

REQUEST FOR LEGAL SERVICES

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Date: May 9, 2025
From: Gabe Johnson, Councilmember

RECEIVED

By Corporation Counsel at 1:58 pm, May 09, 2025

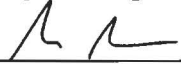
TRANSMITTAL

Memo to: DEPARTMENT OF THE CORPORATION COUNSEL
Attention: Victoria J. Takeyesu, Esq.

Subject: Agricultural Tourism bill (PAF 25-118)

Background Data: Please see the attached bill. Please submit your response to county.council@mauicounty.us and ellen.mckinley@mauicounty.us, referencing the PAF number.

Work Requested: ☒ FOR APPROVAL AS TO FORM AND LEGALITY
☐ OTHER:

Requestor's signature  Gabe Johnson, Councilmember	Contact Person <u>Ellen McKinley</u> (Telephone Extension: <u>7661</u>)
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☐ ROUTINE (WITHIN 15 WORKING DAYS) ☐ RUSH (WITHIN 5 WORKING DAYS)
☒ PRIORITY (WITHIN 10 WORKING DAYS) ☐ URGENT (WITHIN 3 WORKING DAYS)

☐ SPECIFY DUE DATE (IF IMPOSED BY SPECIFIC CIRCUMSTANCES): _____
REASON: _____

FOR CORPORATION COUNSEL'S RESPONSE

ASSIGNED TO: CNN	ASSIGNMENT NO. 2025-0804	BY: maa
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TO REQUESTOR: ☐ APPROVED ☐ DISAPPROVED ☐ OTHER (SEE COMMENTS BELOW)
☐ RETURNING--PLEASE EXPAND AND PROVIDE DETAILS REGARDING ITEMS AS NOTED

COMMENTS (NOTE - THIS SECTION NOT TO BE USED FOR LEGAL ADVICE): Reviewed as to form and legality.

DEPARTMENT OF THE CORPORATION COUNSEL

Date 05/29/2025

By 

(Rev. 7/03)

paf:ebm:25-118b

Attachment

ORDINANCE NO. _____

BILL NO. 75, CD1 (2025)

A BILL FOR AN ORDINANCE AMENDING TITLE 19, MAUI COUNTY
CODE RELATING TO THE COMPREHENSIVE ZONING ORDINANCE ON
AGRICULTURAL TOURISM

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

SECTION 1. Under certain conditions, Sections 205-2 and 205-4.5, Hawai'i Revised Statutes, authorize within the State Agricultural District, agricultural tourism on a working farm, or a farming operation as defined in section 165-2, Hawai'i Revised Statutes, if the agricultural tourism activity is accessory and secondary to the principal agricultural use; does not interfere with surrounding farm operations; and the county has adopted ordinances regulating agricultural tourism. This Ordinance's purpose is to establish agricultural tourism as an accessory use in the Agricultural District and advances the Countywide Policy Plan directive: "Promote the teaching of traditional practices, including aquaculture; subsistence agriculture; Pacific Island, Asian, and other forms of alternative health practices; and indigenous Hawaiian architecture." It also implements the following Maui Island Plan economic development policy 4.2.1.e: "Diversify the tourism industry by supporting appropriate niche activities such as ecotourism, cultural tourism, voluntourism, ag-tourism, health and wellness tourism, educational tourism, medical tourism, and other viable tourism-related businesses in appropriate

locations.” This Ordinance incorporates recommendations by the Planning Director and the Lāna‘i, Maui, and Moloka‘i Planning Commissions, in response to Resolution 24-172, CD1, FD1, as expressed in County Communication 84-25.

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

“B. The following accessory uses are incidental or subordinate to, or customarily used in conjunction with, a permitted principal use, as follows:

1. On the island of Moloka‘i, two farm dwellings per lot, one of which must not exceed 1,000 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 1,500 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 in accordance with 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. Agricultural tourism on a farm.

a. Except on Moloka'i, agricultural tourism activities are permitted as described in this section.

b. All agricultural tourism activities must be related to and not interfere with the principal farming operations.

c. Agricultural tourism activities may only operate between 8:00 a.m. and 6:00 p.m., except as allowed in paragraph (g)(iii) below.

d. If active agriculture operations cease for 60 consecutive days or longer, agricultural tourism activities are no longer allowed.

e. The farm must have legal access to a public highway and comply with County and State standards for road width and road surface. Consultation with the department of fire and public safety must occur if the farm's primary point of ingress or egress is less than 20 feet wide.

f. All farms conducting agricultural tourism activities must provide the designated number of off-street parking spaces under chapter 19.36B.020.

