

Proposed Bill for an Ordinance to allow Composting and Co- composting in the Agricultural District



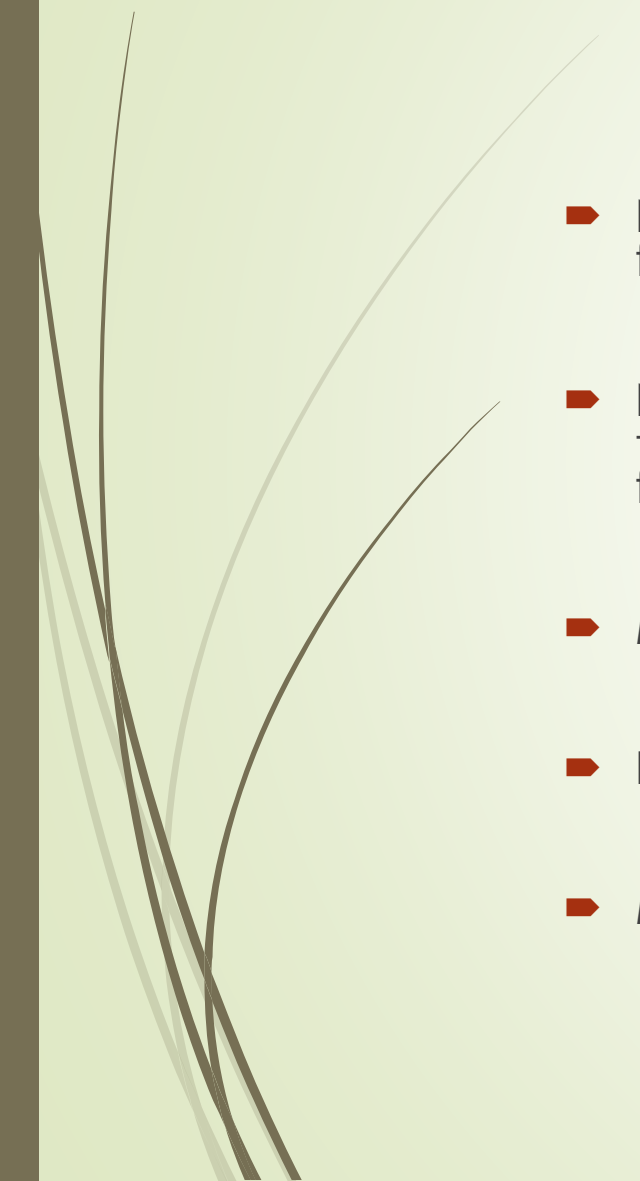
**Agriculture, Diversification, Environment, and
Public Transportation Committee (ADEPT)**

County of Maui

July 25, 2024



Background: Status of Bill/Ordinance

- November 1, 2023 – Housing and Land Use Committee discussed and forwarded Resolution No. 23-195 to the County Council.
 - November 20, 2023 – County Council adopted Resolution No. 23-195 referring the proposed bill to the Planning Commissions for action and transmittal of their findings and recommendations to the Council.
 - Maui Planning Commission – February 13, 2024
 - Lānaʻi Planning Commission – February 21, 2024 and March 20, 2024
 - Molokaʻi Planning Commission – March 13, 2024
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Background: Agricultural Land Use

- Retaining and encouraging agricultural lands in the County is imperative
- **General Plan 2030 Countywide Policy Plan (Agriculture)**
 - *“F.2.b. Prioritize the use of agricultural land to feed the local population, and promote the use of agricultural lands for sustainable and diversified agricultural activities.*
 - *F.2.e. Support ordinances, programs, and policies that keep agricultural land and water available and affordable to farmers.*
 - *J.2.a. Protect prime, productive, and potentially productive agricultural lands to maintain the islands’ agricultural and rural identities and economies.*
 - *J.2.c. Discourage developing or subdividing agriculturally designated lands when non-agricultural activities would be primary uses.”*
- **Maui Island Plan (Agriculture)**
 - *Core Value E. Preserve rural and agricultural lands and encourage sustainable agriculture.*
 - *2.1.3-Action 2. Amend regulations to provide additional protection of lands that are important for traditional native Hawaiian uses including subsistence food gathering, traditional access, agriculture, and religious uses.”*



Background: Agricultural Land Use

- **General Plan 2030 Countywide Policy Plan (Waste disposal)**

- Objective 1.2. *Improve waste-disposal practices and systems to be efficient, safe, and as environmentally sound as possible.*
- Policy 1.2.a. *Provide sustainable waste-disposal systems and comprehensive, convenient recycling programs to reduce the flow of waste into landfills.*
- Policy 1.2.b. *Support innovative and alternative practices in recycling solid waste and wastewater and disposing of hazardous waste.*
- Policy 1.2.d. *Develop strategies to promote public awareness to reduce pollution and litter, and encourage residents to reduce, reuse, recycle, and compost waste materials.*



