

November 21, 2024

MEMO TO: Members of the Agriculture, Diversification, Environment, and Public Transportation Committee

F R O M: Gabe Johnson, Chair 
Agriculture, Diversification, Environment, and Public Transportation Committee

SUBJECT: **RESOLUTION 24-172, REFERRING TO THE PLANNING COMMISSIONS A PROPOSED ON AGRICULTURAL TOURISM**
(ADEPT-18)

Please see a summation of the proposed amendments to Chapter 19.30A, Maui County Code, and their related justifications, as outlined in the proposed bill attached to Resolution 24-172.

Chapter 205, Hawai'i Revised Statutes, authorizes Maui County to enact an ordinance allowing agricultural tourism on a working farm, if they contain at least five elements enumerated in Subsection 205-5(b).

Please find below a list of the elements in bold followed by relevant excerpts from the proposed bill:

1. "Requirements for access to a farm, including road width, road surface, and parking."

"The farm must have legal access to a public highway and comply with County and State standards for road width and road surface."

"For purposes of off-street parking under chapter 19.36B, agricultural tourism is considered passive recreation."

2. "Requirements and restrictions for accessory facilities connected with the farming operation, including gift shops and restaurants."

"The sale in a gift shop of agricultural products grown in the state of Hawai'i and of processed agricultural products where the main ingredient was grown in the state of Hawai'i or the incidental sales of non-agricultural commemorative items, such as mugs

and shirts, if the items promote the site's agricultural activities or products.”

3. “Activities that may be offered by the farming operation for visitors.”

“The agricultural tourism activities must support, be related to the principal farm activity, and not interfere with, principal uses.”

“Activities that may be offered by the farming operation for visitors include:

a. Demonstrations or presentations using agricultural products produced in the state of Hawai‘i. including lei making, poi pounding, 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, la‘au lapa‘au and instruction in the use of medicinal plants, native Hawaiian agricultural practices, and agricultural conservation, innovation, and sustainability. A restaurant is not permitted.

b. Activities that support archaeological, historic, and cultural site retention, restoration, rehabilitation. or improvement under section 19.30A.050(A)(7), including living history demonstrations, site study and mentoring, pili house building. tool making, and interpretative demonstrations.

c. Activities related to traditional methods of voyaging or wayfinding which reference the location of celestial bodies to navigate. These activities may operate after 6:00 p.m. and before 8:00 a.m.”

4. “Days and hours of operation.”

“The agricultural tourism activities must support, be related to the principal farm activity, and not interfere with, principal uses and must not operate before 8:00 a.m. or after 6:00 p.m.”

5. “Automatic termination of the accessory use upon the cessation of the farming operation.”

“Agricultural tourism activities are no longer permitted as accessory uses if farming operations cease.”

A copy of the proposed bill with comments is attached to further explain the proposed amendments.

Should you have any questions or would like additional information, please contact me or Committee staff (Sam Tanck at ext. 7140, or Maria Leon at ext. 7866).

adept:ltr:018amc01:sgt

Attachment

Resolution

No. 24-172

REFERRING TO THE LĀNA'I, MAUI, AND
MOLOKAI PLANNING COMMISSIONS A
PROPOSED BILL AMENDING THE
COMPREHENSIVE ZONING ORDINANCE ON
AGRICULTURAL TOURISM

WHEREAS, the Council is considering a proposed bill to amend the Comprehensive Zoning Ordinance on agricultural tourism; and

WHEREAS, Sections 8-8.4 and 8-8.6 of the Revised Charter of the County of Maui (1983), as amended, require that the appropriate planning commissions review proposed land use ordinances and provide findings and recommendations to the Council; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That it refers the proposed bill, entitled "A BILL FOR AN ORDINANCE AMENDING THE COMPREHENSIVE ZONING ORDINANCE ON AGRICULTURAL TOURISM," a copy of which is attached as Exhibit "1," to the Lāna'i Planning Commission, Maui Planning Commission, and Molokai Planning Commission for appropriate action under Sections 8-8.4 and 8-8.6 of the Revised Charter of the County of Maui (1983), as amended; and
2. That certified copies of this Resolution be transmitted to the Mayor, the Planning Director, the Lāna'i Planning Commission, the Maui Planning Commission, and the Molokai Planning Commission.