- g. Agricultural activities a producer may offer include:
- i. Demonstrations, workshops, or presentations relating to agricultural practices and products grown, raised, or produced in Hawai'i, including botanical and traditional crafts, such as lei making, ku'i 'ai, cordage and rope making, saddlery and leatherwork, basketry, weaving, carving, feather work, coffee roasting and tasting, tea processing and brewing, tapa production, honey and beeswax production, cacao processing and tasting, dairying, cheese making, cooking, lā'au lapa'au and instruction in the use of medicinal plants, native Hawaiian agricultural practices, and agricultural conservation, innovation, and sustainability.
 - ii. Activities that support archaeological, historical, and cultural site preservation, restoration, rehabilitation, or improvement under subsection 19.30A.050(A)(7), including living history demonstrations, site study and mentoring, traditional hale building, tool making, and interpretative demonstrations.
 - iii. Traditional or ancestral activities related to the location and movement of celestial and elemental bodies. These activities may operate after 5:30 p.m. and before 7:30 a.m.
 - iv. The sale of agricultural products and non-agricultural commemorative items may be permitted under the commercial agricultural structures requirements of section 19.30A.072.
 - v. Activities related to indigenous cultural traditions must not be misappropriated and must be practiced with respect for the host culture's intellectual property and traditional and ancestral knowledge.
 - vi. Enforcement of this chapter is in accordance with chapter 19.530.
- h. Producers who propose to own or operate an agricultural tourism activity must

register the activity with the department. The registration form must include:

i. The producer's name, address, and contact information;

ii. The tax map key number of the location of the proposed activity;

iii. Verification that the producer is the owner, lessee, or licensee of the lot on which the proposed activity is located. If the producer is the lessee or licensee, owner authorization must 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 activity is located;

iv. The type of activity being registered;

v. The signature of the producer, certifying acknowledgment of and compliance with the requirements of this chapter and all other applicable laws and regulations; and

vi. Any additional information needed to ensure compliance with this chapter, if requested by the director.

[15.] 16. 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. Section 19.36B.020, Maui County Code, is amended to read as follows:

“19.36B.020 Designated number of off-street parking spaces.

Unless otherwise provided in this chapter, the following minimum numbers of accessible, onsite, off-street facilities for the parking of self-propelled motor vehicles [shall] must be provided in connection with the use of any land or the construction, alteration, or improvement of any building or structure. When reviewing a building permit application or proposed change of use, the department [shall] will determine whether the applicant must submit a parking and landscaping plan to establish compliance with this chapter. If the department requires a plan, the department will not recommend approval of a building permit application or proposed change of use until it approves the plan and will not approve a certificate of occupancy or final inspection until the applicant has implemented the approved plan. The number of required parking spaces

[shall] must be based on the floor area of each use or component use except where otherwise specified. When calculating the total number of required parking spaces, a fraction less than one-half [shall] will be disregarded, and a fraction of one-half or more [shall require] requires one parking space. The following chart establishes the general requirements for accessible, onsite, off-street parking. Compliance with the Americans with Disabilities Act, administered through the State department of health, disability and communications access board, and with State requirements for electric-vehicle parking is also required.

USE	MINIMUM NUMBER OF OFF-STREET PARKING SPACES	
1) HOUSING		
Dwelling units: apartment, duplex dwelling, farm dwelling, farm labor dwelling, multi-family dwelling, single-family dwelling. Note: A dwelling unit's parking spaces may be in tandem.	Floor area of dwelling unit in square feet:	Minimum number of parking spaces:
	Under 3,000	[2] <u>Two</u>
	3,000-3,999	[3] <u>Three</u>
	4,000-4,999	[4] <u>Four</u>
	5,000-5,999	[5] <u>Five</u>
	6,000-6,999	[6] <u>Six</u>
	7,000-7,999	[7] <u>Seven</u>
	8,000 and above	[8] <u>Eight</u>
Dwelling units: accessory dwelling.	[1] <u>One</u> for each accessory dwelling.	
Home business.	[1] <u>One</u> for each home business that is allowed to have clients, patrons, or customers on the premises, in addition to any other parking requirements under this chapter.	
Transient accommodations. Note: A dwelling unit's parking spaces may be in tandem.	Type:	Minimum number of parking spaces:
	Bed and breakfast home	[1] <u>One</u> parking space for each bedroom used for bed and breakfast home use, plus [2] <u>two</u> parking spaces for the operator of the bed and breakfast home or as required for a single-family dwelling, whichever is greater.
	Short-term rental home	[2] <u>Two</u> if the short-term rental home has [4] <u>four</u> or fewer bedrooms or as required for the dwelling, whichever is