Background: Agricultural Land Use

➤ Maui County Code – Chapter 19.30A Agricultural District

➤ Purpose of the Agriculture District:

- *“Implement chapter 205 of the Hawaii Revised Statutes and the goals and policies of the Maui County General Plan and Community Plans;*
- *Promote agricultural development;*
- *Preserve and protect agricultural resources; and*
- *Support the agricultural character and components of the County's economy and lifestyle.”*

➤ Intent of Chapter 19.30A Agricultural District:

- *Reduce the land use conflicts arising from encroachment of nonagricultural uses into agricultural areas;*
- *Mitigate rising property values of farm lands to make agricultural use more economically feasible;*
- *Discourage developing or subdividing lands within the agricultural district for residential uses, thereby preserving agricultural lands and allowing proper planning of land use and infrastructure development.”*



Background: Agricultural Land Use

➤ Maui County Code, Agricultural District – Permitted Uses

➤ Principal Uses:

- Agriculture.
- Agricultural land conservation.
- Agricultural Parks.
- Animal and livestock raising.
- Private agricultural parks.
- Minor utility facilities.
- Retention, restoration, rehabilitation or improvements of buildings, sites, or cultural landscapes of historical or archaeological significance.
- Solar energy facilities.

Background: Agricultural Land Use

- **Accessory Uses:** Uses that are incidental or subordinate to, or customarily used in conjunction with, a permitted principal use, as follows:
 - Two Farm Dwellings per lot, one of which must not exceed 1,500 sq. ft.
 - One Farm Labor Dwelling per 5 acres of lot area and meeting certain criteria
 - Two commercial agricultural structures per lot
 - Structures associated with one or more of the permitted principal uses
 - Processing of agricultural products, the majority of which are grown in the County
 - Energy systems, small-scale
 - Small-scale animal-keeping
 - Animal hospitals and animal board facilities meeting certain criteria
 - Riding academies meeting certain criteria
 - Open land recreation of specific types
 - Bed and breakfast homes meeting certain criteria
 - Short-term rental homes meeting certain criteria
 - Parks for public use meeting certain criteria
 - Family child care homes meeting certain criteria
 - Other uses that primarily support a permitted principal use approved by the appropriate planning commission



Background: Agricultural Land Use

- **Special Uses:** Uses and structures permitted with approval of a Special Use Permit by the Planning Commission, as follows:
 - Additional farm dwellings beyond those permitted as accessory uses
 - Farm labor dwellings that do not meet the criteria of the accessory uses
 - Commercial agricultural structures that do not meet the standards and restrictions of this chapter
 - Public and quasi-public institutions that are necessary for agricultural practices
 - Major utility facilities
 - Telecommunications and broadcasting antenna
 - Other open land recreation uses, structures, or facilities that do not meet criteria of those identified in “Accessory Uses”
 - Cemeteries, crematories, and mausoleums
 - Churches and religious institutions
 - Mining and resource extraction
 - Landfills
 - Solar energy facilities that are greater than fifteen acres



Bill Proposal:

Composting and Co-composting

- Add to the Principal Permitted Uses in the Agricultural Zoning District:
 - *“Composting and Co-composting operations, subject to the restrictions of chapter 205, Hawai’i Revised Statutes”*
- HRS Chapter 205 control the potential spread of invasive species by restricting composting and co-composting operations to its own premises.
 - Other types require approval/permit from the State’s Department of Health.



Department Recommendation:

- **Department supports Bill, with recommended modifications:**
 - The proposed revision is beneficial as it will now distinctly permit this use.
 - Consistent with the Maui General Plan regarding waste disposal

- **Department recommended modifications:**
 - Move the “composting and co-composting” use from a “principal use” to an “accessory use”
 - Concern: large composting operations permitted by right without land use impacts being considered
 - Include a provision that would require approval of a Special Use Permit if the use were to be the “principal use” on a property



Planning Commission Recommendation:

Maui Planning Commission (February 13, 2024)

- Recommend approval with Department's recommendations

Lānaʻi Planning Commission (February 21, 2024 and March 20, 2024):

- Recommend approval with Department's recommendations

Molokaʻi Planning Commission (December 13, 2023):

- Recommend approval with Department's recommendations.
- If the Council does not support the requirement for an SUP to allow composting as a "primary" use, then require that of Molokaʻi

ORDINANCE NO. _ _ _ _ _

BILL NO. _____(2023)

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

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

SECTION 1. The purpose of this Ordinance is to amend Maui County Code to reflect the amendment to Section 205-2(d), Hawai'i Revised Statutes, via Act 131 (2022). Composting and co-composting operations will be permitted uses in the Agricultural District on the condition that operations that process their own green waste and do not require permits from the State Department of Health must use the finished compost product only on the operation's own premises.

