 (2024)

A BILL FOR AN ORDINANCE AMENDING THE DEFINITIONS OF “FARM”
AND “FARM LABOR DWELLING” IN THE COMPREHENSIVE ZONING
ORDINANCE

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

SECTION 1. Section 19.04.040, Maui County Code, is amended by
amending the definition of “farm” to read as follows:

“Farm”. For the island of Molokai, “Farm” means a lot on which the majority of the land is used for and the predominant activity is agriculture and/or agricultural land conservation. For the islands of Lanai and Maui, “Farm” means a lot on which at least fifty-one percent of the area of the land that is for, and the predominant activity is, agriculture or agricultural land conservation. If it is determined by the director that more than forty-nine percent of the lot is not usable, accessible, or feasible for farming or ranching, then those areas deemed unusable, inaccessible, or infeasible may be excluded, provided that the remainder of the lot is used for the predominant activity of agriculture or agricultural land conservation. For the purpose of this definition, land that is not usable, accessible, or feasible for active agricultural uses, subject to approval of the director, must include culturally sensitive areas, slopes steeper than one to one, streams or gulches, or land containing earth material that cannot be farmed.”

SECTION 2. Section 19.04.040, Maui County Code, is amended by
amending the definition of “farm labor dwelling” to read as follows:

“Farm labor dwelling”. For the island of Molokai, “Farm labor dwelling” means a dwelling unit or lodging unit that is used exclusively by agricultural employees employed full-time or seasonally in the County, and that is located on a farm and is ancillary and secondary to agriculture. For the islands of Lanai and Maui, “Farm labor dwelling” means a dwelling unit or lodging unit that is used exclusively by full-

time and part-time agricultural employees, including interns, apprentices, and volunteers, while working on a farm or ranch on which the unit is located. Family members of the agricultural employee may also reside in the farm labor dwelling, unless the farm labor dwelling is located on important agricultural lands under section 205-45.5, Hawaii Revised Statutes, and must maintain documentation of the agreement between employee and employer at all times and provide the documentation to the director upon request.”

SECTION 3. New material is underscored. In printing this bill, the County Clerk need not include the underscoring.

SECTION 4. This Ordinance takes effect on approval.

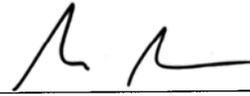
APPROVED AS TO FORM AND
LEGALITY:

/s/ Michael J. Hopper

Department of the Corporation
Counsel
County of Maui

adept:misc:014abill02:sgt

INTRODUCED BY:

A handwritten signature in black ink, consisting of a stylized 'G' followed by a horizontal line and a small flourish.

GABE JOHNSON