		greater; [3] <u>three</u> if the short-term rental home has [5] <u>five</u> or more bedrooms, or as required for the dwelling, whichever is greater.
	Hotel, motel, other transient vacation rental, with or without kitchen facilities	[1] <u>One</u> per rental unit, except that a transient vacation rental in a single-family dwelling [shall] <u>must</u> provide the same number of parking spaces as a single-family dwelling. Units capable of being utilized as [2] <u>two</u> or more units are counted as separate rental units.
2) COMMERCIAL, BUSINESS, OR INDUSTRIAL		
Agriculture retail structure, agriculture product stand, bakery and catering (with no onsite eating or drinking), farmer's market, general merchandising, general office, personal and business services, personal services establishment, animal hospital.	[1] <u>One</u> per 500 square feet, [provided] <u>except</u> that the minimum [shall be] <u>is</u> [3] <u>three</u> .	
General merchandising of only large items such as furniture, flooring, mattresses, and appliances.	[1] <u>One</u> per 1,000 square feet for all areas including office, storage, and showroom.	
Animal boarding facility.	[3] <u>Three</u> plus [1] <u>one</u> per 20 boarding units above 60 boarding units. The parking spaces may be shared with animal hospital parking space requirements.	

Bank.	[1] <u>One</u> per 300 square feet, [provided] <u>except</u> that the minimum [shall be] <u>is</u> [3] <u>three</u> .
Eating and drinking establishment or agricultural food establishment as defined in section 19.30A.015 with dining areas.	[1] <u>One</u> per 100 square feet of amusement, serving, and dining areas (not counting drive-through uses), [provided] <u>except</u> that the minimum [shall be] <u>is</u> [4] <u>four</u> ; [2] <u>two</u> or more such establishments in a "food court" configuration may share amusement and dining areas.
Eating and drinking establishment or agricultural food establishment as defined in section 19.30A.015 without dining areas (such as take-out counters or "food retail").	[1] <u>One</u> per 500 square feet of serving area, [provided] <u>except</u> that the minimum [shall be] <u>is</u> [3] <u>three</u> for each establishment.
Mobile food truck.	[0] <u>Zero</u> ; mobile food trucks [shall] <u>must</u> not occupy any parking space required by this title.
Industrial or storage uses, warehouse.	[1] <u>One</u> per 1,500 square feet, [provided] <u>except</u> that the minimum [shall be] <u>is</u> [3] <u>three</u> .
SBR mixed-use establishment.	[2] <u>Two</u> for each dwelling unit, plus [1] <u>one</u> per 300 square feet of non-residential floor area.
SBR service establishment.	[1] <u>One</u> per 300 square feet.
Self-storage.	[1] <u>One</u> per 5,000 square feet.
Service station, repair shop, public garage, automobile services.	[1] <u>One</u> per 200 square feet, excluding drive-through fueling areas, which [shall] <u>must</u> not be used for required parking, or [1] <u>one</u> per 40 percent of lot area, whichever is greater. The storing and keeping of damaged vehicles or vehicle parts [shall] <u>must</u> be within an enclosure bounded completely by a wall at least [6] <u>six</u> feet in height.
Shopping center.	[1] <u>One</u> per 300 square feet of leasable or commercial area (not subject to component use requirements).
Swap meet.	[1] <u>One</u> per 500 square feet.
Vehicle and equipment rental or sales.	[1] <u>One</u> per 500 square feet for sales, showrooms, services, offices, and parts facilities, [provided] <u>except</u> that the minimum [shall be] <u>is</u> [3] <u>three</u> ; [0] <u>zero</u> for outdoor storage of vehicles and equipment.
3) RECREATION OR ENTERTAINMENT (PUBLIC OR COMMERCIAL)	