INTRODUCED BY:

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

GABE JOHNSON

Exhibit “1”

ORDINANCE NO. _____

BILL NO. _____ (2024)

**A BILL FOR AN ORDINANCE AMENDING THE COMPREHENSIVE ZONING
ORDINANCE ON AGRICULTURAL TOURISM**

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

SECTION 1. Sections 205-2 and 205-4.5, Hawai'i Revised Statutes, authorize within the State Agricultural District, under certain conditions, agricultural tourism on a working farm, or a farming operation as defined in Section 165-2, Hawai'i Revised Statutes, provided that 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. Accordingly, this Ordinance's purpose is to establish agricultural tourism as an accessory use in the County Agricultural District.

This Ordinance implements the following 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 directive: "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.”

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:

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 15 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.
9. Composting and co-composting operations, subject to the restrictions of chapter 205, Hawai‘i Revised Statutes.

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 1000 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 1500 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.

Agricultural tourism must take place on a farm, in addition to being in the Agricultural District.

15. Agricultural tourism on a farm.

The agricultural tourism activities must support, be related to the principal farm activity, and not interfere with, principal uses and must not operate before 8:00 a.m. or after 6:00 p.m.

Agricultural tourism activities are no longer permitted as accessory uses if farming operations cease.

The farm must have legal access to a public highway and comply with County and State standards for road width and road surface.

For purposes of off-street parking under chapter 19.36B, agricultural tourism is considered passive recreation.

Activities that may be offered by the farming operation for visitors include:

a. Demonstrations or presentations using agricultural products produced in the state of Hawai'i, including lei making, poi pounding, 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, la'au lapa'au and instruction in the use of medicinal plants, native Hawaiian agricultural practices, and agricultural conservation, innovation, and sustainability. A restaurant is not permitted.

b. Activities that support archaeological, historic, and cultural site retention, restoration, rehabilitation, or improvement under section 19.30A.050(A)(7), including living history demonstrations, site study and mentoring, pili house building, tool making, and interpretative demonstrations.

c. Activities related to traditional methods of voyaging or wayfinding which reference the location of celestial bodies to navigate. These activities may operate after 6:00 p.m. and before 8:00 a.m.

d. The sale in a gift shop of agricultural products grown in the state of Hawai'i and of processed agricultural products where the main ingredient was

Under Hawaii Revised Statutes Section 205-5(b) (5).

Under Hawaii Revised Statutes Section 205-5(b)(4).

Under Hawaii Revised Statutes Section 205-5(b) (1).

Under Hawaii Revised Statutes Section 205-5(b) (3).

Under Hawaii Revised Statutes Section 205-5(b) (4).

Off-street parking spots for **Passive Recreation**, 0 for up to 2 acres; 4 for above 2 acres (*paving not required*).

Requiring paved parking spots could result in additional expense and would require additional time for permitting and construction, and would force paving over ag land.

19.30A.050(B)(3), Maui County Code, allows for a maximum of two commercial agricultural structures per lot. Gift shops are not considered commercial agricultural structures.

Under Hawaii Revised Statutes Section 205-5(b) (2).

grown in the state of Hawai'i or the incidental sales of non-agricultural commemorative items, such as mugs and shirts, if the items promote the site's agricultural activities or products.

e. Enforcement of this chapter shall be pursuant to chapter 19.530 of this title.

[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."

Under Hawaii Revised Statutes Section 205-5(b).

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:sgt:24-176c

INTRODUCED BY:

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

GABE JOHNSON