SECTION 2. Section 19.30A.050, Maui County Code, is amended to read as follows:

"19.30A.050. Permitted uses. A. The following principal 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 facilitates 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 Dor E need not be compatible with existing agricultural uses.

9. Composting and co-composting operations, subject to the restrictions of chapter 205, Hawai'i Revised Statutes.

B. [Accessory uses. Uses that] The following accessory uses 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 must 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 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.

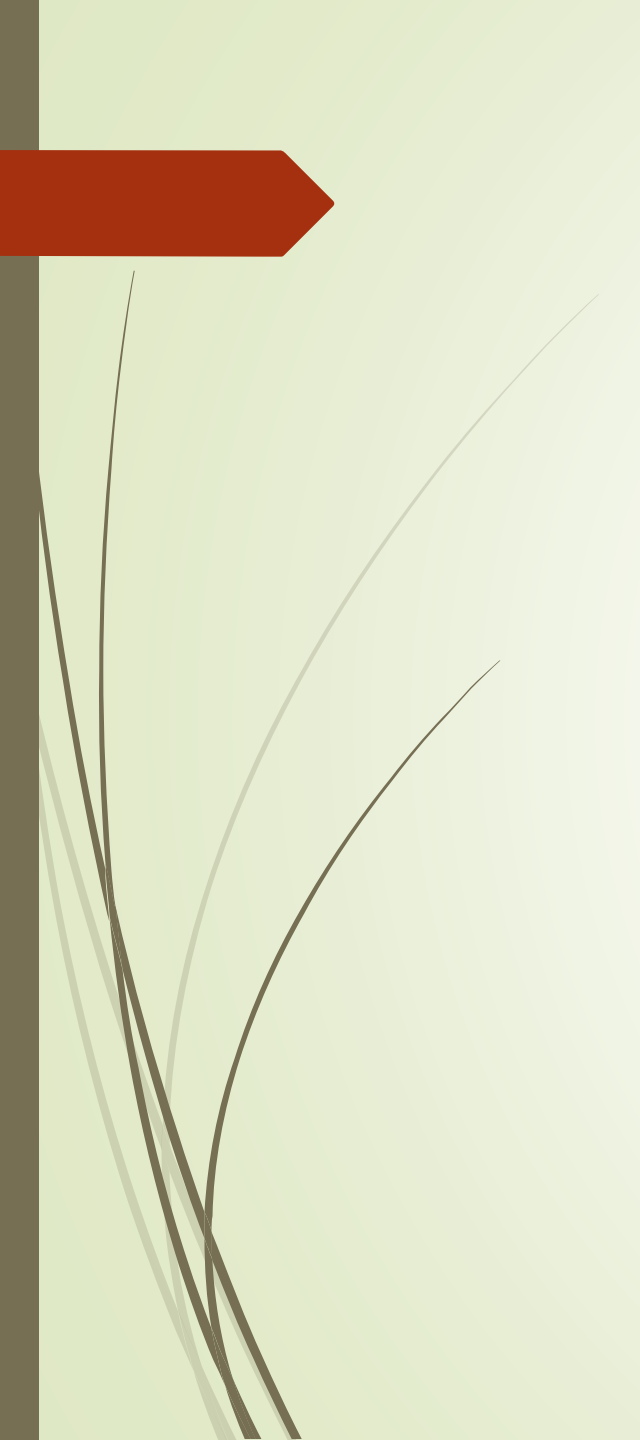
b. Provide certification by the department of water supply that agricultural water rates are being paid if the subject lot is served by the County water system.

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

On the islands of Moloka'i and Lana'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 46-1 5.35(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 3. 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 4. This Ordinance takes effect on approval.

APPROVED AS TO FORM AND LEGALITY:

Department of the Corporation Counsel
County of Maui

paf:clm:23-189a

ADEPT Committee

From: Gregory Pfof <Gregory.J.Pfof@co.maui.hi.us>
Sent: Wednesday, July 24, 2024 4:21 PM
To: ADEPT Committee
Subject: Power point presentation for July 25 ADEPT Meeting on Composting
Attachments: Council Presentation Composting Legislation.pptx

Please find the attached Powerpoint presentation for tomorrow's ADEPT item on Composting.

Thanks.

-Greg.

Gregory Pfof

Administrative Planning Officer

Department of Planning, ZAED

County of Maui

Gregory.J.Pfof@co.maui.hi.us

(808) 270-7965