Amusement center, entertainment establishment.	[1] <u>One</u> per 100 square feet.	
Auditorium, theater, stadium, assembly area, arena, gymnasium.	[1] <u>One</u> per 300 square feet, [1] <u>one</u> per [4] <u>four</u> seats, or [1] <u>one</u> per [8] <u>eight</u> feet of bleacher length, whichever is greater.	
Bowling alley.	[3] <u>Three</u> per lane.	
Clubhouse, private club, fitness center, health club.	[1] <u>One</u> per 200 square feet.	
Golf course.	[3] <u>Three</u> per hole. Parking spaces may be located on any lot occupied by the golf course if the golf course occupies multiple lots.	
Golf driving range.	[1] <u>One</u> per tee.	
Miniature golf course.	[1] <u>One</u> per hole.	
Swimming pool.	[1] <u>One</u> per 600 square feet of pool and associated buildings.	
Tennis court.	[4] <u>Four</u> for each court.	
Passive recreation.	[0] <u>Zero</u> for up to [2] <u>two</u> acres; [4] <u>four</u> for above [2] <u>two</u> acres (paving not required).	
Active recreation.	Type:	Minimum number of parking spaces:
	Athletic field for baseball, football, soccer, other team sports (non-stadium).	50 per athletic field; [0] <u>Zero</u> additional for adjacent practice field; 10 for practice field without a full-sized field.
	Outdoor basketball court.	[6] <u>Six</u> per court.
	Children's playground.	[0] <u>Zero</u>
	Skate park.	[1] <u>One</u> per 500 square feet.
	Site for motor sports, paintball, zip lines, fitness course.	[1] <u>One</u> per [2] <u>two</u> participants at regular capacity.
Arboretum, botanical garden.	[3] <u>Three</u> plus [1] <u>one</u> per acre, except that the maximum number of required parking spaces [shall] <u>must</u> be no more than 20.	
4) SOCIAL OR CIVIC SERVICE		
Airport, heliport, other public transportation.	Parking for terminal, hangars, and in-terminal operations to be determined by the government agency that operates the airport, heliport, or other public facility. Private support services, such as automobile rental	

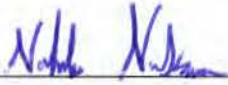
	and cargo, to be determined separately as component uses.
Cemetery, mausoleum.	[0] <u>Zero</u> ; any offices or other accessory uses to be determined separately.
Church, including place of worship.	[1] <u>One</u> per 300 square feet, [1] <u>one</u> per [5] <u>five</u> seats, or [1] <u>one</u> per [8] <u>eight</u> feet of bench length, whichever is greater.
Community center.	[1] <u>One</u> per 100 square feet.
Day care facility, nursing home, assisted living facility.	[1] <u>One</u> per [6] <u>six</u> clients, plus [1] <u>one</u> per employee onsite at one time.
Fire station, police station.	To be determined by the fire chief, police chief.
Library, museum.	[1] <u>One</u> per 500 square feet, [provided] <u>except</u> that the minimum [shall be] <u>is</u> [3] <u>three</u> .
Minor medical center, medical or dental clinic.	[1] <u>One</u> per 300 square feet, [provided] <u>except</u> that the minimum [shall be] <u>is</u> [3] <u>three</u> .
Major medical center.	[1] <u>One</u> per [2] <u>two</u> beds.
Mortuary, funeral home.	[1] <u>One</u> per 100 square feet.
Public utility substation.	[1] <u>One</u>
Recycling, redemption facility.	[3] <u>Three</u>
School, educational institution, general education, specialized education.	[1] <u>One</u> per classroom if all students are under 16 years of age; [8] <u>eight</u> per classroom if any student is 16 years of age or older.
<u>5) AGRICULTURAL TOURISM ON A FARM</u>	
<u>Agricultural tourism activities under section 19.30A.050.</u>	<u>One parking space per two participants (paving not required).</u>

”

SECTION 4. 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:

A handwritten signature in blue ink, appearing to be "N. H. N.", is written above a horizontal line.

Department of the Corporation Counsel
County of Maui

paf:ebm:25-118a

INTRODUCED BY:



GABE JOHNSON